STATE OF NEW YORK

3315

2017-2018 Regular Sessions

IN ASSEMBLY

January 27, 2017

Introduced by M. of A. BARCLAY, DiPIETRO, FINCH, HAWLEY, KOLB, MONTESANO, OAKS, WALTER -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the legislative law, in relation to creating an assembly standing committee on ethics and guidance

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The legislative law is amended by adding a new section 68 to read as follows:

§ 68. Assembly standing committee on ethics and guidance. 1. There is established a standing committee in the assembly on ethics and guidance which shall replace the standing committee on ethics and guidance as established by the rules of the assembly. The committee shall consist of an equal number of majority and minority members for a total of eight members. The eight members shall be members of the assembly and appointed as follows: four by the speaker of the assembly and four by the minority leader of the assembly.

2. The committee shall serve as described in this section and have and exercise the powers and duties set forth in this section only with respect to members of the assembly and assembly employees.

3. Members of the assembly who serve on the committee shall each have a two year term concurrent with their legislative terms of office.

4. Members of the committee may only be removed by a majority vote of the committee solely for substantial neglect of duty, gross misconduct in office, violation of the confidentiality restrictions in this section, inability to discharge the powers or duties of office or violation of this section, after written notice and opportunity for a reply.

5. The speaker of the assembly and the minority leader of the assembly shall each designate one member of the committee as a co-chairperson

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

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thereof. The co-chairpersons shall receive compensation as provided for in section five-a of this chapter.

6. The committee shall meet at least bi-monthly and at such additional times as may be called for by the co-chairpersons jointly or any four members of the committee.

7. Any vacancy occurring on the committee shall be filled within thirty days by the appointing authority.

8. Five members of the committee shall constitute a quorum, and the committee shall have power to act by majority vote of the total number of members of the committee without vacancy.

9. The committee shall be funded separately from the assembly appropriations provided annually in an amount deemed appropriate by an agreement of the co-chairs for the maintenance and operation of the committee. Such appropriation for the committee shall be specifically lined out in the legislative budget. The executive director and employees of the committee shall be considered as employees of the assembly for all purposes.

10. The committee shall:

(a) appoint an executive director who shall act in accordance with the policies of the committee, provided that the committee may remove the executive director by a majority vote for neglect of duty, misconduct in office, or inability or failure to discharge the powers or duties of office;

(b) appoint such other staff as are necessary to assist it to carry out its duties under this section;

(c) adopt, amend, and rescind policies, rules and regulations consistent with this section to govern procedures of the committee;

(d) administer the provisions of this section;

(e) review all rules and policies of the speaker or the assembly relating to conduct of members and employees of the assembly, including but not limited to ethics, sexual harassment and fraternization with student interns, and recommend to the speaker of the assembly and the minority leader of the assembly any changes to such rules and policies or offer motions to amend rules of the assembly, or offer motions to suspend rules of the assembly, or adopt policies relating to conduct of members and employees of the assembly, including but not limited to ethics, sexual harassment and fraternization with student interns. Any such policy relating to conduct of members and employees of the assembly adopted by the committee shall be the policy of the assembly and subject to the provisions of this section;

(f) develop and regularly update a course of instruction for all members and employees of the assembly with regard to the laws and policies governing their conduct. The committee shall recommend to the speaker of the assembly and the minority leader of the assembly a conduct and ethics training plan for implementing and scheduling such course of instruction for members, employees and newly-hired employees;

(g) prepare an annual report to the speaker of the assembly and the minority leader of the assembly summarizing the activities of the committee during the previous year and recommending any changes in the laws governing the conduct of persons subject to the jurisdiction of the committee, or the rules, regulations and procedures governing the committee's conduct. Such report shall include: (i) a listing by assigned number of each complaint including current status of each complaint, (ii) where a matter was deferred, and (iii) where a matter has been resolved, the date and nature of the disposition and any sanc-

tion imposed, subject to the confidentiality requirements of this section; and

(h) investigate complaints and impose disciplinary measures against members and employees found in violation of rules and policies of the speaker or the assembly or the public officers law or other law.

11. Investigations, mandatory reporting of violations, and enforcement authority:

(a) The committee shall have the authority, on its own accord, to initiate by a majority vote an investigation into a possible violation, by any member or employee of the assembly, of the rules or policy of the speaker or the assembly or of the public officers law or other law.

(b) Any formal or informal complaint of a violation of rules and policies of the speaker or the assembly relating to conduct of members and employees of the assembly or of a violation of the public officers law or other law, must be reported to the committee within five days of such complaint being made to counsel, office of human resources, office of administration and personnel or intake representative.

(c) The committee shall review such complaint at the next meeting of such committee and determine by majority vote whether to investigate such complaint further, commence a full formal investigation of such complaint or defer such complaint to the joint commission on public ethics, the legislative ethics commission, or an appropriate prosecutor. The staff of the committee shall provide to the members of the committee prior to such vote information regarding the likely scope and content of the investigation, and a subpoena plan, to the extent such information is available.

(d) If the committee determines by majority vote that a full formal investigation shall commence the committee shall notify the individual in writing, describe the possible or alleged violation of rules and policies of the speaker or the assembly related to conduct of members and employees of the assembly or of a violation of the public officers law or other law and provide the person with a fifteen day period in which to submit a written response setting forth information relating to the activities cited as a possible or alleged violation of such rules and policies.

(e) The committee has the authority to conduct any inquiry pertinent or material to the discharge of the functions, powers and duties imposed by law; and through designated members of the staff, to subpoena witnesses, administer oaths, take testimony and compel the production of such books, papers, records and documents as may be relevant to any such inquiry and investigation.

(f) If the committee determines at any stage that there is no violation, it shall so advise the individual and the complainant, if any. All of the foregoing proceedings shall be confidential.

(g) The jurisdiction of the committee when acting pursuant to this section shall continue notwithstanding that a member of the assembly or assembly employee separates from assembly service, provided that the committee notifies such individual of the alleged violation of rules and policies of the speaker or the assembly relating to conduct of members and employees of the assembly or of a violation of the public officers law pursuant to paragraph (c) of this subdivision within one year from his or her separation from assembly service.

(h) If during the course of its investigation the committee deems that a violation of rules and policies of the speaker or the assembly related to conduct of members and employees of the assembly or a violation of

the public officers law or other law has occurred, the committee shall notify the individual in writing.

(i) The committee shall have the authority to (i) recommend punishments for violations of rules and policies of the speaker or the assembly, or the public officers law or other law, including but not limited to censure, stripping members of leadership positions or expulsion pursuant to section three of this chapter and (ii) access penalties pursuant to applicable law or rule.

(j) No member or employee of the assembly shall take any adverse personnel action with respect to another member or employee of the assembly in retaliation for his or her making a report to the committee, or for his or her official duties as a member of the committee, concerning conduct which he or she knows or reasonably believes to be a violation of rules and policies of the speaker or the assembly or the public officers law or other law.

(k) Notwithstanding the provisions of article six of the public officers law, the only records of the committee which shall be available for public inspection and copying are:

(i) the terms of any settlement or compromise of a complaint or referral or report which includes a fine, penalty or other remedy reached by the committee; and

(ii) all reports required by this section.

12. Notwithstanding the provisions of article seven of the public officers law, no meeting or proceeding of the committee shall be open to the public, except if expressly provided otherwise by this section or the committee.

§ 2. That portion of subdivision 1 of section 5-a of the legislative law entitled "ASSEMBLYMEN SERVING IN SPECIAL CAPACITY", as amended by section 3 of part XX of chapter 56 of the laws of 2009, is amended to read as follows:

ASSEMBLYMEN SERVING IN SPECIAL CAPACITY

Chairman of assembly ways and means committee 34,000
Ranking minority member of assembly ways and means committee 20,500
Chairman of assembly judiciary committee 18,000
Ranking minority member of assembly judiciary committee 11,000
Chairman of assembly codes committee 18,000
Ranking minority member of assembly codes committee 11,000
Chairman of assembly banks committee 15,000
Ranking minority member of assembly banks committee 9,500
Chairman of assembly committee on cities 15,000
Ranking minority member of assembly committee on cities 9,500
Chairman of assembly education committee 18,000
Ranking minority member of assembly education committee 11,000
Chairman of assembly health committee 15,000
Ranking minority member of assembly health committee 9,500
Chairman of assembly local governments committee 15,000
Ranking minority member of assembly local governments committee 9,500
Chairman of assembly agriculture committee 12,500
Ranking minority member of assembly agriculture committee 9,000
Chairman of assembly economic development, job creation,

commerce and industry committee 18,000
Ranking minority member of assembly economic development, job creation, commerce and industry committee 11,000
Chairman of assembly environmental conservation committee 12,500
Ranking minority member of assembly environmental conservation committee 9,000
Chairman of assembly corporations, authorities and commissions committee 15,000
Ranking minority member of assembly corporations, authorities, and commissions committee 9,500
Chairman of assembly correction committee 12,500
Ranking minority member of assembly correction committee 9,000
Majority Chairman of assembly ethics and guidance committee 12,500
[~~**Ranking minority member of assembly ethics and guidance committee ..... 9,000**~~]
Minority Chairman of assembly ethics and guidance committee 12,500
Chairman of assembly governmental employees committee 12,500
Ranking minority member of assembly governmental employees committee 9,000
Chairman of assembly governmental operations committee 12,500
Ranking minority member of assembly governmental operations committee 9,000
Chairman of assembly housing committee 12,500
Ranking minority member of assembly housing committee 9,000
Chairman of assembly insurance committee 12,500
Ranking minority member of assembly insurance committee 9,000
Chairman of assembly labor committee 14,000
Ranking minority member of assembly labor committee 9,000
Chairman of assembly racing and wagering committee 12,500
Ranking minority member of assembly racing and wagering committee 9,000
Chairman of assembly social services committee 12,500
Ranking minority member of assembly social services committee 9,000
Chairman of assembly small business committee 12,500
Ranking minority member of assembly small business committee 9,000
Chairman of assembly transportation committee 15,000
Ranking minority member of assembly transportation committee 9,500
Chairman of assembly veterans' affairs committee 12,500
Ranking minority member of assembly veterans' affairs committee 9,000
Chairman of assembly aging committee 12,500
Ranking minority member of assembly aging committee 9,000
Chairman of the assembly alcoholism and drug abuse committee 12,500
Ranking minority member of the assembly alcoholism and drug abuse committee 9,000
Chairman of assembly committee on mental health, mental retardation and developmental disabilities 12,500
Ranking minority member of assembly committee on mental health,

mental retardation and developmental disabilities 9,000
Chairman of assembly higher education committee 12,500
Ranking minority member of assembly higher education committee 9,000
Chairman of assembly real property taxation committee 12,500
Ranking minority member of assembly real property taxation committee 9,000
Chairman of assembly election law committee 12,500
Ranking minority member of assembly election law committee 9,000
Chairman of assembly children and families committee 12,500
Ranking minority member of assembly children and families committee 9,000
Chairman of assembly consumer affairs and protection committee 12,500
Ranking minority member of assembly consumer affairs and protection committee 9,000
Chairman of the assembly energy committee 12,500
Ranking minority member of assembly energy committee 9,000
Chairman of assembly tourism, parks, arts and sports development committee 12,500
Ranking minority member of assembly tourism, parks, arts and sports development committee 9,000
Chairman of assembly oversight, analysis and investigation committee 12,500
Ranking minority member of assembly oversight, analysis and investigation committee 9,000
Chairman of assembly office of state-federal relations 12,500
Chairman of majority house operations 12,500
Chairman of minority house operations 9,000
Co-chairman of the administrative regulations review commission 12,500

§ 3. Severability clause. If any part or provision of this section or the application thereof to any person is adjudged by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such judgment shall not affect or impair any other part or provision or the application thereof to any other person, but shall be confined to such part or provision.

§ 4. This act shall take effect immediately.