

892--A

2015-2016 Regular Sessions

I N S E N A T E

January 7, 2015

Introduced by Sen. AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, the legislative law and the public officers law, in relation to doing away with the legislative ethics commission and transferring certain duties to the joint commission on public ethics; and to repeal article 5 of the legislative law, in relation to the legislative ethics commission

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Article 5 of the legislative law is REPEALED.
2 S 2. Section 94 of the executive law, as amended by section 6 of part
3 A of chapter 399 of the laws of 2011, is amended to read as follows:
4 S 94. Joint commission on public ethics; functions, powers and duties;
5 review of financial disclosure statements; advisory opinions; investi-
6 gation and enforcement.
7 1. There is established within the department of state a joint commis-
8 sion on public ethics which shall consist of [fourteen] FIVE members and
9 shall have and exercise the powers and duties set forth in this section
10 with respect to statewide elected officials, members of the legislature
11 and employees of the legislature, and state officers and employees, as
12 defined in sections seventy-three and seventy-three-a of the public
13 officers law, candidates for statewide elected office and for the senate
14 or assembly, and the political party chairman as that term is defined in
15 section seventy-three-a of the public officers law, lobbyists and the
16 clients of lobbyists as such terms are defined in article one-A of the
17 legislative law, and individuals who have formerly held such positions,
18 were lobbyists or clients of lobbyists, as such terms are defined in

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 article one-A of the legislative law, or who have formerly been such
2 candidates. This section shall not be deemed to have revoked or rescind-
3 ed any regulations or advisory opinions issued by the FORMER legislative
4 ethics commission, the FORMER commission on public integrity, the state
5 ethics commission and the temporary lobbying commission in effect upon
6 the effective date of chapter fourteen of the laws of two thousand seven
7 which amended this section to the extent that such regulations or opin-
8 ions are not inconsistent with any law of the state of New York, but
9 such regulations and opinions shall apply only to matters over which
10 such commissions had jurisdiction at the time such regulations and opin-
11 ions were promulgated or issued. The commission shall undertake a
12 comprehensive review of all such regulations and opinions, which will
13 address the consistency of such regulations and opinions among each
14 other and with the new statutory language, and of the effectiveness of
15 the existing laws, regulations, guidance and ethics enforcement struc-
16 ture to address the ethics of covered public officials and related
17 parties. [Such review shall be conducted with the legislative ethics
18 commission and, to the extent possible, the report's findings shall
19 reflect the full input and deliberations of both commissions after joint
20 consultation.] The commission shall, before February first, two thousand
21 fifteen, report to the governor and legislature regarding such review
22 and shall propose any regulatory or statutory changes and issue any
23 advisory opinions necessitated by such review.

24 2. The members of the commission shall be appointed [as follows: three
25 members shall be appointed by the temporary president of the senate,
26 three members shall be appointed by the speaker of the assembly, one
27 member shall be appointed by the minority leader of the senate, one
28 member shall be appointed by the minority leader of the assembly, and
29 six members shall be appointed] by the governor [and the lieutenant
30 governor. In the event that a vacancy arises with respect to a member of
31 the commission first appointed pursuant to the chapter of the laws of
32 two thousand eleven which amended this subdivision by a legislative
33 leader, the legislative leaders of the same political party in the same
34 house shall appoint a member to fill such vacancy irrespective of wheth-
35 er that legislative leader's political party is in the majority or
36 minority. Of the members appointed by the governor and the lieutenant
37 governor, at least three members shall be and shall have been for at
38 least three years enrolled members of the major political party in which
39 the governor is not enrolled. In the event of a vacancy in a position
40 previously appointed by the governor and lieutenant governor, the gover-
41 nor and lieutenant governor shall appoint a member of the same political
42 party as the member that vacated that position. Prior to making their
43 respective appointments, the governor and the lieutenant governor and
44 the legislative leaders shall solicit and receive recommendations for
45 appointees from the attorney general and the comptroller of the state of
46 New York, which recommendations shall be fully and properly considered
47 but shall not be binding] WITH THE ADVICE AND CONSENT OF THE LEGISLA-
48 TURE, WITHOUT REGARD TO POLITICAL AFFILIATION, FROM THE LIST PROVIDED BY
49 THE NOMINATING PANEL AS DESCRIBED IN SUBDIVISION TWO-A OF THIS SECTION.

50 No individual shall be eligible for appointment as a member of the
51 commission who currently or within the last three years:

52 (i) is or has been registered as a lobbyist in New York state;

53 (ii) is or has been a member of the New York state legislature or a
54 statewide elected official or a commissioner of an executive agency
55 appointed by the governor; or

(iii) is or has been a political party chairman, as defined in paragraph (k) of subdivision one of section seventy-three of [this article] THE PUBLIC OFFICERS LAW.

No individual shall be eligible for appointment as a member of the commission who currently or within the last year is or has been a state officer or employee or legislative employee as defined in section seventy-three of the public officers law.

2-A. THE GOVERNOR SHALL CREATE A NOMINATING PANEL COMPOSED OF THREE MEMBERS WHOSE SOLE FUNCTION SHALL BE TO NOMINATE PERSONS FOR CONSIDERATION BY THE GOVERNOR FOR APPOINTMENT TO THE COMMISSION. REPRESENTATION ON THE PANEL AND THE SELECTION OF SUCH MEMBERS SHALL BE AS FOLLOWS: ONE MEMBER SHALL BE THE CHIEF JUDGE OF THE COURT OF APPEALS OR HIS OR HER DESIGNEE; ONE MEMBER SHALL BE THE PRESIDENT OF THE NEW YORK STATE BAR ASSOCIATION OR HIS OR HER DESIGNEE; AND ONE MEMBER SHALL BE EXECUTIVE DIRECTOR OF THE NOT-FOR-PROFIT ORGANIZATION, COMMON CAUSE, OR HIS OR HER DESIGNEE.

3. Members of the commission shall serve for terms of five years; provided, however, that of the members first appointed by the governor [and lieutenant governor], one shall serve for one year, one shall serve for two years, one shall serve for three years, and one shall serve for four years, as designated by the governor[; the members first appointed by the temporary president of the senate and by the speaker of the assembly shall serve for four years and the members first appointed by the minority leaders of the senate and the assembly shall serve for two years].

4. The governor shall designate the chairman of the commission from among the members thereof, who shall serve as chairman at the pleasure of the governor. The chairman or any [eight] THREE members of the commission may call a meeting.

5. Any vacancy occurring on the commission shall be filled within thirty days of its occurrence in the same manner as the member whose vacancy is being filled was appointed. A person appointed to fill a vacancy occurring other than by expiration of a term of office shall be appointed for the unexpired term of the member he or she succeeds.

6. [Eight] THREE members of the commission shall constitute a quorum, and the commission shall have power to act by majority vote of the total number of members of the commission without vacancy except where the commission acts pursuant to subdivision thirteen, subdivision fourteen-a or subdivision fourteen-b of this section.

7. Members of the commission may be removed by the [appointing authority] GOVERNOR solely for substantial neglect of duty, gross misconduct in office, violation of the confidentiality restrictions in subdivision nine-a of this section, inability to discharge the powers or duties of office or violation of this section, after written notice and opportunity for a reply.

8. The members of the joint commission shall receive a per diem allowance in the sum of three hundred dollars for each day actually spent in the performance of his or her duties under this article, and, in addition thereto, shall be reimbursed for all reasonable expenses actually and necessarily incurred by him or her in the performance of his or her duties under this article.

9. The commission shall:

(a) Appoint an executive director who shall act in accordance with the policies of the commission. The appointment and removal of the executive director shall be made solely by a vote of a majority of the commission[, which majority shall include at least one member appointed by the

1 governor from each of the two major political parties, and one member
2 appointed by a legislative leader from each of the two major political
3 parties]. The commission may delegate authority to the executive direc-
4 tor to act in the name of the commission between meetings of the commis-
5 sion provided such delegation is in writing, the specific powers to be
6 delegated are enumerated, and the commission shall not delegate any
7 decisions specified in this section that require a vote of the commis-
8 sion. The executive director shall be appointed without regard to poli-
9 tical affiliation and solely on the basis of fitness to perform the
10 duties assigned by this article, and shall be a qualified, independent
11 professional. The commission may remove the executive director for
12 neglect of duty, misconduct in office, violation of the confidentiality
13 restrictions in subdivision nine-a of this section, or inability or
14 failure to discharge the powers or duties of office, including the fail-
15 ure to follow the lawful instructions of the commission;

16 (b) Appoint such other staff as are necessary to carry out its duties
17 under this section;

18 (b-1) Review and approve a staffing plan provided and prepared by the
19 executive director which shall contain, at a minimum, a list of the
20 various units and divisions as well as the number of positions in each
21 unit, titles and their duties, and salaries, as well as the various
22 qualifications for each position including, but not limited to, educa-
23 tion and prior experience for each position[.];

24 (c) Adopt, amend, and rescind rules and regulations to govern proce-
25 dures of the commission, which shall include, but not be limited to, the
26 procedure whereby a person who is required to file an annual financial
27 disclosure statement with the commission may request an additional peri-
28 od of time within which to file such statement, [other than members of
29 the legislature, candidates for members of the legislature and legisla-
30 tive employees,] due to justifiable cause or undue hardship; such rules
31 or regulations shall provide for a date beyond which in all cases of
32 justifiable cause or undue hardship no further extension of time will be
33 granted;

34 (d) Adopt, amend, and rescind rules and regulations to assist appoint-
35 ing authorities in determining which persons hold policy-making posi-
36 tions for purposes of section seventy-three-a of the public officers law
37 AND MAY PROMULGATE GUIDELINES TO ASSIST FIRMS, ASSOCIATIONS AND CORPO-
38 RATIONS IN SEPARATING AFFECTED PERSONS FROM NET REVENUES FOR PURPOSES OF
39 SUBDIVISION TEN OF SECTION SEVENTY-THREE OF THE PUBLIC OFFICERS LAW, AND
40 PROMULGATE GUIDELINES TO ASSIST ANY FIRM, ASSOCIATION OR CORPORATION IN
41 WHICH ANY PRESENT OR FORMER STATEWIDE ELECTED OFFICIAL, STATE OFFICER OR
42 EMPLOYEE, MEMBER OF THE LEGISLATURE OR LEGISLATIVE EMPLOYEE, OR POLI-
43 TICAL PARTY CHAIRMAN IS A MEMBER, ASSOCIATE, RETIRED MEMBER OF COUNSEL
44 OR SHAREHOLDER, IN COMPLYING WITH THE PROVISIONS OF SUBDIVISION TEN OF
45 SECTION SEVENTY-THREE OF THE PUBLIC OFFICERS LAW WITH RESPECT TO THE
46 SEPARATION OF SUCH PRESENT OR FORMER STATEWIDE ELECTED OFFICIAL, STATE
47 OFFICER OR EMPLOYEE, MEMBER OF THE LEGISLATURE OR LEGISLATIVE EMPLOYEE,
48 OR POLITICAL PARTY CHAIRMAN FROM THE NET REVENUES OF THE FIRM, ASSOCI-
49 ATION OR CORPORATION. SUCH FIRM, ASSOCIATION OR CORPORATION SHALL NOT BE
50 REQUIRED TO ADOPT THE PROCEDURES CONTAINED IN THE GUIDELINES TO ESTAB-
51 LISH COMPLIANCE WITH SUBDIVISION TEN OF SECTION SEVENTY-THREE OF THE
52 PUBLIC OFFICERS LAW, BUT IF SUCH FIRM, ASSOCIATION OR CORPORATION DOES
53 ADOPT SUCH PROCEDURES, IT SHALL BE DEEMED TO BE IN COMPLIANCE WITH SUCH
54 SUBDIVISION TEN;

1 (d-1) Adopt, amend and rescind rules and regulations defining the
2 permissible use of and promoting the proper use of public service
3 announcements;

4 (e) Make available forms for annual statements of financial disclosure
5 required to be filed pursuant to SUBDIVISION SIX OF SECTION
6 SEVENTY-THREE AND section seventy-three-a of the public officers law;

7 (f) Review financial disclosure statements in accordance with the
8 provisions of this section, provided however, that the commission may
9 delegate all or part of this review function to the executive director
10 who shall be responsible for completing staff review of such statements
11 in a manner consistent with the terms of the commission's delegation;

12 (g) Receive complaints and referrals alleging violations of section
13 seventy-three, seventy-three-a or seventy-four of the public officers
14 law, article one-A of the legislative law or section one hundred seven
15 of the civil service law;

16 (h) Permit any person who is required to file a financial disclosure
17 statement with the [joint] commission [on public ethics] to request that
18 the commission delete from the copy thereof made available for public
19 inspection and copying one or more items of information which may be
20 deleted by the commission upon a finding by the commission that the
21 information which would otherwise be required to be made available for
22 public inspection and copying will have no material bearing on the
23 discharge of the reporting person's official duties. If such request for
24 deletion is denied, the commission, in its notification of denial, shall
25 inform the person of his or her right to appeal the commission's deter-
26 mination pursuant to its rules governing adjudicatory proceedings and
27 appeals adopted pursuant to subdivision fourteen of this section;

28 (i) Permit any person who is required to file a financial disclosure
29 statement with the [joint] commission [on public ethics] to request an
30 exemption from any requirement to report one or more items of informa-
31 tion which pertain to such person's spouse or unemancipated children
32 which item or items may be exempted by the commission upon a finding by
33 the commission that the reporting individual's spouse, on his or her own
34 behalf or on behalf of an unemancipated child, objects to providing the
35 information necessary to make such disclosure and that the information
36 which would otherwise be required to be reported will have no material
37 bearing on the discharge of the reporting person's official duties. If
38 such request for exemption is denied, the commission, in its notifica-
39 tion of denial, shall inform the person of his or her right to appeal
40 the commission's determination pursuant to its rules governing adjudica-
41 tory proceedings and appeals adopted pursuant to subdivision fourteen of
42 this section;

43 (i-1) Permit any person required to file a financial disclosure state-
44 ment to request an exemption from any requirement to report the identity
45 of a client pursuant to question 8(b) in such statement based upon an
46 exemption set forth in that question. The reporting individual need not
47 seek an exemption to refrain from disclosing the identity of any client
48 with respect to any matter he or she or his or her firm provided legal
49 representation to the client in connection with an investigation or
50 prosecution by law enforcement authorities, bankruptcy, or domestic
51 relations matters; in addition, clients or customers receiving medical
52 or dental services, mental health services, residential real estate
53 brokering services, or insurance brokering services need not be
54 disclosed[.];

55 (j) Advise and assist any state agency in establishing rules and regu-
56 lations relating to possible conflicts between private interests and

1 official duties of present or former statewide elected officials and
2 state officers and employees;

3 (k) Permit any person who has not been determined by his or her
4 appointing authority to hold a policy-making position but who is other-
5 wise required to file a financial disclosure statement to request an
6 exemption from such requirement in accordance with rules and regulations
7 governing such exemptions. Such rules and regulations shall provide for
8 exemptions to be granted either on the application of an individual or
9 on behalf of persons who share the same job title or employment classi-
10 fication which the commission deems to be comparable for purposes of
11 this section. Such rules and regulations may permit the granting of an
12 exemption where, in the discretion of the commission, the public inter-
13 est does not require disclosure and the applicant's duties do not
14 involve the negotiation, authorization or approval of:

15 (i) contracts, leases, franchises, revocable consents, concessions,
16 variances, special permits, or licenses as defined in section seventy-
17 three of the public officers law;

18 (ii) the purchase, sale, rental or lease of real property, goods or
19 services, or a contract therefor;

20 (iii) the obtaining of grants of money or loans; or

21 (iv) the adoption or repeal of any rule or regulation having the force
22 and effect of law;

23 (l) Prepare an annual report to the governor and legislature summariz-
24 ing the activities of the commission during the previous year and recom-
25 mending any changes in the laws governing the conduct of persons subject
26 to the jurisdiction of the commission, or the rules, regulations and
27 procedures governing the commission's conduct. Such report shall
28 include: (i) a listing by assigned number of each complaint and referral
29 received which alleged a possible violation within its jurisdiction,
30 including the current status of each complaint, and (ii) where a matter
31 has been resolved, the date and nature of the disposition and any sanc-
32 tion imposed, subject to the confidentiality requirements of this
33 section, provided, however, that such annual report shall not contain
34 any information for which disclosure is not permitted pursuant to subdi-
35 vision nineteen of this section;

36 (m) Determine a question common to a class or defined category of
37 persons or items of information required to be disclosed, where determi-
38 nation of the question will prevent undue repetition of requests for
39 exemption or deletion or prevent undue complication in complying with
40 the requirements of such section; and

41 (n) Promulgate guidelines for the commission to conduct a program of
42 random reviews, to be carried out in the following manner: (i) annual
43 statements of financial disclosure shall be selected for review in a
44 manner pursuant to which the identity of any particular person whose
45 statement is selected is unknown to the commission and its staff prior
46 to its selection; (ii) such review shall include a preliminary examina-
47 tion of the selected statement for internal consistency, a comparison
48 with other records maintained by the commission, including previously
49 filed statements and requests for advisory opinions, and examination of
50 relevant public information; (iii) upon completion of the preliminary
51 examination, the commission shall determine whether further inquiry is
52 warranted, whereupon it shall notify the reporting individual in writing
53 that the statement is under review, advise the reporting individual of
54 the specific areas of inquiry, and provide the reporting individual with
55 the opportunity to provide any relevant information related to the
56 specific areas of inquiry, and the opportunity to file amendments to the

1 selected statement on forms provided by the commission; and (iv) if
2 thereafter sufficient cause exists, the commission shall take additional
3 actions, as appropriate and consistent with law.

4 9-a. (a) When an individual becomes a commissioner or staff of the
5 commission, that individual shall be required to sign a non-disclosure
6 statement.

7 (b) Except as otherwise required or provided by law, testimony
8 received or any other information obtained by a commissioner or staff of
9 the commission shall not be disclosed by any such individual to any
10 person or entity outside the commission during the pendency of any
11 matter. Any confidential communication to any person or entity outside
12 the commission related to the matters before the commission may occur
13 only as authorized by the commission.

14 (c) The commission shall establish procedures necessary to prevent the
15 unauthorized disclosure of any information received by any member of the
16 commission or staff of the commission. Any breaches of confidentiality
17 shall be investigated by the inspector general and appropriate action
18 shall be taken. Any commissioner or person employed by the commission
19 who intentionally and without authorization releases confidential infor-
20 mation received by the commission shall be guilty of a class A misdemea-
21 nor.

22 9-b. During the period of his or her service as a commissioner of the
23 commission, each commissioner shall refrain from making, or soliciting
24 from other persons, any contributions to candidates for election to the
25 offices of governor, lieutenant governor, member of the assembly or the
26 senate, attorney general or state comptroller.

27 10. The commission shall prepare materials and design and administer
28 an ethics training program for individuals subject to the financial
29 disclosure requirements of section seventy-three-a of the public offi-
30 cers law with respect to the provisions of sections seventy-three,
31 seventy-three-a, and seventy-four of the public officers law and any
32 other law, administrative regulation, or internal policy that is of
33 relevance to the ethical conduct of such individuals in public service,
34 as follows:

35 (a) The commission shall develop and administer a comprehensive ethics
36 training course and shall designate and train instructors to conduct
37 such training. Such course shall be designed as a two-hour program and
38 shall include practical application of the material covered and a ques-
39 tion-and-answer participatory segment. Unless the commission grants an
40 extension or waiver for good cause shown, all individuals subject to the
41 financial disclosure requirements of section seventy-three-a of the
42 public officers law shall complete such course within two years of the
43 effective date of the chapter of the laws of two thousand eleven which
44 amended this section, or for those individuals elected or appointed
45 after the effective date of [the] SECTION SIX OF PART A OF chapter THREE
46 HUNDRED NINETY-NINE of the laws of two thousand eleven which amended
47 this section, within two years of becoming subject to the financial
48 disclosure requirements of section seventy-three-a of the public offi-
49 cers law.

50 (b) The commission shall develop and administer an online ethics
51 orientation course and shall notify all individuals newly subject to the
52 financial disclosure requirements of section seventy-three-a of the
53 public officers law of such course, which shall be completed by such
54 individuals within three months of becoming subject to such require-
55 ments, unless the commission grants an extension or waiver for good
56 cause shown. Individuals who have completed the comprehensive ethics

1 training course shall not be required to complete the online ethics
2 orientation course.

3 (c) The commission shall develop and administer an ethics seminar or
4 ethics seminars for individuals who have previously completed the
5 comprehensive ethics training course. Such seminars shall be designed as
6 ninety-minute programs and shall include any changes in law, regulation,
7 or policy or in the interpretation thereof, practical application of the
8 material covered, and a question-and-answer segment. Unless the commis-
9 sion grants an extension or waiver for good cause shown, such individ-
10 uals shall be scheduled to attend a seminar at least once every three
11 years after having completed the comprehensive ethics training course.
12 In lieu of attending an ethics seminar, such individuals may complete a
13 subsequent comprehensive ethics training program.

14 (d) The provisions of this subdivision shall be applicable to the
15 legislature except to the extent that an ethics training program is
16 otherwise established by the assembly or senate for their respective
17 members and employees and such program meets or exceeds each of the
18 requirements set forth in this section.

19 (e) On an annual basis, the joint commission [in coordination with the
20 legislative ethics commission] shall determine the status of compliance
21 with these training requirements by each state agency and by the senate
22 and the assembly. Such determination shall include aggregate statistics
23 regarding participation in such training, and shall be reported to the
24 governor and the legislature in writing.

25 10-A. THE COMMISSION SHALL DEVELOP EDUCATIONAL MATERIALS AND TRAINING
26 WITH REGARD TO LEGISLATIVE ETHICS FOR MEMBERS OF THE LEGISLATURE AND
27 LEGISLATIVE EMPLOYEES INCLUDING AN ONLINE ETHICS ORIENTATION COURSE FOR
28 NEWLY-HIRED EMPLOYEES AND, AS REQUESTED BY THE SENATE OR THE ASSEMBLY,
29 MATERIALS AND TRAINING IN RELATION TO A COMPREHENSIVE ETHICS TRAINING
30 PROGRAM.

31 11. The commission, or the executive director and staff of the commis-
32 sion if responsibility therefor has been delegated, shall inspect all
33 financial disclosure statements filed with the commission to ascertain
34 whether any person subject to the reporting requirements of section
35 seventy-three-a of the public officers law has failed to file such a
36 statement, has filed a deficient statement or has filed a statement
37 which reveals a possible violation of section seventy-three, seventy-
38 three-a or seventy-four of the public officers law.

39 12. If a person required to file a financial disclosure statement with
40 the commission has failed to file a disclosure statement or has filed a
41 deficient statement, the commission shall notify the reporting person in
42 writing, state the failure to file or detail the deficiency, provide the
43 person with a fifteen day period to cure the deficiency, and advise the
44 person of the penalties for failure to comply with the reporting
45 requirements. Such notice shall be confidential. If the person fails to
46 make such filing or fails to cure the deficiency within the specified
47 time period, the commission shall send a notice of delinquency: (a) to
48 the reporting person; (b) in the case of a statewide elected official,
49 member of the legislature, or a legislative employee, to the temporary
50 president of the senate and the speaker of the assembly; and (c) in the
51 case of a state officer or employee, to the appointing authority for
52 such person. Such notice of delinquency may be sent at any time during
53 the reporting person's service as a statewide elected official, state
54 officer or employee, member of the assembly or the senate, or a legisla-
55 tive employee or a political party chair or while a candidate for state-

1 wide office, or within one year after termination of such service or
2 candidacy.

3 12-A. The jurisdiction of the commission, when acting pursuant to
4 [subdivision fourteen of] this section [with respect to financial
5 disclosure], shall continue notwithstanding that the [reporting] person
6 separates from state service, or ceases to hold public or political
7 party office, or ceases to be a candidate, provided the commission noti-
8 fies such person of the alleged [failure to file or deficient filing
9 pursuant to this subdivision] VIOLATION OF LAW WITHIN ONE YEAR FROM HIS
10 OR HER SEPARATION FROM STATE SERVICE, THE TERMINATION FROM HIS OR HER
11 OFFICE OR THE TERMINATION OF HIS OR HER CANDIDACY.

12 13. (a) Investigations. If the commission receives a sworn complaint
13 alleging a violation of section seventy-three, seventy-three-a, or
14 seventy-four of the public officers law, section one hundred seven of
15 the civil service law or article one-A of the legislative law by a
16 person or entity subject to the jurisdiction of the commission including
17 members of the legislature and legislative employees and candidates for
18 member of the legislature, or if a reporting individual has filed a
19 statement which reveals a possible violation of these provisions, or if
20 the commission determines on its own initiative to investigate a possi-
21 ble violation, the commission shall notify the individual in writing,
22 describe the possible or alleged violation of such laws and provide the
23 person with a fifteen day period in which to submit a written response
24 setting forth information relating to the activities cited as a possible
25 or alleged violation of law. The commission shall, within forty-five
26 calendar days after a complaint or a referral is received or an investi-
27 gation is initiated on the commission's own initiative, vote on whether
28 to commence a full investigation of the matter under consideration to
29 determine whether a substantial basis exists to conclude that a
30 violation of law has occurred. The staff of the joint commission shall
31 provide to the members prior to such vote information regarding the
32 likely scope and content of the investigation, and a subpoena plan, to
33 the extent such information is available. Such investigation shall be
34 conducted if at least [eight] THREE members of the commission vote to
35 authorize it. [Where the subject of such investigation is a member of
36 the legislature or a legislative employee or a candidate for member of
37 the legislature, at least two of the eight or more members who so vote
38 to authorize such an investigation must have been appointed by a legis-
39 lative leader or leaders from the major political party in which the
40 subject of the proposed investigation is enrolled if such person is
41 enrolled in a major political party. Where the subject of such investi-
42 gation is a state officer or state employee, at least two of the eight
43 or more members who so vote to authorize such an investigation must have
44 been appointed by the governor and lieutenant governor. Where the
45 subject of such investigation is a statewide elected official or a
46 direct appointee of such an official, at least two of the eight or more
47 members who so vote to authorize such an investigation must have been
48 appointed by the governor and lieutenant governor and be enrolled in the
49 major political party in which the subject of the proposed investigation
50 is enrolled, if such person is enrolled in a major political party.]

51 (b) Substantial basis investigation. Upon the affirmative vote of not
52 less than [eight] THREE commission members to commence a substantial
53 basis investigation, written notice of the commission's decision shall
54 be provided to the individual who is the subject of such substantial
55 basis investigation. Such written notice shall include a copy of the
56 commission's rules and procedures and shall also include notification of

1 such individual's right to be heard within thirty calendar days of the
2 date of the commission's written notice. The commission shall also
3 inform the individual of its rules regarding the conduct of adjudicatory
4 proceedings and appeals and the other due process procedural mechanisms
5 available to such individual. If the commission determines at any stage
6 that there is no violation or that any potential conflict of interest
7 violation has been rectified, it shall so advise the individual and the
8 complainant, if any. All of the foregoing proceedings shall be confiden-
9 tial.

10 (c) The jurisdiction of the commission when acting pursuant to this
11 section shall continue notwithstanding that a statewide elected official
12 or a state officer or employee or member of the legislature or legisla-
13 tive employee separates from state service, or a political party chair
14 ceases to hold such office, or a candidate ceases to be a candidate, or
15 a lobbyist or client of a lobbyist ceases to act as such, provided that
16 the commission notifies such individual or entity of the alleged
17 violation of law pursuant to paragraph (a) of this subdivision within
18 one year from his or her separation from state service or his or her
19 termination of party service or candidacy, or from his, her or its last
20 report filed pursuant to article one-A of the legislative law. Nothing
21 in this section shall serve to limit the jurisdiction of the commission
22 in enforcement of subdivision eight of section seventy-three of the
23 public officers law.

24 14. An individual subject to the jurisdiction of the commission who
25 knowingly and intentionally violates the provisions of subdivisions two
26 through five-a, seven, eight, twelve or fourteen through seventeen of
27 section seventy-three of the public officers law, section one hundred
28 seven of the civil service law, or a reporting individual who knowingly
29 and wilfully fails to file an annual statement of financial disclosure
30 or who knowingly and wilfully with intent to deceive makes a false
31 statement or fraudulent omission or gives information which such indi-
32 vidual knows to be false on such statement of financial disclosure filed
33 pursuant to section seventy-three-a of the public officers law shall be
34 subject to a civil penalty in an amount not to exceed forty thousand
35 dollars and the value of any gift, compensation or benefit received as a
36 result of such violation. An individual who knowingly and intentionally
37 violates the provisions of paragraph a, b, c, d, e, g, or i of subdivi-
38 sion three of section seventy-four of the public officers law shall be
39 subject to a civil penalty in an amount not to exceed ten thousand
40 dollars and the value of any gift, compensation or benefit received as a
41 result of such violation. An individual subject to the jurisdiction of
42 the commission who knowingly and willfully violates article one-A of the
43 legislative law shall be subject to civil penalty as provided for in
44 that article. [Except with respect to members of the legislature and
45 legislative employees, assessment] ASSESSMENT of a civil penalty here-
46 under shall be made by the commission with respect to persons subject to
47 its jurisdiction. With respect to a violation of any law other than
48 sections seventy-three, seventy-three-a, and seventy-four of the public
49 officers law, where the commission finds sufficient cause by a vote held
50 in the same manner as set forth in paragraph (b) of subdivision thirteen
51 of this section, it shall refer such matter to the appropriate prosecu-
52 tor for further investigation. In assessing the amount of the civil
53 penalties to be imposed, the commission shall consider the seriousness
54 of the violation, the amount of gain to the individual and whether the
55 individual previously had any civil or criminal penalties imposed pursu-
56 ant to this section, and any other factors the commission deems appro-

1 priate. [Except with respect to members of the legislature and legisla-
2 tive employees, for] FOR a violation of this subdivision, other than for
3 conduct which constitutes a violation of section one hundred seven of
4 the civil service law, subdivisions twelve or fourteen through seventeen
5 of section seventy-three or section seventy-four of the public officers
6 law or article one-A of the legislative law, the commission may, in lieu
7 of or in addition to a civil penalty, refer a violation to the appropri-
8 ate prosecutor and upon such conviction, such violation shall be punish-
9 able as a class A misdemeanor. A civil penalty for false filing may not
10 be imposed hereunder in the event a category of "value" or "amount"
11 reported hereunder is incorrect unless such reported information is
12 falsely understated. Notwithstanding any other provision of law to the
13 contrary, no other penalty, civil or criminal may be imposed for a fail-
14 ure to file, or for a false filing, of such statement, or a violation of
15 subdivision six of section seventy-three of the public officers law,
16 except that the appointing authority may impose disciplinary action as
17 otherwise provided by law. The commission may refer violations of this
18 subdivision to the appointing authority for disciplinary action as
19 otherwise provided by law. The commission shall be deemed to be an agen-
20 cy within the meaning of article three of the state administrative
21 procedure act and shall adopt rules governing the conduct of adjudicato-
22 ry proceedings and appeals taken pursuant to a proceeding commenced
23 under article seventy-eight of the civil practice law and rules relating
24 to the assessment of the civil penalties herein authorized and commis-
25 sion denials of requests for certain deletions or exemptions to be made
26 from a financial disclosure statement as authorized in paragraph (h) or
27 paragraph (i) of subdivision nine of this section. Such rules, which
28 shall not be subject to the approval requirements of the state adminis-
29 trative procedure act, shall provide for due process procedural mech-
30 anisms substantially similar to those set forth in article three of the
31 state administrative procedure act but such mechanisms need not be iden-
32 tical in terms or scope. Assessment of a civil penalty or commission
33 denial of such a request shall be final unless modified, suspended or
34 vacated within thirty days of imposition, with respect to the assessment
35 of such penalty, or unless such denial of request is reversed within
36 such time period, and upon becoming final shall be subject to review at
37 the instance of the affected reporting individuals in a proceeding
38 commenced against the commission, pursuant to article seventy-eight of
39 the civil practice law and rules.

40 14-a. [The joint commission on public ethics shall have jurisdiction
41 to investigate, but shall have no jurisdiction to impose penalties upon
42 members of or candidates for member of the legislature or legislative
43 employees for any violation of the public officers law.] If, after its
44 substantial basis investigation, by a vote of at least [eight] THREE
45 members, [two of whom are enrolled members of the investigated individ-
46 ual's political party if the individual is enrolled in a major political
47 party and were appointed by a legislative leader of such political
48 party,] the joint commission on public ethics has found a substantial
49 basis to conclude that a member of the legislature or a legislative
50 employee or candidate for member of the legislature has violated any
51 provisions of such laws, it shall [present] PREPARE a written report [to
52 the legislative ethics commission,] and deliver a copy of the report to
53 the individual who is the subject of the report. Such written report
54 shall include:

55 (a) the commission's findings of fact and any evidence addressed in
56 such findings; conclusions of law and citations to any relevant law,

1 rule, opinion, regulation or standard of conduct upon which it relied;
2 and

3 (b) a determination that a substantial basis exists to conclude that a
4 violation has occurred, and the reasons and basis for such determi-
5 nation.

6 [The joint commission shall also separately provide to the legislative
7 ethics commission copies of additional documents or other evidence
8 considered including evidence that may contradict the joint commission's
9 findings, the names of and other information regarding any additional
10 witnesses, and any other materials.] With respect to a violation of any
11 law other than sections seventy-three, seventy-three-a, and seventy-four
12 of the public officers law, where the joint commission finds sufficient
13 cause by a vote held in the same manner as set forth in paragraph (b) of
14 subdivision thirteen of this section, it shall refer such matter to the
15 appropriate prosecutor.

16 14-b. [With respect to the investigation of any individual who is not
17 a member of the legislature or a legislative employee or candidate for
18 member of the legislature, if after its investigation the joint commis-
19 sion has found a substantial basis to conclude that the individual has
20 violated the public officers law or the legislative law, the joint
21 commission shall send a substantial basis investigation report contain-
22 ing its findings of fact and conclusions of law to the individual. With
23 respect to an individual who is a statewide elected official or a direct
24 appointee of such an official, no violation may be found unless the
25 majority voting in support of such a finding includes at least two
26 members appointed by the governor and lieutenant governor and enrolled
27 in the individual's major political party, if he or she is enrolled in a
28 major political party. Where the subject of such investigation is a
29 state officer or employee who is not a direct appointee of a statewide
30 elected official, at least two of the eight or more members who vote to
31 issue a substantial basis investigation report must have been appointed
32 by the governor and lieutenant governor. The commission shall release
33 such report publicly within forty-five days of its issuance.

34 14-c. With respect to an investigation of a lobbyist, if after its
35 investigation the joint commission has found a substantial basis to
36 conclude that the lobbyist has violated the legislative law, the joint
37 commission shall issue a substantial basis investigation report contain-
38 ing its findings of fact and conclusions of law to the lobbyist and
39 shall make public such report within forty-five days of its issuance.]
40 NOT LATER THAN FORTY-FIVE CALENDAR DAYS AFTER PREPARATION BY THE COMMIS-
41 SION OF A WRITTEN SUBSTANTIAL BASIS INVESTIGATION REPORT AND ANY
42 SUPPORTING DOCUMENTATION OR OTHER MATERIALS REGARDING A MATTER BEFORE
43 THE COMMISSION PURSUANT TO THIS SECTION, UNLESS REQUESTED BY A LAW
44 ENFORCEMENT AGENCY TO SUSPEND THE COMMISSION'S ACTION BECAUSE OF AN
45 ONGOING CRIMINAL INVESTIGATION, THE COMMISSION SHALL MAKE PUBLIC SUCH
46 REPORT IN ITS ENTIRETY; PROVIDED, HOWEVER, THAT THE COMMISSION MAY WITH-
47 HOLD SUCH INFORMATION FOR NOT MORE THAN ONE ADDITIONAL PERIOD OF THE
48 SAME DURATION AND, IF DEEMED NECESSARY, CONDUCT ADDITIONAL INVESTI-
49 GATION, IN WHICH CASE THE COMMISSION SHALL, UPON THE TERMINATION OF SUCH
50 ADDITIONAL PERIOD OR UPON PREPARATION OF A NEW REPORT AFTER SUCH ADDI-
51 TIONAL INVESTIGATION, MAKE PUBLIC THE WRITTEN REPORT AND PUBLISH IT ON
52 THE COMMISSION'S WEBSITE. THE COMMISSION SHALL NOT CONDUCT ADDITIONAL
53 INVESTIGATION MORE THAN ONCE. IF THE COMMISSION CONDUCTS ADDITIONAL
54 FACT-FINDING, THE COMMISSION'S ORIGINAL REPORT SHALL REMAIN CONFIDEN-
55 TIAL.

1 14-C. THE COMMISSION SHALL REVIEW THE MATTER ADDRESSED IN A WRITTEN
2 SUBSTANTIAL BASIS INVESTIGATION REPORT. NO LATER THAN NINETY DAYS AFTER
3 FINAL PREPARATION OF SUCH REPORT, THE COMMISSION SHALL DISPOSE OF THE
4 MATTER BY MAKING ONE OR MORE OF THE FOLLOWING DETERMINATIONS:

5 A. WHETHER THE COMMISSION ADOPTS THE FINAL CONTENT OF SUCH A REPORT;

6 B. WHETHER AND WHICH PENALTIES HAVE BEEN ASSESSED PURSUANT TO APPLICA-
7 BLE LAW OR RULE AND THE REASONS THEREFOR; AND

8 C. WHETHER FURTHER ACTIONS HAVE BEEN TAKEN BY THE COMMISSION TO PUNISH
9 OR DETER THE MISCONDUCT AT ISSUE AND THE REASONS THEREFOR.

10 THE COMMISSION'S DISPOSITION SHALL BE REPORTED IN WRITING AND
11 PUBLISHED ON ITS WEBSITE NO LATER THAN TEN DAYS AFTER SUCH DISPOSITION
12 UNLESS REQUESTED BY A LAW ENFORCEMENT AGENCY TO SUSPEND THE COMMISSION'S
13 ACTION BECAUSE OF AN ONGOING CRIMINAL INVESTIGATION.

14 15. A copy of any notice of delinquency or substantial basis investi-
15 gation report shall be included in the reporting person's file and be
16 available for public inspection and copying pursuant to the provisions
17 of this section.

18 16. Upon written request from any person who is subject to the juris-
19 diction of the commission and the requirements of sections seventy-
20 three, seventy-three-a or seventy-four of the public officers law,
21 [other than members of the legislature, candidates for member of the
22 legislature and employees of the legislature,] the commission shall
23 render written advisory opinions on the requirements of said provisions.
24 An opinion rendered by the commission OR BY THE FORMER LEGISLATIVE
25 ETHICS COMMISSION, until and unless amended or revoked, shall be binding
26 on the commission in any subsequent proceeding concerning the person who
27 requested the opinion and who acted in good faith, unless material facts
28 were omitted or misstated by the person in the request for an opinion.
29 Such opinion may also be relied upon by such person, and may be intro-
30 duced and shall be a defense, in any criminal or civil action. Such
31 requests shall be confidential but the commission may publish such opin-
32 ions provided that the name of the requesting person and other identify-
33 ing details shall not be included in the publication.

34 17. In addition to any other powers and duties specified by law, the
35 commission shall have the power and duty to:

36 (a) Promulgate rules concerning restrictions on outside activities and
37 limitations on the receipt of gifts and honoraria by persons subject to
38 its jurisdiction, provided, however, a violation of such rules in and of
39 itself shall not be punishable pursuant to subdivision fourteen of this
40 section unless the conduct constituting the violation would otherwise
41 constitute a violation of this section; and

42 (b) Administer and enforce all the provisions of this section; and

43 (c) Conduct any investigation necessary to carry out the provisions of
44 this section. Pursuant to this power and duty, the commission may admin-
45 ister oaths or affirmations, subpoena witnesses, compel their attendance
46 and require the production of any books or records which it may deem
47 relevant or material;

48 18. Within one hundred twenty days of the effective date of this
49 subdivision, the commission shall create and thereafter maintain a
50 publicly accessible website which shall set forth the procedure for
51 filing a complaint with the commission, and which shall contain the
52 documents identified in subdivision nineteen of this section, other than
53 financial disclosure statements filed by state officers or employees or
54 legislative employees, and any other records or information which the
55 commission determines to be appropriate.

1 19. (a) Notwithstanding the provisions of article six of the public
2 officers law, the only records of the commission which shall be avail-
3 able for public inspection and copying are:

4 (1) the information set forth in an annual statement of financial
5 disclosure filed pursuant to section seventy-three-a of the public offi-
6 cers law except information deleted pursuant to paragraph (h) of subdivi-
7 sion nine of this section;

8 (2) notices of delinquency sent under subdivision twelve of this
9 section;

10 (3) notices of civil assessments imposed under this section which
11 shall include a description of the nature of the alleged wrongdoing, the
12 procedural history of the complaint, the findings and determinations
13 made by the commission, and any sanction imposed;

14 (4) the terms of any settlement or compromise of a complaint or refer-
15 ral which includes a fine, penalty or other remedy;

16 (5) those required to be held or maintained publicly available pursu-
17 ant to article one-A of the legislative law; and

18 (6) substantial basis investigation reports issued by the commission
19 pursuant to subdivision fourteen-a or fourteen-b of this section. [With
20 respect to reports concerning members of the legislature or legislative
21 employees or candidates for member of the legislature, the joint commis-
22 sion shall not publicly disclose or otherwise disseminate such reports
23 except in conformance with the requirements of paragraph (b) of subdivi-
24 sion nine of section eighty of the legislative law.]

25 (b) Notwithstanding the provisions of article seven of the public
26 officers law, no meeting or proceeding, including any such proceeding
27 contemplated under paragraph (h) or (i) of subdivision nine of this
28 section, of the commission shall be open to the public, except if
29 expressly provided otherwise by the commission or as is required by
30 article one-A of the legislative law.

31 (c) Pending any application for deletion or exemption to the commis-
32 sion, all information which is the subject or a part of the application
33 shall remain confidential. Upon an adverse determination by the commis-
34 sion, the reporting individual may request, and upon such request the
35 commission shall provide, that any information which is the subject or
36 part of the application remain confidential for a period of thirty days
37 following notice of such determination. In the event that the reporting
38 individual resigns his office and holds no other office subject to the
39 jurisdiction of the commission, the information shall not be made public
40 and shall be expunged in its entirety.

41 20. THE COMMISSION SHALL CREATE AND THEREAFTER MAINTAIN A PUBLICLY
42 ACCESSIBLE WEBSITE WHICH SHALL SET FORTH THE PROCEDURE FOR FILING A
43 COMPLAINT WITH THE COMMISSION, AND WHICH SHALL CONTAIN ANY OTHER RECORDS
44 OR INFORMATION WHICH THE COMMISSION DETERMINES TO BE APPROPRIATE.

45 21. If any part or provision of this section or the application there-
46 of to any person or organization is adjudged by a court of competent
47 jurisdiction to be unconstitutional or otherwise invalid, such judgment
48 shall not affect or impair any other part or provision or the applica-
49 tion thereof to any other person or organization, but shall be confined
50 in its operation to such part or provision.

51 S 3. Subdivision 5 of section 12 of the legislative law, as added by
52 chapter 141 of the laws of 1994, is amended to read as follows:

53 5. Notwithstanding any provision of law to the contrary, services and
54 expenses of the legislative health service, legislative library, legis-
55 lative messenger service, [legislative ethics committee] JOINT COMMIS-
56 SION ON PUBLIC ETHICS, joint operations of the legislative task force on

1 demographic research and reapportionment, and contributions to the
2 national conference of state legislatures shall be payable after audit
3 by and on the warrant of the comptroller upon vouchers certified by the
4 temporary president of the senate or his or her designee and the speaker
5 of the assembly or his or her designee.

6 S 4. Paragraph (a) of subdivision 1, the opening paragraph of para-
7 graph (a) and paragraph (c) of subdivision 6, paragraph (g) of subdivi-
8 sion 8, and subdivision 10 of section 73 of the public officers law,
9 paragraph (a) of subdivision 1 as amended by section 1 of part A of
10 chapter 399 of the laws of 2011, the opening paragraph of paragraph (a)
11 of subdivision 6 as amended by section 3 of part A of chapter 399 of the
12 laws of 2011, paragraph (c) of subdivision 6 as amended by chapter 813
13 of the laws of 1987, paragraph (g) of subdivision 8 as added by chapter
14 218 of the laws of 1998, and subdivision 10 as amended by section 13 of
15 part A of chapter 399 of the laws of 2011, are amended to read as
16 follows:

17 (a) The term "compensation" shall mean any money, thing of value or
18 financial benefit conferred in return for services rendered or to be
19 rendered. With regard to matters undertaken by a firm, corporation or
20 association, compensation shall mean net revenues, as defined in accord-
21 ance with generally accepted accounting principles as defined by the
22 joint commission on public ethics [or legislative ethics commission] in
23 relation to persons subject to [their respective jurisdictions] THE
24 JOINT COMMISSION'S JURISDICTION.

25 Every legislative employee not subject to the provisions of section
26 seventy-three-a of this chapter shall, on and after December fifteenth
27 and before the following January fifteenth, in each year, file with the
28 joint commission on public ethics [and the legislative ethics commis-
29 sion] a financial disclosure statement of

30 (c) Any such legislative employee who knowingly and wilfully with
31 intent to deceive makes a false statement or gives information which he
32 knows to be false in any written statement required to be filed pursuant
33 to this subdivision, shall be assessed a civil penalty in an amount not
34 to exceed ten thousand dollars. Assessment of a civil penalty shall be
35 made by the [legislative ethics committee] JOINT COMMISSION ON PUBLIC
36 ETHICS in accordance with the provisions of subdivision [twelve] FOUR-
37 TEEN of section [eighty] NINETY-FOUR of the [legislative] EXECUTIVE law.
38 For a violation of this subdivision, the [committee] JOINT COMMISSION
39 may, in lieu of a civil penalty, refer a violation to the appropriate
40 prosecutor and upon conviction, but only after such referral, such
41 violation shall be punishable as a class A misdemeanor.

42 (g) Notwithstanding the provisions of subparagraphs (i) and (ii) of
43 paragraph (a) of this subdivision, a former state officer or employee
44 may contract individually, or as a member or employee of a firm, corpo-
45 ration or association, to render services to any state agency when the
46 agency head certifies in writing to the [state ethics commission] JOINT
47 COMMISSION ON PUBLIC ETHICS that the services of such former officer or
48 employee are required in connection with the agency's efforts to address
49 the state's year 2000 compliance problem.

50 10. Nothing contained in this section, the judiciary law, the educa-
51 tion law or any other law or disciplinary rule shall be construed or
52 applied to prohibit any firm, association or corporation, in which any
53 present or former statewide elected official, state officer or employee,
54 or political party chairman, member of the legislature or legislative
55 employee is a member, associate, retired member, of counsel or share-
56 holder, from appearing, practicing, communicating or otherwise rendering

1 services in relation to any matter before, or transacting business with
2 a state agency, or a city agency with respect to a political party
3 chairman in a county wholly included in a city with a population of more
4 than one million, otherwise proscribed by this section, the judiciary
5 law, the education law or any other law or disciplinary rule with
6 respect to such official, member of the legislature or officer or
7 employee, or political party chairman, where such statewide elected
8 official, state officer or employee, member of the legislature or legis-
9 lative employee, or political party chairman does not share in the net
10 revenues, as defined in accordance with generally accepted accounting
11 principles by the joint commission on public ethics [or by the legisla-
12 tive ethics committee] in relation to persons subject to [their respec-
13 tive jurisdictions] THE JOINT COMMISSION'S JURISDICTION, resulting ther-
14 efrom, or, acting in good faith, reasonably believed that he or she
15 would not share in the net revenues as so defined; nor shall anything
16 contained in this section, the judiciary law, the education law or any
17 other law or disciplinary rule be construed to prohibit any firm, asso-
18 ciation or corporation in which any present or former statewide elected
19 official, member of the legislature, legislative employee, full-time
20 salaried state officer or employee or state officer or employee who is
21 subject to the provisions of section seventy-three-a of this article is
22 a member, associate, retired member, of counsel or shareholder, from
23 appearing, practicing, communicating or otherwise rendering services in
24 relation to any matter before, or transacting business with, the court
25 of claims, where such statewide elected official, member of the legisla-
26 ture, legislative employee, full-time salaried state officer or employee
27 or state officer or employee who is subject to the provisions of section
28 seventy-three-a of this article does not share in the net revenues, as
29 defined in accordance with generally accepted accounting principles by
30 the joint commission on public ethics [or by the legislative ethics
31 committee] in relation to persons subject to [their respective jurisdic-
32 tions] THE JOINT COMMISSION'S JURISDICTION, resulting therefrom, or,
33 acting in good faith, reasonably believed that he or she would not share
34 in the net revenues as so defined.

35 S 5. Paragraphs (d) and (d-1) of subdivision 1, the opening paragraph
36 and subparagraphs (ii), (viii) and (ix) of paragraph (a) and paragraphs
37 (c), (e), (f) and (g) of subdivision 2 and subdivision 4 of section 73-a
38 of the public officers law, paragraph (d) of subdivision 1, the opening
39 paragraph and subparagraphs (ii), (viii) and (ix) of paragraph (a) and
40 paragraphs (c), (e), (f) and (g) of subdivision 2 and subdivision 4 as
41 amended and paragraph (d-1) of subdivision 1 as added by section 5 of
42 part A of chapter 399 of the laws of 2011, are amended to read as
43 follows:

44 (d) The term "legislative employee" shall mean any officer or employee
45 of the legislature who receives annual compensation in excess of the
46 filing rate established by paragraph (l) below or who is determined to
47 hold a policy-making position by the appointing authority as set forth
48 in a written instrument which shall be filed with the [legislative
49 ethics commission and the] joint commission on public ethics.

50 (d-1) A financial disclosure statement required pursuant to section
51 seventy-three of this article and this section shall be deemed "filed"
52 with the joint commission on public ethics upon its filing, in accord-
53 ance with this section, [with the legislative ethics commission] for all
54 purposes including, but not limited to, subdivision fourteen of section
55 ninety-four of the executive law[, subdivision nine of section eighty of
56 the legislative law] and subdivision four of this section.

1 Every statewide elected official, state officer or employee, member of
2 the legislature, legislative employee and political party chairman and
3 every candidate for statewide elected office or for member of the legis-
4 lature shall file an annual statement of financial disclosure containing
5 the information and in the form set forth in subdivision three of this
6 section. On or before the fifteenth day of May with respect to the
7 preceding calendar year: (1) every member of the legislature, every
8 candidate for member of the legislature and legislative employee shall
9 file such statement, ALONG WITH ANY REQUESTS FOR EXEMPTIONS OR
10 DELETIONS, with the [legislative ethics commission which shall provide
11 such statement along with any requests for exemptions or deletions to
12 the] joint commission on public ethics [for filing and], WHICH SHALL
13 MAKE rulings with respect to such requests for exemptions or deletions,
14 on or before the thirtieth day of June; and (2) all other individuals
15 required to file such statement shall file it with the joint commission
16 on public ethics, except that:

17 (ii) a person who is required to file an annual financial disclosure
18 statement with the joint commission on public ethics, and who is granted
19 an additional period of time within which to file such statement due to
20 justifiable cause or undue hardship, in accordance with required rules
21 and regulations on the subject adopted pursuant to paragraph c of subdi-
22 vision nine of section ninety-four of the executive law shall file such
23 statement within the additional period of time granted[; and the legis-
24 lative ethics commission shall notify the joint commission on public
25 ethics of any extension granted pursuant to this paragraph];

26 (viii) a candidate substituted for another candidate, who fills a
27 vacancy in a party designation or in an independent nomination, caused
28 by declination, shall file such statement within ten days after the last
29 day allowed by law to file a certificate to fill a vacancy in such party
30 designation or independent nomination[;

31 (ix) with respect to all candidates for member of the legislature, the
32 legislative ethics commission shall within five days of receipt provide
33 the joint commission on public ethics the statement filed pursuant to
34 subparagraphs (v), (vi), (vii) and (viii) of this paragraph].

35 (c) If the reporting individual is a senator or member of assembly,
36 candidate for the senate or member of assembly or a legislative employ-
37 ee, [such statement shall be filed with both the legislative ethics
38 commission established by section eighty of the legislative law and the
39 joint commission on public ethics in accordance with paragraph (d-1) of
40 subdivision one of this section. If the reporting individual is a]
41 statewide elected official, candidate for statewide elected office, a
42 state officer or employee or a political party chairman, such statement
43 shall be filed with the joint commission on public ethics established by
44 section ninety-four of the executive law.

45 (e) Any person required to file such statement who commences employ-
46 ment after May fifteenth of any year, MEMBERS OF THE LEGISLATURE, LEGIS-
47 LATIVE EMPLOYEES, and political party chairman shall file such statement
48 within thirty days after commencing employment or of taking the position
49 of political party chairman, as the case may be. [In the case of members
50 of the legislature and legislative employees, such statements shall be
51 filed with the legislative ethics commission within thirty days after
52 commencing employment, and the legislative ethics commission shall
53 provide such statements to the joint commission on public ethics within
54 forty-five days of receipt.]

55 (f) A person who may otherwise be required to file more than one annu-
56 al financial disclosure statement [with both the joint commission on

1 public ethics and the legislative ethics commission] in any one calendar
2 year may satisfy such requirement by filing one such statement with
3 [either body and by notifying the other body of such compliance] THE
4 JOINT COMMISSION ON PUBLIC ETHICS.

5 (g) A person who is employed in more than one employment capacity for
6 one or more employers certain of whose officers and employees are
7 subject to filing a financial disclosure statement [with the same ethics
8 commission, as the case may be,] and who receives distinctly separate
9 payments of compensation for such employment shall be subject to the
10 filing requirements of this section if the aggregate annual compensation
11 for all such employment capacities is in excess of the filing rate
12 notwithstanding that such person would not otherwise be required to file
13 with respect to any one particular employment capacity. [A person not
14 otherwise required to file a financial disclosure statement hereunder
15 who is employed by an employer certain of whose officers or employees
16 are subject to filing a financial disclosure statement with the joint
17 commission on public ethics and who is also employed by an employer
18 certain of whose officers or employees are subject to filing a financial
19 disclosure statement with the legislative ethics commission shall not be
20 subject to filing such statement with either such commission on the
21 basis that his aggregate annual compensation from all such employers is
22 in excess of the filing rate.]

23 4. A reporting individual who knowingly and wilfully fails to file an
24 annual statement of financial disclosure or who knowingly and wilfully
25 with intent to deceive makes a false statement or gives information
26 which such individual knows to be false on such statement of financial
27 disclosure filed pursuant to this section shall be subject to a civil
28 penalty in an amount not to exceed forty thousand dollars. Assessment of
29 a civil penalty hereunder shall be made by the joint commission on
30 public ethics [or by the legislative ethics commission, as the case may
31 be, with respect to persons subject to their respective jurisdictions].
32 The joint commission on public ethics acting pursuant to subdivision
33 fourteen of section ninety-four of the executive law [or the legislative
34 ethics commission acting pursuant to subdivision eleven of section
35 eighty of the legislative law, as the case may be,] may, in lieu of or
36 in addition to a civil penalty, refer a violation to the appropriate
37 prosecutor and upon such conviction, but only after such referral, such
38 violation shall be punishable as a class A misdemeanor. A civil penalty
39 for false filing may not be imposed hereunder in the event a category of
40 "value" or "amount" reported hereunder is incorrect unless such reported
41 information is falsely understated. Notwithstanding any other provision
42 of law to the contrary, no other penalty, civil or criminal may be
43 imposed for a failure to file, or for a false filing, of such statement,
44 except that the appointing authority may impose disciplinary action as
45 otherwise provided by law. The joint commission on public ethics [and
46 the legislative ethics commission] shall [each] be deemed to be an agen-
47 cy within the meaning of article three of the state administrative
48 procedure act and shall adopt rules governing the conduct of adjudicato-
49 ry proceedings and appeals relating to the assessment of the civil
50 penalties herein authorized. Such rules, which shall not be subject to
51 the approval requirements of the state administrative procedure act,
52 shall provide for due process procedural mechanisms substantially simi-
53 lar to those set forth in such article three but such mechanisms need
54 not be identical in terms or scope. Assessment of a civil penalty shall
55 be final unless modified, suspended or vacated within thirty days of
56 imposition and upon becoming final shall be subject to review at the

1 instance of the affected reporting individual in a proceeding commenced
2 against the joint commission on public ethics [or the legislative ethics
3 commission], pursuant to article seventy-eight of the civil practice law
4 and rules.

5 S 6. Transfer of records. The legislative ethics commission shall
6 deliver to the joint commission on public ethics all books, papers,
7 records, and property as requested by the joint commission.

8 S 7. Continuity of authority. For the purpose of succession to all
9 functions, powers, duties and obligations transferred and assigned to,
10 devolved upon and assumed by it pursuant to this act, the joint commis-
11 sion on public ethics shall be deemed and held to constitute the contin-
12 uation of the legislative ethics commission.

13 S 8. Completion of unfinished business. Any business or other matter
14 undertaken or commenced by the legislative ethics commission pertaining
15 to or connected with the functions, powers, obligations and duties here-
16 by transferred and assigned to the joint commission on public ethics,
17 and pending on the effective date of this act may be conducted and
18 completed by the joint commission on public ethics in the same manner
19 and under the same terms and conditions and with the same effect as if
20 conducted and completed by the former legislative ethics commission.

21 S 9. Terms occurring in laws, contracts and other documents. Whenever
22 the legislative ethics commission is referred to or designated in any
23 law, contract or documents pertaining solely to those functions, powers,
24 obligations and duties hereby transferred and assigned to the joint
25 commission on public ethics, such reference or designation shall be
26 deemed to refer to the joint commission on public ethics.

27 S 10. Existing rights and remedies preserved. No existing right or
28 remedy of any character shall be lost, impaired or affected by reason of
29 this act.

30 S 11. Pending actions and proceedings. No action or proceeding pending
31 at the time when this act shall take effect, brought by or against the
32 legislative ethics commission shall be affected by this act, but the
33 same may be prosecuted or defended in the name of the joint commission
34 on public ethics and upon application to the court, the joint commission
35 on public ethics shall be substituted as a party.

36 S 12. Notwithstanding any contrary provision of the state finance law,
37 transfer of appropriations heretofore made to the legislative ethics
38 commission, all appropriations or reappropriations for the functions
39 herein transferred heretofore made to the legislative ethics commission,
40 or segregated pursuant to law, to the extent of remaining unexpended or
41 unencumbered balances thereof, whether allocated or unallocated and
42 whether obligated or unobligated, are hereby transferred to the joint
43 commission on public ethics to the extent necessary to carry out its
44 functions, powers and duties subject to the approval of the director of
45 the budget for the same purposes for which originally appropriated or
46 reappropriated and shall be payable on vouchers certified or approved by
47 the joint commission on public ethics on audit and warrant of the comp-
48 troller.

49 S 13. This act shall take effect January 1, 2017.