STATE OF NEW YORK

6355--A

2017-2018 Regular Sessions

IN ASSEMBLY

March 3, 2017

Introduced by M. of A. PEOPLES-STOKES, ENGLEBRIGHT, FAHY, O'DONNELL, SCHIMMINGER, BLAKE, BUCHWALD, GALEF, GOODELL, LUPARDO, SKOUFIS, LAVINE, LOPEZ, B. MILLER, WOERNER, COLTON, PHEFFER AMATO, BARRETT, BRONSON, HARRIS, SIMON, SOLAGES, QUART, SIMOTAS, STECK, ROZIC, OAKS, KOLB, MOSLEY, BRAUNSTEIN, ABINANTI, CYMBROWITZ, WALLACE -- Multi-Sponsored by -- M. of A. DenDEKKER, GLICK, HOOPER -- (at request of the State Comptroller) -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the state finance law and the education law, in relation to enacting the "New York state procurement integrity act"; and to repeal section 6283 of the education law relating to procurements of the fund (Part A); to amend the public authorities law, in relation to requiring public authorities to comply with certain provisions of the state finance law relating to procurements (Part B); to amend the public authorities law, in relation to prohibiting certain third party contracts (Part C); to amend the state finance law, in relation to authorizing the state comptroller to oversee certain contracts of the research foundation of the state university of New York (Part D); to amend the economic development law, in relation to expanding requirements for state authorities to publish procurement opportunities (Part E); and to amend the state finance law and the public authorities law, in relation to prohibiting conflicts of interest by state officers and employees in state procurements and prohibiting conflicts of interest by state authority board members, officers and employees in state and authority procurements (Part F)

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

Section 1. This act enacts into law major components of legislation which are necessary to implement the New York state procurement integrity act. Each component is wholly contained within a Part identified as

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

LBD07080-08-7

Parts A through F. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act," when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Paragraph (a) of subdivision 2 of section 112 of the state finance law, as amended by section 18 of part L of chapter 55 of the laws of 2012, is amended to read as follows:

(a) Before any contract made for or by any state agency, department, board, officer, commission, or institution, except the office of general services, shall be executed or become effective, whenever such contract exceeds fifty thousand dollars in amount and before any contract made for or by the office of general services shall be executed or become effective, whenever such contract exceeds eighty-five thousand dollars in amount, it shall first be approved by the comptroller and filed in his or her office, [~~with the exception of contracts established as a centralized contract through the office of general services and purchase orders or other procurement transactions issued under such centralized contracts. The~~] **provided, however, that the** comptroller shall make a final written determination with respect to approval of such contract within ninety days of the submission of such contract to his or her office unless the comptroller shall notify, in writing, the state agency, department, board, officer, commission, or institution, prior to the expiration of the ninety day period, and for good cause, of the need for an extension of not more than fifteen days, or a reasonable period of time agreed to by such state agency, department, board, officer, commission, or institution and provided, further, that such written determination or extension shall be made part of the procurement record pursuant to paragraph f of subdivision one of section one hundred sixty-three of this chapter.

§ 2. Subdivisions 5 and 6 of section 355 of the education law, as amended by section 1 of subpart B of part D of chapter 58 of the laws of 2011, paragraph a of subdivision 5 as amended by section 31 of part L of chapter 55 of the laws of 2012, are amended to read as follows:

5. Notwithstanding the provisions of subdivision two of section one hundred twelve and sections one hundred fifteen, one hundred sixty-one, and one hundred sixty-three of the state finance law and sections three and six of the New York state printing and public documents law or any other law to the contrary, the state university trustees are authorized and empowered to:

a. (i) purchase materials, proprietary electronic information resources including but not limited to academic, professional, and industry journals, reference handbooks and manuals, research tracking tools, indexes and abstracts, equipment and supplies, including computer equipment and motor vehicles**, where the amount for a single purchase does not exceed two hundred fifty thousand dollars**, (ii) execute contracts for **services and** construction [~~and construction-related services~~] contracts **to an amount not exceeding two hundred fifty thousand dollars**, and (iii) contract for printing **to an amount not exceeding two hundred fifty thousand dollars**, without prior approval by any other

state officer or agency, but subject to rules and regulations **or guidelines** of the state comptroller not otherwise inconsistent with the provisions of this section and in accordance with guidelines promulgated by the state university board of trustees after consultation with the state comptroller**. Provided, however, that the dollar limits set forth in this paragraph shall be one hundred twenty-five thousand dollars for single or sole source procurements or where there is a formal protest of the contract award. In addition, where the state comptroller determines adequate internal controls are either not in place or are not being utilized effectively, and such failure has resulted in procurement practices that are inconsistent with the purposes underlying the competitive bidding statutes of the state, including those set forth in subdivision two of section one hundred sixty-three of the state finance law, the comptroller may reduce the dollar limits set forth in this paragraph to an amount not less than fifty thousand dollars or, for state university health care facilities, seventy-five thousand dollars.**

(a-1) The trustees, after consultation with the commissioner of general services, are authorized to annually negotiate with the state comptroller increases in the dollar limits set forth in paragraph a of this subdivision and the exemption of any articles, categories of articles or commodities from these limits.

(a-2) Guidelines promulgated by the state university board of trustees shall, to the extent practicable, require that competitive proposals be solicited for purchases, and shall include requirements that purchases and contracts authorized under this section be at the lowest available price, including consideration of prices available through other state agencies, consistent with quality requirements, and as will best promote the public interest. Such purchases may be made directly from any contractor pursuant to any contract for commodities let by the office of general services or any other state agency;

[~~a-1. execute contracts for services to an amount not exceeding twenty thousand dollars without prior approval by any other state officer or agency, but subject to rules and regulations of the state comptroller not otherwise inconsistent with the provisions of this section and in accordance with the guidelines promulgated by the state university board of trustees after consultation with the state comptroller. In addition, the trustees, after consultation with the commissioner of general services, are authorized to annually negotiate with the state comptroller increases in the aforementioned dollar limits and the exemption of any services or categories of services from these limits;~~]

b. to establish cash advance accounts for the purpose of purchasing materials, supplies, or services, for cash advances for travel expenses and per diem allowances, or for advance payment of wages and salary. The account may be used to purchase such materials, supplies, or services where the amount of a single purchase does not exceed [~~one thousand~~] **two hundred fifty** dollars, in accordance with such guidelines as shall be prescribed by the state university trustees after consultation with the state comptroller;

c. establish guidelines in consultation with the commissioner of general services authorizing participation by the state university in programs administered by the office of general services for the purchase of available New York state food products. The commissioner of general services shall provide assistance to the state university necessary to enable the university to participate in these programs;

d. award contract extensions for campus transportation without competitive bidding where such contracts were secured either through compet-

itive bidding or through evaluation of proposals **in response to a request for proposals**, however such extensions may be rejected if the amount to be paid to the contractor in any year of such proposed extension fails to reflect any decrease in the regional consumer price index for the New York, New York-Northeastern, New Jersey area, based upon the index for all urban consumers (CPI-U) during the preceding twelve-month period. At the time of any contract extension, consideration shall be given to any competitive proposal offered by a public transportation agency. Such contract may be increased for each year of the contract extension by an amount not to exceed the regional consumer price index increase for the New York, New York-Northeastern, New Jersey area, based upon the index for all urban consumers (CPI-U), during the preceding twelve-month period, provided it has been satisfactorily established by the contractor that there has been at least an equivalent increase in the amount of his cost of operation, during the period of the contract.

[~~e. guidelines promulgated by the state university board of trustees shall, to the extent practicable, require that competitive proposals be solicited for purchases, and shall include requirements that purchases and contracts authorized under this section be at the lowest available price, including consideration of prices available through other state agencies, consistent with quality requirements, and as will best promote the public interest. Such purchases may be made directly from any contractor pursuant to any contract for commodities let by the office of general services or any other state agency.~~]

6. To enter into any contract or agreement deemed necessary or advisable after consultation with appropriate state agencies for carrying out the objects and purposes of state university without prior review or approval by any state officer or agency other than the state comptroller and the attorney general including contracts with non-profit corporations organized by officers, employees, alumni or students of state university for the furtherance of its **academic** objects and purposes. Contracts or agreements entered into with the federal government to enable participation in federal student loan programs, including any and all instruments required thereunder, shall not be subject to the requirements of section forty-one of the state finance law; provided, however, that the state shall not be liable for any portion of any defaults which it has agreed to assume pursuant to any such agreement in an amount in excess of money appropriated or otherwise lawfully available therefor at the time the liability for payment arises. [~~The foregoing notwithstanding, any contract made for or by the state university for the purchase of: (i) materials, equipment and supplies, including computer equipment; (ii) motor vehicles; (iii) construction and construction-related services contracts; and (iv) printing shall not be subject to prior approval by any other state officer or agency.~~]

§ 3. Paragraph b of subdivision 16 of section 355 of the education law, as amended by section 1 of subpart C of part D of chapter 58 of the laws of 2011, is amended to read as follows:

b. Notwithstanding the provisions of subdivision two of section one hundred twelve of the state finance law[~~,~~] **relating to the dollar threshold requiring the comptroller's approval of contracts,** subdivision six of section one hundred sixty-three of the state finance law [~~and section sixty-three of the executive law (i)~~] authorize contracts for the purchase of goods for state university health care facilities [~~without prior approval by any other state officer or agency,~~] including contracts for joint or group purchasing arrangements of goods, in accordance with procedures and requirements found in paragraph a of

subdivision five of this section[~~, and (ii) authorize contracts for services~~] which do not exceed [~~seventy-five~~] two hundred fifty thousand dollars [~~without prior approval by any other state officer or agency in accordance with procedures and requirements found in paragraph a of subdivision five of this section~~]. Contracts authorized pursuant to this paragraph shall be subject to article fourteen of the civil service law and the applicable provisions of agreements between the state and employee organizations pursuant to article fourteen of the civil service law.

The trustees are authorized to negotiate annually with the state comptroller increases in the aforementioned dollar limits.

§ 4. Subdivision 12 of section 373 of the education law, as amended by section 2 of subpart A of part D of chapter 58 of the laws of 2011, is amended to read as follows:

12. To procure and execute contracts, lease agreements, and all other instruments necessary or convenient for the exercise of its corporate powers and the fulfillment of its corporate purposes under this article. [~~Notwithstanding subdivision two of section one hundred twelve of the state finance law or any other law to the contrary, fund procurements shall not be subject to the prior approval of any state officer or agency;~~]

§ 5. Subdivisions a and a-1 of section 6218 of the education law, subdivision a as amended and subdivision a-1 as added by section 2 of subpart B of part D of chapter 58 of the laws of 2011, subparagraph (i) of paragraph 1 of subdivision a as amended by section 33 of part L of chapter 55 of the laws of 2012, are amended to read as follows:

a. Notwithstanding the provisions of subdivision two of section one hundred twelve and sections one hundred fifteen, one hundred sixty-one and one hundred sixty-three of the state finance law and sections three and six of the New York state printing and public documents law or any other law to the contrary, the city university is authorized and empowered to:

[~~(1)~~] (i) purchase materials; proprietary electronic information resources, including, but not limited to, academic, professional and industry journals, reference handbooks and manuals, research tracking tools, indexes and abstracts; and equipment and supplies, including computer equipment and motor vehicles, where the amount for a single purchase does not exceed two hundred fifty thousand dollars, (ii) execute contracts for [~~construction and construction-related services contracts~~] services to an amount not exceeding two hundred fifty thousand dollars, and (iii) contract for printing to an amount not exceeding two hundred fifty thousand dollars, without prior approval by any other state officer or agency, but subject to rules and regulations or guidelines of the state comptroller not otherwise inconsistent with the provisions of this section and in accordance with the guidelines promulgated by the city university board of trustees after consultation with the state comptroller. Provided, however, that the dollar limits set forth in this subdivision shall be one hundred twenty-five thousand dollars for single or sole source procurements or where there is a formal protest of the contract award. In addition, where the state comptroller determines adequate internal controls are either not in place or are not being utilized effectively, and such failure has resulted in procurement practices that are inconsistent with the purposes underlying the competitive bidding statutes of the state, including those set forth in subdivision two of section one hundred sixty-three of the state

finance law, the comptroller may reduce the dollar limits set forth in this subdivision to an amount not less than fifty thousand dollars.

(a-1) The trustees are authorized to annually negotiate with the state comptroller increases in the dollar limits set forth in this subdivision and the exemption of any articles, categories of articles or commodities from these limits.

(a-2) Guidelines promulgated by the city university board of trustees shall, to the extent practicable, require that competitive proposals be solicited for purchases, and shall include requirements that purchases and contracts authorized under this section be at the lowest possible price.

[~~(2) execute contracts for services to an amount not exceeding twenty thousand dollars without prior approval by any other state officer or agency, but subject to rules and regulations of the state comptroller not otherwise inconsistent with the provisions of this section and in accordance with the guidelines promulgated by the city university board of trustees after consultation with the state comptroller. In addition, the trustees, after consultation with the commissioner of general services, are authorized to annually negotiate with the state comptroller increases in the aforementioned dollar limits and the exemption of any services or categories of services from these limits.~~

~~a-1. Guidelines promulgated by the city university board of trustees shall, to the extent practicable, require that competitive proposals be solicited for purchases, and shall include requirements that purchases and contracts authorized under this section be at the lowest available price.~~]

§ 6. Section 6283 of the education law is REPEALED.

§ 7. This act shall take effect immediately; provided, however, that:

(a) the amendments to subdivisions 5 and 6 of section 355 and subdivisions a and a-1 of section 6218 of the education law made by sections two and five of this act shall not affect the expiration of such provisions pursuant to section 4 of subpart B of part D of chapter 58 of the laws of 2011, as amended, and shall be deemed to expire therewith;

(b) the amendments to paragraph b of subdivision 16 of section 355 of the education law made by section three of this act shall not affect the expiration of such paragraph pursuant to section 3 of subpart C of part D of chapter 58 of the laws of 2011, as amended, and shall expire therewith; and

(c) the amendments to subdivision 12 of section 373 of the education law made by section four of this act shall not affect the expiration of such subdivision pursuant to section 4 of subpart A of part D of chapter 58 of the laws of 2011, as amended, and shall expire therewith.

PART B

Section 1. Subdivision 1 of section 2879 of the public authorities law, as amended by chapter 564 of the laws of 1988, is amended to read as follows:

1. Every public authority and public benefit corporation, a majority of the members of which consist of persons either appointed by the governor or who serve as members by virtue of holding a civil office of the state, or a combination thereof, (such entities to be hereinafter in this section referred to as "corporation") shall adopt by resolution comprehensive guidelines consistent with the methods of evaluating bids and proposals and awarding of contracts authorized by sections one hundred thirty-six-a, one hundred sixty-three and one hundred sixty-

three-a of the state finance law and subdivision six of section eight of the public buildings law, unless expressly authorized otherwise by law, which detail the corporation's operative policy and instructions regarding the use, awarding, monitoring and reporting of procurement contracts. Guidelines approved by the corporation shall be annually reviewed and approved by the corporation.

§ 2. This act shall take effect immediately.

PART C

Section 1. The public authorities law is amended by adding a new section 2882 to read as follows:

§ 2882. Third party contracting prohibited. 1. Unless authorized by special act of the legislature, no state authority shall enter into a contract or agreement or extend an existing contract or agreement with another entity, (i) where the exclusive or primary role of such entity under the contract or agreement is to procure goods or services of any kind, including, but not limited to, public work, construction, alterations, or improvements to public facilities, grant contracts, employment contracts, revenue or concession contracts, the exchange of personal or real property, the exchange of services, or any combination thereof through a contract or agreement with a third party and (ii) where such entity is acting as a procurement conduit, rather than being directly responsible for the goods or services.

2. The comptroller may promulgate such rules and regulations as may be necessary to enforce this section, including the standards for determining whether a contract is prohibited by this section.

§ 2. This act shall take effect immediately and shall apply to contracts entered into on and after such date.

PART D

Section 1. The state finance law is amended by adding a new section 148 to read as follows:

§ 148. Comptroller approval of the research foundation of the state university of New York contracts. Notwithstanding any other provision of law, before any contract made for or by the research foundation of the state university of New York which is to be paid in whole or in part from monies appropriated or assigned by the state shall be executed or become effective, whenever such contract exceeds one million dollars in amount, it shall first be approved by the state comptroller and filed in his or her office. The comptroller shall make a final written determination with respect to approval of such contract within ninety days of the submission of such contract to his or her office unless the comptroller shall notify, in writing, the research foundation of the state university of New York prior to the expiration of the ninety day period, and for good cause, of the need for an extension of not more than fifteen days, or a reasonable period of time agreed to by the research foundation of the state university of New York and provided, further, that such written determination or extension shall be made part of the procurement record.

§ 2. This act shall take effect immediately and shall apply to contracts entered into on and after such date.

PART E

Section 1. Subdivision 3 of section 141 of the economic development law, as amended by section 14 of part L of chapter 55 of the laws of 2012, is amended to read as follows:

3. "Procurement contract" shall mean any written agreement entered into by an agency for the acquisition of goods, services, or construction of any kind**, including agreements awarded by an agency to a single source, a sole source or pursuant to any other method of procurement that is not competitive,** in the actual or estimated amount of fifty thousand dollars or more. The term does not include an agreement for employment in the civil service.

§ 2. Paragraph (c) of subdivision 2 and subdivision 5 of section 142 of the economic development law, as amended by chapter 137 of the laws of 2008, are amended and a new paragraph (d) is added to subdivision 2 to read as follows:

(c) for all [~~other~~] procurement contracts issued by agencies **pursuant to a competitive method of procurement including, but not limited to, an invitation for bid, request for proposals or other means of solicitation, for an amount in excess of fifty thousand dollars** (i) the name of the contracting agency; (ii) the contract identification number; (iii) a brief description of the goods or services sought, the location where goods are to be delivered or services provided and the contract term; (iv) the address where bids or proposals are to be submitted; (v) the date when bids or proposals are due; (vi) a description of any eligibility or qualification requirement or preference; (vii) a statement as to whether the contract requirements may be fulfilled by a subcontracting, joint venture, or co-production arrangement; (viii) any other information deemed useful to potential contractors; (ix) the name, address, and telephone number of the person to be contacted for additional information; and (x) a statement as to whether the goods or services sought had in the immediately preceding three year period been supplied by a foreign business enterprise.

(d) for all procurement contracts issued by agencies to a single source, a sole source or pursuant to any other method of procurement that is not competitive, for an amount in excess of fifty thousand dollars (i) the name of the contracting agency; (ii) the name of the recipient of the intended contract, if known at the time; (iii) the contract identification number; (iv) a brief description of the goods or services sought, the location where goods are to be delivered or services provided and the contract term; (v) a description of any eligibility or qualification requirement or preference; (vi) a statement as to whether the contract requirements may be fulfilled by a subcontracting, joint venture, or co-production arrangement; (vii) any other information deemed useful to potential contractors; (viii) the name, address, and telephone number of the person to be contacted for additional information; and (ix) a statement as to whether the goods or services sought had in the immediately preceding three year period been supplied by a foreign business enterprise.

5. In addition to any other notice of procurement contract opportunities required in this section, for procurement contracts in the amount of two hundred thousand dollars or more to be awarded by all [~~state~~] agencies, each agency shall prepare for inclusion in the procurement opportunities newsletter (a) a semi-annual listing of projected procurement purchases by category**, including projected purchases to be awarded to a single source, a sole source or pursuant to any other method of procurement that is not competitive**; (b) an explanation of how to apply for placement on any bidder list maintained by the agency; and (c) a

description of procedures for providing advance notification by mail to individuals or business entities on such bidder lists of any request for proposals, in accordance with rules and regulations promulgated by the agency. The commissioner, in consultation with each agency, shall arrange a schedule for each agency's semi-annual listing.

§ 3. Subdivisions 1 and 4 of section 143 of the economic development law, subdivision 1 as added by chapter 564 of the laws of 1988 and subdivision 4 as added by section 16 of part L of chapter 55 of the laws of 2012, are amended to read as follows:

1. Prior to awarding any procurement contract, each agency shall submit to the commissioner information sufficient to enable publication of the notices of procurement contract opportunities described in subdivision two of section one hundred forty-two of this article. Such information shall be submitted to the commissioner in sufficient time to allow a minimum of fifteen business days between publication of such notice and the date on which a bid or proposal is due, except where a shorter period is specifically authorized by law **provided, however:**

(a) in the case of procurement contracts issued by a public benefit corporation or state authority whose contracts and payments are not approved and pre-audited by the comptroller, to a single source, a sole source or pursuant to any other method of procurement that is not competitive, in sufficient time to allow a minimum of fifteen business days between publication of such notice and the date on which the state authority or public benefit corporation intends to make a contract award; or

(b) in the case of procurement contracts issued by agencies other than public benefit corporations or state authorities, to a single source, a sole source or pursuant to any other method of procurement that is not competitive, in sufficient time to allow a minimum of fifteen business days between publication of such notice and the date the agency intends to deliver the request for exemption from advertising to the state comptroller.

4. At the time an agency enters into a contract with a single or sole source provider pursuant to section one hundred sixty-three of the state finance law, **or pursuant to any other method of procurement that is not competitive,** for an amount in excess of fifty thousand dollars, such agency shall submit an announcement of the intended contract for inclusion in the procurement opportunities newsletter, and shall specify the recipient of the contract.

§ 4. Section 146 of the economic development law, as amended by chapter 173 of the laws of 2014, is amended to read as follows:

§ 146. Approval of comptroller. The comptroller shall not approve or file any procurement contract for the acquisition of goods or services**, or construction of any kind,** in the amount of fifty thousand dollars or more unless notice as provided in section one hundred forty-two of this article shall first have been published in the procurement opportunities newsletter at least fifteen business days prior to the date on which a bid or proposal was due **or, in the case of procurement contracts issued to a single source, a sole source or pursuant to any other method of procurement that is not competitive, at least fifteen business days prior to the date on which the agency intends to deliver the request for exemption from advertising to the state comptroller and enter into the contract**. Provided, however, such requirement of publication of advance notice shall not apply to contracts exempt from such requirement under section one hundred forty-four of this article; provided further, that the comptroller shall not be required to disapprove a contract if he or

she determines that there has been substantial compliance with the requirements of section one hundred forty-two and section one hundred forty-three of this article. The foregoing provisions of this section shall not be construed to limit, in any manner, the right of the comptroller to demand evidence of adequate competition or such other proofs as he or she may require in the discharge of his or her responsibilities pursuant to section one hundred twelve of the state finance law or any other provision of law.

§ 5. This act shall take effect immediately.

PART F

Section 1. The state finance law is amended by adding a new section 139-l to read as follows:

§ 139-l. Conflicts of interest of state officers and employees in state procurements; prohibited. (a) No state officer or employee as defined in section seventy-three of the public officers law shall:

1. have any interest, financial or otherwise, direct or indirect, in any contract other than one permissible pursuant to paragraph (a) of subdivision four of section seventy-three of the public officers law; or

2. take any action or otherwise involve himself or herself in any activity which, pursuant to the provisions of this chapter or the public officers law, would be deemed a conflict of interest for a state officer or employee that may reasonably be expected to impair the officer's or employee's independent judgment or ability to act impartially and in the best interest of the state, or that may reasonably create the appearance of impropriety through the appearance of favoritism or preferential treatment.

(b) If such conflict of interest exists, the state officer or employee must immediately recuse himself or herself in writing from the procurement and submit such recusal to the state agency officer in charge of procurement and contracting to be included in the procurement record to the state agency's ethics officer, and to the agency head.

§ 2. Article 1 of the public authorities law is amended by adding a new title 3 to read as follows:

TITLE 3

ETHICAL STANDARDS FOR STATE AUTHORITIES

Section 10. Conflicts of interest of state authority board members, officers and employees in authority procurements; prohibited.

§ 10. Conflicts of interest of state authority board members, officers and employees in authority procurements; prohibited. 1. No state authority board member, officer or employee shall with respect to any state contract or state authority contract:

(a) have any interest, financial or otherwise, direct or indirect, in any contract other than one permissible pursuant to paragraph (a) of subdivision four of section seventy-three of the public officers law; or

(b) take any action or otherwise involve himself or herself in any activity which, pursuant to the provisions of this chapter or the public officers law, would be deemed a conflict of interest that may reasonably be expected to impair the board member's, officer's or employee's independent judgment or ability to act impartially and in the best interest of the state authority, or that may reasonably create the appearance of impropriety through the appearance of favoritism or preferential treatment.

2. If such conflict of interest exists, the state authority board member, officer or employee must immediately recuse himself or herself in writing and submit such recusal to the state authority's ethics officer and any official or committee charged with overseeing ethical conduct in the authority, the chief executive official of the authority and the board chair, as appropriate, the appointing official, and the officer in charge of the authority's procurements to be included in the state authority's procurement record. Any state authority board member who submits such recusal shall also submit such recusal to the appointing official with responsibility for such board member's appointment and, in the case of board members appointed at the recommendation of another official, must also submit such recusal to the recommending official.

§ 3. This act shall take effect immediately.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through F of this act shall be as specifically set forth in the last section of such Parts.