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LAWS OF 20 _____

SENATE BILL 5679

ASSEMBLY BILL _____

STATE OF NEW YORK

5679

2011-2012 Regular Sessions

IN SENATE

June 10, 2011

Introduced by Sens. SKELOS, ALESI, BALL, BONACIC, DeFRANCISCO, FARLEY, FLANAGAN, FUSCHILLO, GALLIVAN, GOLDEN, GRIFFO, GRISANTI, HANNON, JOHNSON, LANZA, LARKIN, LAVALLE, LIBOUS, LITTLE, MARCELLINO, MARTINS, MAZIARZ, McDONALD, NOZZOLIO, O'MARA, RANZENHOFER, RITCHIE, ROBACH, SALAND, SEWARD, YOUNG, ZELDIN -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT in relation to establishing the public integrity reform act of 2011; to amend the public officers law, in relation to the business or professional activities of state employees; to amend the executive law, in relation to the commission on public integrity; to amend the legislative law, in relation to the legislative ethics office; to amend the public officers law, in relation to the joint commission on public ethics; and in relation to the transfer of certain powers and duties to the joint commission on public ethics (Part A); to amend the legislative law, in relation to reports by lobbyists (Part B);

A8301/Silver

DATE RECEIVED BY GOVERNOR:

ACTION MUST BE TAKEN BY:

DATE GOVERNOR'S ACTION TAKEN:

SENATE VOTE 41 Y 0 N

HOME RULE MESSAGE Y N

DATE 6/13/11

ASSEMBLY VOTE Y N

DATE

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S5679 SKELOS Same as A 8301 Silver (MS)

<u>06/13/11</u>	S5679	Assembly Vote	Yes: 143	No : 1
<u>06/13/11</u>	S5679	Senate Vote	Aye: 61	Nay: 0

[Go to Top of Page](#)**Floor Votes:**

06/13/11 S5679 Assembly Vote Yes: 143 No : 1

Yes Abbate	Yes Abinanti	Yes Amedore	Yes Arroyo
Yes Aubry	Yes Barclay	Yes Barron	Yes Benedetto
Yes Bing	Yes Blankenbush	Yes Boyland	Yes Boyle
Yes Braunstein	Yes Brennan	Yes Bronson	Yes Brook-Krasny
Yes Burling	Yes Butler	Yes Cahill	Yes Calhoun
Yes Camara	Yes Canestrari	Yes Castelli	Yes Castro
Yes Ceretto	Yes Clark	Yes Colton	Yes Conte
Yes Cook	Yes Corwin	Yes Crespo	Yes Crouch
Yes Curran	Yes Cusick	Yes Cymbrowitz	Yes DenDekker
Yes Dinowitz	Yes Duprey	Yes Englebright	Yes Farrell
Yes Finch	Yes Fitzpatrick	Yes Friend	Yes Gabryszak
Yes Galef	Yes Gantt	Yes Gibson	Yes Giglio
Yes Glick	Yes Goodell	Yes Gottfried	Yes Graf
Yes Gunther A	Yes Hanna	Yes Hawley	Yes Hayes
Yes Heastie	Yes Hevesi	Yes Hikind	Yes Hooper
Yes Hoyt	Yes Jacobs	Yes Jaffee	Yes Jeffries
Yes Johns	Yes Jordan	Yes Katz	Yes Kavanagh
Yes Kellner	Yes Kirwan	Yes Kolb	ER Lancman
Yes Latimer	Yes Lavine	Yes Lentol	Yes Lifton
Yes Linares	Yes Lopez P	ER Lopez V	Yes Losquadro
Yes Lupardo	Yes Magee	Yes Magnarelli	Yes Maisel
Yes Malliotakis	Yes Markey	Yes McDonough	Yes McEneny
Yes McKeivitt	Yes McLaughlin	Yes Meng	Yes Miller D
No Miller J	Yes Miller M	Yes Millman	Yes Molinaro
Yes Montesano	Yes Morelle	Yes Moya	Yes Murray
Yes Nolan	Yes Oaks	Yes O'Donnell	Yes Ortiz
Yes Palmesano	Yes Paulin	Yes Peoples-Stokes	Yes Perry
Yes Pretlow	Yes Ra	Yes Rabbitt	Yes Raia
Yes Ramos	Yes Reilich	Yes Reilly	Yes Rivera J
Yes Rivera N	Yes Rivera P	Yes Roberts	Yes Robinson
Yes Rodriguez	Yes Rosenthal	Yes Russell	Yes Saladino
Yes Sayward	Yes Scarborough	Yes Schimel	Yes Schimminger
Yes Schroeder	Yes Simotas	Yes Smardz	Yes Spano
Yes Stevenson	Yes Sweeney	Yes Tedisco	Yes Tenney

000003

Yes Thiele	Yes Titone	Yes Titus	Yes Tobacco
Yes Weinstein	Yes Weisenberg	Yes Weprin	Yes Wright
Yes Zebrowski K	Yes Mr. Speaker		

[Go to Top of Page](#)

Floor Votes:

06/13/11 S5679 Senate Vote Aye: 61 Nay: 0

Aye Adams	Aye Addabbo	Aye Alesi	Aye Avella
Aye Ball	Aye Bonacic	Aye Breslin	Aye Carlucci
Aye DeFrancisco	Aye Diaz	Aye Dilan	Aye Duane
Aye Espailat	Aye Farley	Aye Flanagan	Aye Fuschillo
Aye Gallivan	Aye Gianaris	Aye Golden	Aye Griffio
Aye Grisanti	Aye Hannon	Aye Hassell-Thompson	Aye Huntley
Aye Johnson	Aye Kennedy	Aye Klein	Aye Krueger
Aye Kruger	Aye Lanza	Aye Larkin	Aye LaValle
Aye Libous	Aye Little	Aye Marcellino	Aye Martins
Aye Maziarz	Aye McDonald	Aye Montgomery	Aye Nozzolio
Aye O'Mara	Aye Oppenheimer	Abs Parker	Aye Peralta
Aye Perkins	Aye Ranzenhofer	Aye Ritchie	Aye Rivera
Aye Robach	Aye Saland	Aye Sampson	Aye Savino
Aye Serrano	Aye Seward	Aye Skelos	Aye Smith
Aye Squadron	Aye Stavisky	Aye Stewart-Cousins	Aye Valesky
Aye Young	Aye Zeldin		

000004

S5167A



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

WILLIAM F. COLLINS
COUNSEL TO THE MAJORITY

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June 22, 2011

Kristin Ross
Legislative Secretary
Executive Chamber
State Capitol – Room 239
Albany, New York 12224

Dear Ms. Ross:

On behalf of Speaker Silver and pursuant to the request of Counsel to the Governor Mylan L. Denerstein, enclosed please find all the requested documentation we have produced or obtained concerning Assembly bills A.8301, A.4692-A, and A.7763.

Should you have any questions about any of the enclosed materials, please feel free to contact me.

Very truly yours,

William F. Collins

William F. Collins

000005

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S5679

SPONSOR: SKELOS

TITLE OF BILL:

An act in relation to establishing the public integrity reform act of 2011; to amend the public officers law, in relation to the business or professional activities of state employees; to amend the executive law, in relation to the commission on public integrity; to amend the legislative law, in relation to the legislative ethics office; to amend the public officers law, in relation to the joint commission on public ethics; and in relation to the transfer of certain powers and duties to the joint commission on public ethics (Part A); to amend the legislative law, in relation to reports by lobbyists (Part B); to amend the retirement and social security law, in relation to pension forfeiture for certain public officials; and to amend the criminal procedure law, in relation to notice of entry of plea involving a public official (Part C); to amend the legislative law, in relation to the definition of lobbying and gifts (Part D); and to amend the election law, in relation to political communication, independent expenditure reporting, enforcement proceeding and penalties for violations (Part E)

PURPOSE:

This bill would comprehensively reform both the requirements and enforcement of public ethics for New York State government officials to restore public confidence in our government. Among other reforms, the bill would establish a new Joint Commission on Public Ethics to oversee and investigate compliance with the financial disclosure and other ethics requirements by executive and legislative employees and elected officials in both branches of government, and to oversee the conduct of registered lobbyists; expand and enhance financial and client disclosures required of executive and legislative employees and elected officials, including disclosure of outside clients and customers; establish a new database to aggregate information concerning all firms and individuals that appear in a representative capacity before any state agency, public authority, board, or commission and make such information readily available to the public; require mandatory ethics training for executive and legislative employees and elected officials and lobbyists; increase penalties for violations of certain provisions of the code of ethics contained in the Public Officers Law § 74; require the reduction or forfeiture of a public officer's pension under certain circumstances where he or she has been convicted of a felony related to his office; expand the definition of "lobbying" to include advocacy related to the "introduction" of legislation and resolutions; require lobbyists that lobby on their own behalf and clients of lobbyists that devote substantial funds to lobbying in New York State to disclose the sources of such funding; and clarify certain definitions in the existing gift ban to facilitate better compliance and improve enforcement. The bill would also amend certain provisions of the election law to enhance penalties

000006

for violations of the campaign finance laws, and require the State Board of Elections to enforce requirements that entities and individuals that spend funds on advertising and other forms of advocacy to influence the outcome of elections or ballot proposals must disclose such expenditures.

SUMMARY OF PROVISIONS:

Section one. The title of the bill being "Public Integrity Reform Act of 2011."

Section 2.

Part A: Ethics Enforcement & Financial Disclosure Reform

Sections 1, 3, 5, 7, 10, 11, 12 and 13 make conforming changes by changing existing references in law to the State Ethics Commission and Legislative Ethics Committee or Commission to the newly constituted Joint Commission on Public Ethics, thereby subjecting all legislators and legislative employees to investigative jurisdiction of a unified, independent body, the current iteration of which has jurisdiction over only executive employees and statewide elected officials and lobbyists.

Section 2 amends subdivision 2 of section 73 of the Public Officers Law by prohibiting the receipt by any state officer or employee of any compensation for action or decisions regarding "any legislation or resolution before the state legislature" or any "executive order."

Section 3 amends paragraph (a) of subdivision 6 of section 73 of the Public Officers Law to require legislative employees not subject to section 73-a of the Public Officers Law to file financial disclosure forms with both the Joint Commission on Public Ethics and the Legislative Ethics Commission.

Section 4 establishes a new database ("Project Sunlight") to aggregate information concerning all firms and individuals that appear in a representative capacity before any state agency, public authority, board, or commission and requires that such state entities track and provide such information for inclusion in the database. The information in the database will be made publicly and readily available and will, for the first time, allow the public to understand more fully any potential conflicts of interest raised by such appearances.

Section 5 amends section 73-a of the Public Officers Law by providing that all financial disclosure statements be filed with the new Joint Commission on Public Ethics, which shall post those statements of elected officials on the internet and end the practice of redacting the monetary values and amounts reported by the filer. This section also provides for greater and more precise disclosure of financial information by expanding the categories of value used by reporting individuals to disclose the dollar amounts in their financial disclosure statements; newly requires disclosure of the reporting individual's and his or her firm's outside clients and customers doing business with, receiving grants or contracts from, seeking legislation or resolutions from, or involved in a case or proceeding before the State; and expressly authorizes the Joint Commission to impose civil penalties in addition to referring any potential criminal violations to the appropriate prosecutor, rather than just in lieu of such referral. If sufficient cause is found, the Joint Commission is also required to refer evidence of any

000007

violations of other state or federal laws to the appropriate prosecutor(s).

Section 6 amends section 94 of the Executive Law by replacing the Commission on Public Integrity with the Joint Commission on Public Ethics with jurisdiction over all elected state officials and their employees, both executive and legislative, as well as lobbyists. The bipartisan Joint Commission shall have 14 members, six appointed by the governor and lieutenant governor at least three of whom shall be enrolled members of the major political party that is not that of the governor; and eight appointed by the legislative leaders (four from each major political party). Among other restrictions, no individual shall be eligible to serve on the Joint Commission who is or has been within the last three years a registered lobbyist, a statewide elected office holder or member of the legislature, or a political party chairman, and no individual who is or has been a state officer or employee or a legislative employee within the last year is eligible to be appointed.

The executive director of the Joint Commission shall be selected without regard to his or her political party affiliation, and may be removed only for neglect of duty, misconduct, or inability or failure to discharge the powers or duties of the office, including the failure to follow the lawful instructions of the Joint Commission.

Among other new powers, the Joint Commission shall have jurisdiction to investigate potential violations of law by legislators and legislative employees and, if any violation is found, shall issue a written report to the Legislative Ethics Commission that sets forth the Joint Commission's findings of fact and conclusions of law. To continue and conduct a full investigation to determine if there is a substantial basis to find a violation of law, the Joint Commission requires a vote of eight members and such vote must occur within 45 days of receiving a complaint or referral or the Joint Commission's initiation of a preliminary review. The Joint Commission's investigative report must be made public within 45 days of being provided to the Legislative Ethics Commission (with the option of one 45-day extension), and that Commission must dispose of the matter and indicate in a public statement the nature and reasons for such disposition within 90 days. The Legislative Ethics Commission shall have exclusive jurisdiction to impose penalties on members of the legislature and legislative employees based upon the findings of fact and law in the Joint Commission's investigative report. With respect to executive employees and lobbyists, like the current Commission on Public Integrity, the Joint Commission shall have jurisdiction to investigate and penalize such individuals and the report and disposition of such matters will be made public.

A majority (8 members) of the board must consent to the initiation of the investigation, and at least two of whom are of the same branch and, except for executive employees not directly appointed by a statewide elected official, of the same party as the subject of the investigation. The same procedure applies to issue findings of fact and conclusions of law. If the subject of the investigation is a lobbyist, only a simple majority is required.

The Joint Commission and its staff will be subject to strict confidentiality restrictions to protect the integrity of its investigations, punishable as a Class A misdemeanor.

The commissioners of the Joint Commission shall be prohibited from making campaign contributions to candidates for elected executive or

000008

legislative offices during their tenure on the Joint Commission.

The Joint Commission shall conduct mandatory ethics training for executive and legislative officials that meets requirements set forth in this section, except where either chamber of the legislature already provides such training and that training meets the same requirements. The Joint Commission will also track, in coordination with the Legislative Ethics Commission, the status of compliance with these new training requirements by state agencies and by the legislature, and shall make such aggregate compliance statistics available to the public on an annual basis.

The Joint Commission will conduct a program of random reviews of financial disclosure statements to help determine compliance with applicable disclosure requirements.

Section 7 amends section 1-d of the Legislative Law to mandate online ethics training for lobbyists under the auspices of the Joint Commission.

Sections 7-a, 7-b, and 8 amend section 1-e, subdivision (b) of section 1-j and section 1-c of the Legislative Law, respectively, to require that lobbyists disclose the names of every state official and employee, including legislators and legislative employees, with whom the lobbyist has a "reportable business relationship," a term also newly defined in the bill.

Section 9 amends section 80 of the Legislative Law to clarify that the Legislative Ethics Commission will have the authority and jurisdiction to impose penalties upon members and employees of the legislature, but will no longer have investigative jurisdiction over the legislature. This section establishes the procedure to be followed by the Legislative Ethics Commission upon its receipt of an investigative report from the Joint Commission on Public Ethics to ensure that the Legislative Ethics Commission issues a public disposition of each matter within 90 days of receiving such report.

This section also establishes that written advisory opinions issued by the Legislative Ethics Commission shall be binding upon that Commission with respect to the imposition of any penalties, but the Joint Commission on Public Ethics shall have jurisdiction to investigate both whether the person's advisory opinion was supported by his or her full disclosure of the relevant facts and whether that opinion covered the person's actual conduct. The Joint Commission will have full authority to investigate conduct falling outside the proper scope of such an advisory opinion issued by the Legislative Ethics Commission.

This section further amends the Legislative Law to clarify that the executive director of the Legislative Ethics Commission may be removed for neglect of duty, misconduct in office, or inability or failure to discharge the powers or duties of office.

This section also amends the Legislative Law to increase the penalties for violations of certain provisions of the code of ethics contained in Public Officers Law § 74, including those provisions addressing financial conflicts of interest damaging to public confidence in the State government.

Sections 14 through 21 ensure that the existing authority, records, and business of the Commission on Public Integrity will be properly trans-

000009

ferred to the Joint Commission on Public Ethics.

Section 22 provides for the effective date.

Part B: Disclosure by Lobbyists Lobbying on Their Own Behalf and by Clients of Lobbyists of Their Sources of Funding for Lobbying Activities

Section 1 amends subdivision c of section I-h of the Legislative Law to require that registered lobbyists whose lobbying activity is performed on their own behalf and not pursuant to retention by a client, and that have spent at least \$50,000 and at least 3% of their total expenditures during the last year on such activity in New York State, must disclose each source of funding over \$5,000 used for such lobbying. Such lobbyists may seek an exemption to avoid such disclosure based upon a showing that it may cause harm, threats, harassment, or reprisals to the source of funding or its property. If the Joint Commission declines to grant such an exemption, the lobbyist may appeal that decision to an independent judicial hearing officer pursuant to regulations developed by the Joint Commission.

In addition, not-for-profit organizations qualified as exempt organizations under I.R.C. § 501(c)(3) are exempted from this disclosure requirement. Not-for-profit organizations qualified as exempt under I.R.C. § 501(c)(4) shall also be exempted pursuant to regulations promulgated by the Joint Commission if their primary activities concern any area of public concern that would create a substantial likelihood that such disclosure would lead to harm, threats, harassment, or reprisals. The bill expressly identifies the area of "civil rights and civil liberties" as one area in which organizations are expected to qualify for such an exemption in the Joint Commission's regulations. Among other issues included in this area, organizations whose primary activities focus on the question of abortion rights, family planning, discrimination or persecution based upon race, ethnicity, gender, sexual orientation or religion, immigrant rights, and the rights of certain criminal defendants are expected to be covered by such an exemption.

Section 2 amends subdivision c of section 1-j of the Legislative Law to require that clients of lobbyists that meet the same threshold criteria as those set forth above must similarly disclose the sources of their funding for their lobbying activity. The same set of potential exemptions would apply to clients of lobbyists as well.

Section 3 provides for the effective date.

Part C: Pension Forfeiture for Public Officials

Section 1 amends the Retirement and Social Security Law by adding a new Article 3-B to establish a procedure whereby certain public officials who commit crimes related to their public offices may have their pensions reduced or forfeited under certain circumstances. This new article would apply prospectively to officials who enter any of the applicable retirement systems upon or after the effective date of the law.

Section 2 amends the criminal procedure law to require that criminal defendants whose pensions may ultimately be reduced or forfeited shall be notified of that possibility by the court prior to any trial or plea entered in their criminal case.

Section 3 provides for the effective date.

000010

Part D: Expanded Definition of Lobbying and Clarification of Definitions in Gift Ban

Section 1 amends subdivisions (c) and (j) of section 1-c of the legislative law to expand the definition of lobbying to include advocacy to affect the "introduction" of legislation or a resolution. This section further amends these provisions principally to clarify certain definitions in the gift ban to assist public officials in their efforts to comply with that ban and to facilitate its enforcement.

Section 2 provides for the effective date.

Part E: Campaign Finance Enforcement

Section 1 requires that the State Board of Elections issue regulations by January 1, 2012, setting forth and clarifying the requirements under existing law for individuals, corporations, political committees, and any other entities to disclose independent expenditures made for advertisements or any other type of advocacy that expressly identifies a political candidate or ballot proposal and that is not coordinated or approved by the candidate in question.

Section 2 amends section 14-106 of the Election Law to require that broadcast television scripts and internet advertisements used in political campaigns must be disclosed and provided to the board of elections.

Section 3 amends section 14-126 of the Election Law to increase substantially the penalties for violations of existing filing requirements and contribution limits.

Sections 4 and 5 expand or create jurisdiction in the county and supreme court for proceedings to enforce the requirements of the Election Law relating to campaign finance restrictions and specify the standards to be applied by the court in determining an appropriate penalty for such violations.

; ,US ON;STATEMENT IN SUPPORT:

Once a national model, New York State government has been widely discredited for its corruption, for the lack of truly independent ethics oversight over all public officials, and for the failure to require more robust disclosure of outside income sources. Currently, our State government's ethics laws are policed by several separate entities using differing interpretations of the same laws, leading to an absence of true independence and fragmented enforcement. Our financial disclosure laws require disclosure of the amounts of outside income earned, but do not of the clients and customers of the reporting individual or his or her firm that may have business before the State.

This legislation establishes an independent Joint Commission on Public Ethics with robust enforcement powers to investigate violations of law by members of both the executive and legislative branches and oversee their financial disclosure requirements. It also provides for the Legislative Ethics Commission's jurisdiction to impose penalties on members based upon the investigations completed by the Joint Commission on Public Ethics.

This legislation also expands financial disclosure requirements signif-

000011

icantly and, for the first time, makes such information fully available to the public. It requires disclosure of a reporting individual's clients and of clients of that individual's firm if those clients or customers are being represented with respect to a proposed bill or resolution before the legislature, have received contracts or grants from the State, or are the subject of or party in any proceeding by or before or involving a State agency. In addition, it narrows and increases the number of categories of value that must be disclosed, and requires the Joint Commission to post the financial disclosure statements of elected officials on its website without value amounts or any other information redacted (except for unemancipated children).

The bill also establishes a new database called Project Sunlight that will be publicly available and will aggregate information from across the State government concerning the identities of any individual or firm that appears in a representative capacity before any State governmental entity. That information will allow members of the public to understand in detail and to assess any potential conflicts of interest that may be raised by such appearances.

The bill further addresses and expands both the scope and applicability of the lobbying disclosure requirements in this State. The bill requires the disclosure by lobbyists of any "reportable business relationships" over \$1,000 with public officials; expands the definition of lobbying to include advocacy to affect the "introduction" of legislation or resolutions, a change that will help to ensure that all relevant lobbying activities are regulated by the new Joint Commission.

This legislation also sheds sunlight on the activities of lobbyists and clients of lobbyists that devote substantial resources to such activities by requiring that they disclose each source of funding over \$5,000 used for such lobbying. Appropriate exemptions to this requirement would be made for 501(c)(3) organizations and those 501(c)(4) organizations for whom such disclosure could lead to harm to or harassment of their donors. Particularly in light of the impact of the U.S. Supreme Court's decision in *Citizens United v Federal Election Commission*, 130 S.Ct. 876 (2010), which threatens to open the door to corporations and other entities spending money to advocate for or against candidates, New York State must enhance disclosure of the sources of funding for advocacy across numerous areas of public concern. This bill would take a critical first step to provide such disclosure with respect to lobbying so that the public could better understand the real parties in interest behind substantial lobbying initiatives.

Moreover, in the wake of *Citizens United*, which effectively limited the ability of states and the federal government to ban electioneering communications by outside entities, it is increasingly important that disclosure of such expenditures be required and made publicly available. Under existing law, such independent expenditures must be disclosed and the entities that make them must register with the State Board of Elections. However, there remain significant concerns that such expenditures are not being disclosed and that the problem will only increase over time. Accordingly, this new requirement will not only clarify and publicize the requirements for registration and reporting of independent expenditures, and also help to identify any gaps in existing law that can be filled in the future.

In addition, this bill expands substantially the penalties that may be imposed for violations of the filing requirements and contribution limits in the Election Law, and provides for a special enforcement

000012

proceeding in the Supreme Court and jurisdiction in county courts to help improve enforcement efforts. These steps will provide a critical starting point for comprehensive campaign finance reforms in future years.

BUDGET IMPLICATIONS:

This legislation is not expected to have a significant impact on the budget.

EFFECTIVE DATE:

This act shall take effect as provided in each of Parts A through E.

000013



STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001

ANDREW M. CUOMO
GOVERNOR

CESAR A. PERALES
SECRETARY OF STATE

MEMORANDUM

To: Honorable Mylan L. Denerstein
Counsel to the Governor

From: Matthew W. Tebo, Esq. *Matthew W. Tebo*
Legislative Counsel

Date: June 15, 2011

Subject: S.5679 (Senator Skelos)
Recommendation: No comment

The Department of State has no comment on the above referenced bill.

If you have any questions or comments regarding our position on the bill, or if we can otherwise assist you, please feel free to contact me at (518) 474-6740.

MWT/mel

000016



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

Counsel and Deputy Commissioner for Legal Affairs
Tel. 518-474-6400
Fax 518-474-1940

August 9, 2011

TO: Counsel to the Governor
FROM: Richard J. Trautwein
SUBJECT: S.5679
RECOMMENDATION: No Objection
REASON FOR RECOMMENDATION:

The State Education Department has no objection to the enactment of this bill.

000005



**STATE OF NEW YORK
DIVISION OF CRIMINAL JUSTICE SERVICES**

Four Tower Place
Albany, New York 12203-3764
<http://criminaljustice.state.ny.us>

SEAN M. BYRNE
ACTING COMMISSIONER

GINA L. BIANCHI
DEPUTY COMMISSIONER and
COUNSEL

June 20, 2011

Mylan L. Denerstein, Esq.
Counsel to the Governor
Executive Chamber
State Capitol
Albany, New York 12224

Via E-mail

RE: Senate Bill Number **5679**
Support

Dear Ms. Denerstein:

This is in response to your request for comment on the above-referenced legislation which would amend various provisions of New York State law in relation to establishing the Public Integrity Reform Act of 2011. Included within the legislation are provisions creating a new Joint Commission on Public Ethics with jurisdiction over all elected state officials and employees, both executive and legislative, as well as lobbyists, revamping the powers and duties of the Legislative Ethics Commission and implementing comprehensive reforms governing financial disclosure and other ethics requirements relating to business and professional activities of such individuals, including guaranteeing greater public transparency of records with respect to government officials, employees, and lobbyists, especially relating to sources of income, funding, outside clients and customers. Significantly, this bill mandates ethics training and enhances civil and criminal penalties for ethical violations.

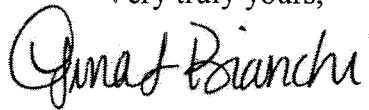
The Division of Criminal Justice Services recognizes the critical need to address deficiencies and loopholes in existing ethics laws, including those relating to conflicts of interest, which have, unfortunately, resulted in disparity in treatment among the executive and legislative branches. The significant changes made by this legislation will better achieve transparency in government and serve as an effective deterrent to unethical conduct and reporting noncompliance and will lead to swift investigation and the imposition of appropriate legal sanctions for unlawful ethical behavior and reporting violations. Accordingly, in light of its aforementioned merits in

000046

strengthening our ethics laws and the laudable goal of promoting public confidence in the integrity of State government, the Division of Criminal Justice Services **supports S. 5679.**

Thank you for the opportunity to comment on this legislation.

Very truly yours,

A handwritten signature in black ink that reads "Gina L. Bianchi". The signature is written in a cursive style with a large initial "G".

Gina L. Bianchi

000017



STATE OF NEW YORK
DEPARTMENT OF STATE
COMMITTEE ON OPEN GOVERNMENT

Committee Members

RoAnn M. Destito
Robert J. Duffy
Robert L. Megna
Cesar A. Perales
Clifford Richner
David A. Schulz
Robert T. Simmelkjaer II, Chair
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Executive Director

Robert J. Freeman

MEMORANDUM

TO: Mylan L. Denerstein, Counsel to the Governor DATE: June 17, 2011
FROM: Robert J. Freeman, Executive Director
SUBJECT: A.8301/S.5679

Recommendation: Approval with Reservation

Thank you for seeking our views regarding the legislation identified above. In brief, the legislation would replace the Commission on Public Integrity with the Joint Commission on Public Ethics. Due to the many positive elements of the bill, we believe that it merits enactment.

The functions of the Committee on Open Government focus on three statutes: the Freedom of Information Law (FOIL), the Open Meetings Law, and the Personal Privacy Protection Law. Consequently, the ensuing remarks involve the relationship between those statutes and the legislation.

In its latest annual report to the Governor and the State Legislature, and in prior reports, the Committee wrote as follows:

“The ‘Public Employee Ethics Reform Act of 2007’, formerly known as the Ethics in Government Act (“the Act”), establishes strong ethical standards concerning the conduct of public officials. The Act evidences a commitment to honesty and accountability and is intended to ensure that the public has confidence in those who govern, and with the creation of the Commission on Public Integrity, that commitment has been reconfirmed.

With respect to disclosure, unlike the FOIL or the Open Meetings Law, both of which are based on a presumption of openness, the opposite presumption exists in the Act. Unquestionably, there are good and valid reasons for withholding records or closing meetings when issues arise concerning the conduct of public officers, and the Act

000018

specifies that rights granted by the FOIL and the Open Meetings Law involving certain aspects of the Commission's functions.

Subdivision (17) of §94 of the Executive Law has been preserved in great measure and in brief, paragraph (a) of subdivision (17) states that, notwithstanding the provisions of the FOIL, only certain enumerated records of the Commission are accessible to the public. Similarly, paragraph (b) states that meetings and proceedings of the Commission are not subject to the Open Meetings Law. Based on the principles underlying the Freedom of Information and Open Meetings Law, the Committee on Open Government has for years recommended in its annual reports to the Governor and the State Legislature that the records and meetings of the State Ethics Commission should be subject to both of those statutes, and we resubmit that recommendation regarding the new Commission on Public Integrity.

If the FOIL and the Open Meetings Law fully applied to the Commission, it would have the capacity to restrict access to records or close meetings in a manner that provides the Commission, as well as the individuals who are the subjects of its inquiries, with the protection they need to carry out their duties effectively. We note that ethics boards and committees at the local government level are subject to open government laws and that they function effectively by protecting privacy as appropriate and enhancing the accountability of government."

Based on the principles underlying FOIL and the Open Meetings Law, and in keeping with recommendations offered by the Committee on Open Government in years past, inclusion of the records and meetings of the Commission within the coverage of those statutes would be preferred.

It is our understanding that the bill, when enacted, will require the disclosure of the categories of value or amounts indicated on annual financial disclosure statements. That additional information will provide the public with a greater degree of transparency and accountability than under previous analogous requirements.

Another aspect of the bill is consistent with recommendations offered by the Committee on Open Government in its most recent annual report. Specifically, the Committee encouraged efforts to place more government information online so that the public need not submit formal requests pursuant to FOIL, and agencies will not be burdened by an obligation to respond to requests. This legislation would add subdivision (k) to Public Officers Law §73-a(2) and require the Commission to post annual financial disclosure statements of elected officials online. Posting of those records online is clearly a positive element of the legislation.

Again, we appreciate the opportunity to comment, and if you or staff would like to discuss any of the foregoing, we are at your service.

000019

STATE OF NEW YORK

5679

2011-2012 Regular Sessions

IN SENATE

June 10, 2011

Introduced by Sens. SKELOS, ALESI, BALL, BONACIC, DeFRANCISCO, FARLEY, FLANAGAN, FUSCHILLO, GALLIVAN, GOLDEN, GRIFFO, GRISANTI, HANNON, JOHNSON, LANZA, LARKIN, LAVALLE, LIBOUS, LITTLE, MARCELLINO, MARTINS, MAZIARZ, McDONALD, NOZZOLIO, O'MARA, RANZENHOFER, RITCHIE, ROBACH, SALAND, SEWARD, YOUNG, ZELDIN -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT in relation to establishing the public integrity reform act of 2011; to amend the public officers law, in relation to the business or professional activities of state employees; to amend the executive law, in relation to the commission on public integrity; to amend the legislative law, in relation to the legislative ethics office; to amend the public officers law, in relation to the joint commission on public ethics; and in relation to the transfer of certain powers and duties to the joint commission on public ethics (Part A); to amend the legislative law, in relation to reports by lobbyists (Part B); to amend the retirement and social security law, in relation to pension forfeiture for certain public officials; and to amend the criminal procedure law, in relation to notice of entry of plea involving a public official (Part C); to amend the legislative law, in relation to the definition of lobbying and gifts (Part D); and to amend the election law, in relation to political communication, independent expenditure reporting, enforcement proceeding and penalties for violations (Part E)

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

- 1 Section 1. This act shall be known and may be cited as the "Public
- 2 Integrity Reform Act of 2011."
- 3 § 2. This act enacts into law major components of legislation which
- 4 are necessary to enact ethics reform. Each component is wholly
- 5 contained within a Part identified as Parts A through E. The effective

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

LBD12060-03-1

S. 5679

2

1 date for each particular provision contained within such Part is set
2 forth in the last section of such Part. Any provision in any section
3 contained within a Part, including the effective date of the Part, which
4 makes a reference to a section "of this act", when used in connection
5 with that particular component, shall be deemed to mean and refer to the
6 corresponding section of the Part in which it is found. Section four of
7 this act sets forth the general effective date of this act.

8

PART A

9 Section 1. Paragraph (a) of subdivision 1 of section 73 of the public
10 officers law, as amended by chapter 813 of the laws of 1987, is amended
11 to read as follows:

12 (a) The term "compensation" shall mean any money, thing of value or
13 financial benefit conferred in return for services rendered or to be
14 rendered. With regard to matters undertaken by a firm, corporation or
15 association, compensation shall mean net revenues, as defined in accord-
16 ance with generally accepted accounting principles as defined by the
17 ~~[state] joint commission on public ethics [commission]~~ or legislative
18 ethics ~~[committee] commission~~ in relation to persons subject to their
19 respective jurisdictions.

20 § 2. Subdivision 2 of section 73 of the public officers law, as
21 amended by chapter 813 of the laws of 1987, is amended to read as
22 follows:

23 2. In addition to the prohibitions contained in subdivision seven
24 ~~[hereof] of this section~~, no statewide elected official, state officer
25 or employee, member of the legislature or legislative employee shall
26 receive, or enter into any agreement express or implied for, compen-
27 sation for services to be rendered in relation to any case, proceeding,
28 application, or other matter before any state agency, or any executive
29 order, or any legislation or resolution before the state legislature,
30 whereby his or her compensation is to be dependent or contingent upon
31 any action by such agency or legislature with respect to any license,
32 contract, certificate, ruling, decision, executive order, opinion, rate
33 schedule, franchise, legislation, resolution or other benefit; provided,
34 however, that nothing in this subdivision shall be deemed to prohibit
35 the fixing at any time of fees based upon the reasonable value of the
36 services rendered.

37 § 3. Paragraph (a) of subdivision 6 of section 73 of the public offi-
38 cers law, as amended by chapter 813 of the laws of 1987, is amended to
39 read as follows:

40 (a) Every legislative employee not subject to the provisions of
41 section seventy-three-a of this chapter shall, on and after December
42 fifteenth and before the following January fifteenth, in each year, file
43 with the ~~[legislative] joint commission on public ethics [committee~~
44 ~~established by section eighty of the legislative law]~~ and the legisla-
45 tive ethics commission a financial disclosure statement of

46 (1) each financial interest, direct or indirect of himself, his spouse
47 and his unemancipated children under the age of eighteen years in any
48 activity which is subject to the jurisdiction of a regulatory agency or
49 name of the entity in which the interest is had and whether such inter-
50 est is over or under five thousand dollars in value.

51 (2) every office and directorship held by him in any corporation, firm
52 or enterprise which is subject to the jurisdiction of a regulatory agen-
53 cy, including the name of such corporation, firm or enterprise.

S. 5679

3

1 (3) any other interest or relationship which he determines in his
2 discretion might reasonably be expected to be particularly affected by
3 legislative action or in the public interest should be disclosed.

4 § 4. Every state agency, department, division, office, and board;
5 every public benefit corporation, public authority and commission at
6 least one of whose members is appointed by the governor; the state
7 university of New York and the city university of New York, including
8 all their constituent units except community colleges of the state
9 university of New York; and the independent institutions operating stat-
10 utory or contract colleges on behalf of the state, shall cooperate with
11 the office of general services and supply to that office on a schedule
12 and in a format determined by the office of general services in consul-
13 tation with such governmental bodies, a list of all individuals, firms,
14 or other entities (other than state or local governmental agencies) who
15 have appeared before such governmental body in a representative capacity
16 on behalf of a client or customer for purposes of: (a) procuring a state
17 contract for real property, goods or services for such client; (b)
18 representing such client or customer in a proceeding relating to rate
19 making; (c) representing such client in a regulatory matter; (d) repres-
20 enting such client or customer in a judicial or quasi-judicial proceed-
21 ing; or (e) representing such client or customer in the adoption or
22 repeal of a rule or regulation. The office of general services shall
23 create forms upon which such information shall be supplied and a data-
24 base which shall collect and systemize the collection of such informa-
25 tion. The office of general services shall make the database available
26 and accessible to members of the public on a webpage subject to statuto-
27 ry confidentiality restrictions, and shall ensure that the information
28 contained in the database is readily searchable and available for down-
29 load. The database shall be known as "project sunlight".

30 § 5. Section 73-a of the public officers law, as added by chapter 813
31 of the laws of 1987, paragraph (b) of subdivision 1 as amended by chap-
32 ter 283 of the laws of 1996, subparagraphs (ii) and (iii) of paragraph
33 (c) and paragraph (d) of subdivision 1, subparagraphs (v), (vi) and
34 (vii) of paragraph (a) and paragraphs (e) and (g) of subdivision 2,
35 paragraph 4, subparagraph (a) of paragraph 5, paragraphs 6, 9, 10, 11,
36 subparagraph (b) of paragraph 12, paragraphs 13, 14, 15, 16, 17, 18 and
37 19 of subdivision 3 and subdivision 4 as amended and paragraph (l) of
38 subdivision 1, subparagraph (viii) of paragraph (a) and paragraph (j) of
39 subdivision 2 and the third and fourth undesignated paragraphs of para-
40 graph 3 of subdivision 3 as added by chapter 242 of the laws of 1989, is
41 amended to read as follows:

42 § 73-a. Financial disclosure. 1. As used in this section:

43 (a) The term "statewide elected official" shall mean the governor,
44 lieutenant governor, comptroller, or attorney general.

45 (b) The term "state agency" shall mean any state department, or divi-
46 sion, board, commission, or bureau of any state department, any public
47 benefit corporation, public authority or commission at least one of
48 whose members is appointed by the governor, or the state university of
49 New York or the city university of New York, including all their
50 constituent units except community colleges of the state university of
51 New York and the independent institutions operating statutory or
52 contract colleges on behalf of the state.

53 (c) The term "state officer or employee" shall mean:

54 (i) heads of state departments and their deputies and assistants;

55 (ii) officers and employees of statewide elected officials, officers
56 and employees of state departments, boards, bureaus, divisions, commis-

S. 5679

4

1 sions, councils or other state agencies, who receive annual compensation
2 in excess of the filing rate established by paragraph (1) of this subdivi-
3 sion or who hold policy-making positions, as annually determined by
4 the appointing authority and set forth in a written instrument which
5 shall be filed with the [state] joint commission on public ethics
6 ~~[commission]~~ established by section ninety-four of the executive law
7 during the month of February, provided, however, that the appointing
8 authority shall amend such written instrument after such date within
9 thirty days after the undertaking of policy-making responsibilities by a
10 new employee or any other employee whose name did not appear on the most
11 recent written instrument; and

12 (iii) members or directors of public authorities, other than multi-
13 state authorities, public benefit corporations and commissions at least
14 one of whose members is appointed by the governor, and employees of such
15 authorities, corporations and commissions who receive annual compen-
16 sation in excess of the filing rate established by paragraph (1) of this
17 subdivision or who hold policy-making positions, as determined annually
18 by the appointing authority and set forth in a written instrument which
19 shall be filed with the [state] joint commission on public ethics
20 ~~[commission]~~ established by section ninety-four of the executive law
21 during the month of February, provided, however, that the appointing
22 authority shall amend such written instrument after such date within
23 thirty days after the undertaking of policy-making responsibilities by a
24 new employee or any other employee whose name did not appear on the most
25 recent written instrument.

26 (d) The term "legislative employee" shall mean any officer or employee
27 of the legislature who receives annual compensation in excess of the
28 filing rate established by paragraph (1) below or who is determined to
29 hold a policy-making position by the appointing authority as set forth
30 in a written instrument which shall be filed with the legislative ethics
31 commission and the joint commission on public ethics ~~[committee estab-~~
32 ~~lished by section eighty of the legislative law].~~

33 (d-1) A financial disclosure statement required pursuant to section
34 seventy-three of this article and this section shall be deemed "filed"
35 with the joint commission on public ethics upon its filing, in accord-
36 ance with this section, with the legislative ethics commission for all
37 purposes including, but not limited to, subdivision fourteen of section
38 ninety-four of the executive law, subdivision nine of section eighty of
39 the legislative law and subdivision four of this section.

40 (e) The term "spouse" shall mean the husband or wife of the reporting
41 individual unless living separate and apart from the reporting individ-
42 ual with the intention of terminating the marriage or providing for
43 permanent separation or unless separated pursuant to: (i) a judicial
44 order, decree or judgment, or (ii) a legally binding separation agree-
45 ment.

46 (f) The term "relative" shall mean such individual's spouse, child,
47 stepchild, stepparent, or any person who is a direct descendant of the
48 grandparents of the reporting individual or of the reporting individ-
49 ual's spouse.

50 (g) The term "unemancipated child" shall mean any son, daughter, step-
51 son or stepdaughter who is under age eighteen, unmarried and living in
52 the household of the reporting individual.

53 (h) The term "political party chairman" shall have the same meaning as
54 ascribed to such term by subdivision one of section seventy-three of
55 this ~~[chapter]~~ article.

56 (i) The term "local agency" shall mean:

S. 5679

5

1 (i) any county, city, town, village, school district or district
2 corporation, or any agency, department, division, board, commission or
3 bureau thereof; and

4 (ii) any public benefit corporation or public authority not included
5 in the definition of a state agency.

6 (j) The term "regulatory agency" shall have the same meaning as
7 ascribed to such term by subdivision one of section seventy-three of
8 this ~~[chapter]~~ article.

9 (k) The term "ministerial matter" shall have the same meaning as
10 ascribed to such term by subdivision one of section seventy-three of
11 this ~~[chapter]~~ article.

12 (l) The term "filing rate" shall mean the job rate of SG-24 as set
13 forth in paragraph a of subdivision one of section one hundred thirty of
14 the civil service law as of April first of the year in which an annual
15 financial disclosure statement shall be filed.

16 (m) The term "lobbyist" shall have the same meaning as ascribed to
17 such term in subdivision (a) of section one-c of the legislative law.

18 2. (a) Every statewide elected official, state officer or employee,
19 member of the legislature, legislative employee and political party
20 chairman and every candidate for statewide elected office or for member
21 of the legislature shall file an annual statement of financial disclo-
22 sure containing the information and in the form set forth in subdivision
23 three ~~[hereof]~~ of this section. [Such statement shall be filed on or
24 before the fifteenth day of May with respect to the preceding calendar
25 year, except that] On or before the fifteenth day of May with respect to
26 the preceding calendar year: (1) every member of the legislature, every
27 candidate for member of the legislature and legislative employee shall
28 file such statement with the legislative ethics commission which shall
29 provide such statement along with any requests for exemptions or
30 deletions to the joint commission on public ethics for filing and
31 rulings with respect to such requests for exemptions or deletions, on or
32 before the thirtieth day of June; and (2) all other individuals required
33 to file such statement shall file it with the joint commission on public
34 ethics, except that:

35 (i) a person who is subject to the reporting requirements of this
36 subdivision and who timely filed with the internal revenue service an
37 application for automatic extension of time in which to file his or her
38 individual income tax return for the immediately preceding calendar or
39 fiscal year shall be required to file such financial disclosure state-
40 ment on or before May fifteenth but may, without being subjected to any
41 civil penalty on account of a deficient statement, indicate with respect
42 to any item of the disclosure statement that information with respect
43 thereto is lacking but will be supplied in a supplementary statement of
44 financial disclosure, which shall be filed on or before the seventh day
45 after the expiration of the period of such automatic extension of time
46 within which to file such individual income tax return, provided that
47 failure to file or to timely file such supplementary statement of finan-
48 cial disclosure or the filing of an incomplete or deficient supplementa-
49 ry statement of financial disclosure shall be subject to the notice and
50 penalty provisions of this section respecting annual statements of
51 financial disclosure as if such supplementary statement were an annual
52 statement;

53 (ii) a person who is required to file an annual financial disclosure
54 statement with the ~~[state]~~ joint commission on public ethics [commission
55 or with the legislative ethics committee], and who is granted an addi-
56 tional period of time within which to file such statement due to justi-

S. 5679

6

1 fiable cause or undue hardship, in accordance with required rules and
2 regulations on the subject adopted pursuant to paragraph c of subdivi-
3 sion nine of section ninety-four of the executive law [~~or pursuant to~~
4 ~~paragraph c of subdivision eight of section eighty of the legislative~~
5 ~~law;~~] shall file such statement within the additional period of time
6 granted; and the legislative ethics commission shall notify the joint
7 commission on public ethics of any extension granted pursuant to this
8 paragraph;

9 (iii) candidates for statewide office who receive a party designation
10 for nomination by a state committee pursuant to section 6-104 of the
11 election law shall file such statement within [~~seven~~] ten days after the
12 date of the meeting at which they are so designated;

13 (iv) candidates for statewide office who receive twenty-five percent
14 or more of the vote cast at the meeting of the state committee held
15 pursuant to section 6-104 of the election law and who demand to have
16 their names placed on the primary ballot and who do not withdraw within
17 fourteen days after such meeting shall file such statement within
18 [~~seven~~] ten days after the last day to withdraw their names in accord-
19 ance with the provisions of such section of the election law;

20 (v) candidates for statewide office and candidates for member of the
21 legislature who file party designating petitions for nomination at a
22 primary election shall file such statement within [~~seven~~] ten days after
23 the last day allowed by law for the filing of party designating
24 petitions naming them as candidates for the next succeeding primary
25 election;

26 (vi) candidates for independent nomination who have not been desig-
27 nated by a party to receive a nomination shall file such statement with-
28 in [~~seven~~] ten days after the last day allowed by law for the filing of
29 independent nominating petitions naming them as candidates in the next
30 succeeding general or special election;

31 (vii) candidates who receive the nomination of a party for a special
32 election shall file such statement within [~~seven~~] ten days after the
33 date of the meeting of the party committee at which they are nominated;
34 [~~and~~]

35 (viii) a candidate substituted for another candidate, who fills a
36 vacancy in a party designation or in an independent nomination, caused
37 by declination, shall file such statement within [~~seven~~] ten days after
38 the last day allowed by law to file a certificate to fill a vacancy in
39 such party designation or independent nomination[-];

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

44 (b) As used in this subdivision, the terms "party", "committee" (when
45 used in conjunction with the term "party"), "designation", "primary",
46 "primary election", "nomination", "independent nomination" and "ballot"
47 shall have the same meanings as those contained in section 1-104 of the
48 election law.

49 (c) If the reporting individual is a senator or member of assembly,
50 candidate for the senate or member of assembly or a legislative employ-
51 ee, such statement shall be filed with both the legislative ethics
52 committee commission established by section eighty of the legislative
53 law and the joint commission on public ethics in accordance with para-
54 graph (d-1) of subdivision one of this section. If the reporting indi-
55 vidual is a statewide elected official, candidate for statewide elected
56 office, a state officer or employee or a political party chairman, such

S. 5679

7

1 statement shall be filed with the [~~state~~] joint commission on public
2 ethics [~~commission~~] established by section ninety-four of the executive
3 law.

4 (d) The [~~legislative ethics committee and the state~~] joint commission
5 on public ethics [~~commission~~] shall obtain from the state board of
6 elections a list of all candidates for statewide office and for member
7 of the legislature, and from such list, shall determine and publish a
8 list of those candidates who have not, within ten days after the
9 required date for filing such statement, filed the statement required by
10 this subdivision.

11 (e) Any person required to file such statement who commences employ-
12 ment after May fifteenth of any year and political party chairman shall
13 file such statement within thirty days after commencing employment or of
14 taking the position of political party chairman, as the case may be. In
15 the case of members of the legislature and legislative employees, such
16 statements shall be filed with the legislative ethics commission within
17 thirty days after commencing employment, and the legislative ethics
18 commission shall provide such statements to the joint commission on
19 public ethics within forty-five days of receipt.

20 (f) A person who may otherwise be required to file more than one annu-
21 al financial disclosure statement with both the [~~state ethics commis-~~
22 ~~sion~~] joint commission on public ethics and the legislative ethics
23 [~~committee~~] commission in any one calendar year may satisfy such
24 requirement by filing one such statement with either body and by notify-
25 ing the other body of such compliance.

26 (g) A person who is employed in more than one employment capacity for
27 one or more employers certain of whose officers and employees are
28 subject to filing a financial disclosure statement with the same ethics
29 commission [~~or ethics committee~~], as the case may be, and who receives
30 distinctly separate payments of compensation for such employment shall
31 be subject to the filing requirements of this section if the aggregate
32 annual compensation for all such employment capacities is in excess of
33 the filing rate notwithstanding that such person would not otherwise be
34 required to file with respect to any one particular employment capacity.
35 A person not otherwise required to file a financial disclosure statement
36 hereunder who is employed by an employer certain of whose officers or
37 employees are subject to filing a financial disclosure statement with
38 the [~~state ethics~~] joint commission on public ethics and who is also
39 employed by an employer certain of whose officers or employees are
40 subject to filing a financial disclosure statement with the legislative
41 ethics [~~committee~~] commission shall not be subject to filing such state-
42 ment with either such commission [~~or such committee~~] on the basis that
43 his aggregate annual compensation from all such employers is in excess
44 of the filing rate.

45 (h) A statewide elected official or member of the legislature, who is
46 simultaneously a candidate for statewide elected office or member of the
47 legislature, shall satisfy the filing deadline requirements of this
48 subdivision by complying only with the deadline applicable to one who
49 holds a statewide elected office or who holds the office of member of
50 the legislature.

51 (i) A candidate whose name will appear on both a party designating
52 petition and on an independent nominating petition for the same office
53 or who will be listed on the election ballot for the same office more
54 than once shall satisfy the filing deadline requirements of this subdivi-
55 sion by complying with the earliest applicable deadline only.

S. 5679

8

(j) A member of the legislature who is elected to such office at a special election prior to May fifteenth in any year shall satisfy the filing requirements of this subdivision in such year by complying with the earliest applicable deadline only.

(k) The joint commission on public ethics shall post for at least five years beginning for filings made on January first, two thousand thirteen the annual statement of financial disclosure and any amendments filed by each person subject to the reporting requirements of this subdivision who is an elected official on its website for public review within thirty days of its receipt of such statement or within ten days of its receipt of such amendment that reflects any corrections of deficiencies identified by the commission or by the reporting individual after the reporting individual's initial filing. Except upon an individual determination by the commission that certain information may be deleted from a reporting individual's annual statement of financial disclosure, none of the information in the statement posted on the commission's website shall be otherwise deleted.

3. The annual statement of financial disclosure shall contain the information and shall be in the form set forth hereinbelow:

ANNUAL STATEMENT OF FINANCIAL DISCLOSURE - (For calendar year _____)

- 1. Name _____
- 2. (a) Title of Position _____
- (b) Department, Agency or other Governmental Entity _____
- (c) Address of Present Office _____
- (d) Office Telephone Number _____
- 3. (a) Marital Status _____. If married, please give spouse's full name including maiden name where applicable.

(b) List the names of all unemancipated children.

Answer each of the following questions completely, with respect to calendar year _____, unless another period or date is otherwise specified. If additional space is needed, attach additional pages.

Whenever a "value" or "amount" is required to be reported herein, such value or amount shall be reported as being within one of the following Categories in Table I or Table II of this subdivision as called for in the question: [Category A - under \$5,000; Category B - \$5,000 to under \$20,000; Category C - \$20,000 to under \$60,000; Category D - \$60,000 to under \$100,000; Category E - \$100,000 to under \$250,000; and Category F - \$250,000 or over.] A reporting individual shall indicate the Category by letter only.

Whenever "income" is required to be reported herein, the term "income" shall mean the aggregate net income before taxes from the source identified.

The term "calendar year" shall mean the year ending the December 31st preceding the date of filing of the annual statement.

S. 5679

9

1 4. (a) List any office, trusteeship, directorship, partnership, or
 2 position of any nature, whether compensated or not, held by the
 3 reporting individual with any firm, corporation, association, part-
 4 nership, or other organization other than the State of New York.
 5 Include compensated honorary positions; do NOT list membership or
 6 uncompensated honorary positions. If the listed entity was licensed
 7 by any state or local agency, was regulated by any state regulatory
 8 agency or local agency, or, as a regular and significant part of the
 9 business or activity of said entity, did business with, or had
 10 matters other than ministerial matters before, any state or local
 11 agency, list the name of any such agency.

12			State or
13	Position	Organization	Local Agency
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19 (b) List any office, trusteeship, directorship, partnership, or position
 20 of any nature, whether compensated or not, held by the spouse or
 21 unemancipated child of the reporting individual, with any firm,
 22 corporation, association, partnership, or other organization other
 23 than the State of New York. Include compensated honorary positions;
 24 do NOT list membership or uncompensated honorary positions. If the
 25 listed entity was licensed by any state or local agency, was regu-
 26 lated by any state regulatory agency or local agency, or, as a regu-
 27 lar and significant part of the business or activity of said entity,
 28 did business with, or had matters other than ministerial matters
 29 before, any state or local agency, list the name of any such agency.

30			State or
31	Position	Organization	Local Agency
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37 5. (a) List the name, address and description of any occupation,
 38 employment (other than the employment listed under Item 2 above),
 39 trade, business or profession engaged in by the reporting individ-
 40 ual. If such activity was licensed by any state or local agency, was
 41 regulated by any state regulatory agency or local agency, or, as a
 42 regular and significant part of the business or activity of said
 43 entity, did business with, or had matters other than ministerial
 44 matters before, any state or local agency, list the name of any such
 45 agency.

46			State or
47	Position	Name & Address of Organization	Local Agency
48		Description	

S. 5679

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6 (b) If the spouse or unemancipated child of the reporting individual was
7 engaged in any occupation, employment, trade, business or profession
8 which activity was licensed by any state or local agency, was regu-
9 lated by any state regulatory agency or local agency, or, as a regu-
10 lar and significant part of the business or activity of said entity,
11 did business with, or had matters other than ministerial matters
12 before, any state or local agency, list the name, address and
13 description of such occupation, employment, trade, business or
14 profession and the name of any such agency.

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Position	Name & Address of Organization	Description	State or Local Agency

23 6. List any interest, in EXCESS of \$1,000, held by the reporting indi-
24 vidual, such individual's spouse or unemancipated child, or partner-
25 ship of which any such person is a member, or corporation, 10% or
26 more of the stock of which is owned or controlled by any such
27 person, whether vested or contingent, in any contract made or
28 executed by a state or local agency and include the name of the
29 entity which holds such interest and the relationship of the report-
30 ing individual or such individual's spouse or such child to such
31 entity and the interest in such contract. Do NOT include bonds and
32 notes. Do NOT list any interest in any such contract on which final
33 payment has been made and all obligations under the contract except
34 for guarantees and warranties have been performed, provided, howev-
35 er, that such an interest must be listed if there has been an ongo-
36 ing dispute during the calendar year for which this statement is
37 filed with respect to any such guarantees or warranties. Do NOT list
38 any interest in a contract made or executed by a local agency after
39 public notice and pursuant to a process for competitive bidding or a
40 process for competitive requests for proposals.

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Self, Spouse or Child	Entity Which Held Interest in Contract	Relationship to Entity and Interest in Contract	Contracting State or Local Agency	Category of Value of Contract <u>(In Table II)</u>

S. 5679

11

1 7. List any position the reporting individual held as an officer of any
 2 political party or political organization, as a member of any poli-
 3 tical party committee, or as a political party district leader. The
 4 term "party" shall have the same meaning as "party" in the election
 5 law. The term "political organization" means any party or independ-
 6 ent body as defined in the election law or any organization that is
 7 affiliated with or a subsidiary of a party or independent body.

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 12 _____

13 8. (a) If the reporting individual practices law, is licensed by the
 14 department of state as a real estate broker or agent or practices a
 15 profession licensed by the department of education, or works as a
 16 member or employee of a firm required to register pursuant to
 17 section one-e of the legislative law as a lobbyist, give a general
 18 description of the principal subject areas of matters undertaken by
 19 such individual. Additionally, if such an individual practices with
 20 a firm or corporation and is a partner or shareholder of the firm or
 21 corporation, give a general description of principal subject areas
 22 of matters undertaken by such firm or corporation. [~~Do not list the~~
 23 ~~name of the individual clients, customers or patients.~~]

24 _____
 25 _____
 26 _____
 27 _____
 28 _____

29 (b) APPLICABLE ONLY TO NEW CLIENTS OR CUSTOMERS FOR WHOM SERVICES ARE
 30 PROVIDED ON OR AFTER JULY FIRST, TWO THOUSAND TWELVE, OR FOR NEW MATTERS
 31 FOR EXISTING CLIENTS OR CUSTOMERS WITH RESPECT TO THOSE SERVICES THAT
 32 ARE PROVIDED ON OR AFTER JULY FIRST, TWO THOUSAND TWELVE:

33 If the reporting individual personally provides services to any person
 34 or entity, or works as a member or employee of a partnership or corpo-
 35 ration that provides such services (referred to hereinafter as a
 36 "firm"), then identify each client or customer to whom the reporting
 37 individual personally provided services, or who was referred to the firm
 38 by the reporting individual, and from whom the reporting individual or
 39 his or her firm earned fees in excess of \$10,000 during the reporting
 40 period for such services rendered in direct connection with:

41 (i) A proposed bill or resolution in the senate or assembly during the
 42 reporting period;

43 (ii) A contract in an amount totaling \$50,000 or more from the state
 44 or any state agency for services, materials, or property;

45 (iii) A grant of \$25,000 or more from the state or any state agency
 46 during the reporting period;

47 (iv) A grant obtained through a legislative initiative during the
 48 reporting period; or

49 (v) A case, proceeding, application or other matter that is not a
 50 ministerial matter before a state agency during the reporting period.

S. 5679

12

1 For purposes of this question, "referred to the firm" shall mean:
 2 having intentionally and knowingly taken a specific act or series of
 3 acts to intentionally procure for the reporting individual's firm or
 4 knowingly solicit or direct to the reporting individual's firm in whole
 5 or substantial part, a person or entity that becomes a client of that
 6 firm for the purposes of representation for a matter as defined in
 7 subparagraphs (i) through (v) of this paragraph, as the result of such
 8 procurement, solicitation or direction of the reporting individual. A
 9 reporting individual need not disclose activities performed while
 10 lawfully acting pursuant to paragraphs (c), (d), (e) and (f) of subdivi-
 11 sion seven of section seventy-three of this article.

12 The disclosure requirement in this question shall not require disclo-
 13 sure of clients or customers receiving medical or dental services, or
 14 mental health services, residential real estate brokering services, or
 15 insurance brokering services from the reporting individual or his or her
 16 firm. The reporting individual need not identify any client to whom he
 17 or she or his or her firm provided legal representation with respect to
 18 investigation or prosecution by law enforcement authorities, bankruptcy,
 19 or domestic relations matters. With respect to clients represented in
 20 other matters, where disclosure of a client's identity is likely to
 21 cause harm, the reporting individual shall request an exemption from the
 22 joint commission pursuant to paragraph (i) of subdivision nine of
 23 section ninety-four of the executive law. Only a reporting individual
 24 who first enters public office after July first, two thousand twelve,
 25 need not report clients or customers with respect to matters for which
 26 the reporting individual or his or her firm was retained prior to enter-
 27 ing public office.

Client	Nature of Services Provided

34 (c) List the name, principal address and general description or the
 35 nature of the business activity of any entity in which the reporting
 36 individual or such individual's spouse had an investment in excess of
 37 \$1,000 excluding investments in securities and interests in real proper-
 38 ty.

39 _____
 40 _____
 41 _____
 42 _____
 43 _____

44 9. List each source of gifts, EXCLUDING campaign contributions, in
 45 EXCESS of \$1,000, received during the reporting period for which
 46 this statement is filed by the reporting individual or such individ-
 47 ual's spouse or unemancipated child from the same donor, EXCLUDING
 48 gifts from a relative. INCLUDE the name and address of the donor.
 49 The term "gifts" does not include reimbursements, which term is
 50 defined in item 10. Indicate the value and nature of each such
 51 gift.

S. 5679

13

1	2	3	4	5	6
7	8	9	10	11	12
13	14	15	16	17	18
19	20	21	22	23	24
25	26	27	28	29	30
	Self,				Category
	Spouse or	Name of			of
	Child	Donor	Address	Nature	Value of
				of Gift	Gift
					<u>(In Table I)</u>
6					
7					
8					
9					
10					

11 10. Identify and briefly describe the source of any reimbursements for
 12 expenditures, EXCLUDING campaign expenditures and expenditures in
 13 connection with official duties reimbursed by the state, in EXCESS
 14 of \$1,000 from each such source. For purposes of this item, the term
 15 "reimbursements" shall mean any travel-related expenses provided by
 16 nongovernmental sources and for activities related to the reporting
 17 individual's official duties such as, speaking engagements, confer-
 18 ences, or factfinding events. The term "reimbursements" does NOT
 19 include gifts reported under item 9.

20	21	22	23	24	25
26	27	28	29	30	31
32	33	34	35	36	37
38	39	40	41	42	43
44	45	46	47	48	49
	Source				Description
21					
22					
23					
24					
25					

26 11. List the identity and value, if reasonably ascertainable, of each
 27 interest in a trust, estate or other beneficial interest, including
 28 retirement plans (other than retirement plans of the state of New
 29 York or the city of New York), and deferred compensation plans
 30 (e.g., 401, 403(b), 457, etc.) established in accordance with the
 31 internal revenue code, in which the REPORTING INDIVIDUAL held a
 32 beneficial interest in EXCESS of \$1,000 at any time during the
 33 preceding year. Do NOT report interests in a trust, estate or other
 34 beneficial interest established by or for, or the estate of, a rela-
 35 tive.

36	37	38	39	40	41
42	43	44	45	46	47
48	49	50	51	52	53
54	55	56	57	58	59
60	61	62	63	64	65
	Identity				Category
					of Value*
					<u>(In Table II)</u>
39					
40					
41					
42					
43					

44 * The value of such interest shall be reported only if reasonably
 45 ascertainable.

46 12. (a) Describe the terms of, and the parties to, any contract, prom-
 47 ise, or other agreement between the reporting individual and any
 48 person, firm, or corporation with respect to the employment of such

S. 5679

14

1 individual after leaving office or position (other than a leave of
2 absence).

3 _____
4 _____
5 _____
6 _____
7 _____

8 (b) Describe the parties to and the terms of any agreement providing
9 for continuation of payments or benefits to the REPORTING INDIVIDUAL
10 in EXCESS of \$1,000 from a prior employer OTHER THAN the State.
11 (This includes interests in or contributions to a pension fund,
12 profit-sharing plan, or life or health insurance; buy-out agree-
13 ments; severance payments; etc.)

14 _____
15 _____
16 _____
17 _____
18 _____

19 13. List below the nature and amount of any income in EXCESS of \$1,000
20 from EACH SOURCE for the reporting individual and such individual's
21 spouse for the taxable year last occurring prior to the date of
22 filing. Nature of income includes, but is not limited to, all
23 income (other than that received from the employment listed under
24 Item 2 above) from compensated employment whether public or private,
25 directorships and other fiduciary positions, contractual arrange-
26 ments, teaching income, partnerships, honorariums, lecture fees,
27 consultant fees, bank and bond interest, dividends, income derived
28 from a trust, real estate rents, and recognized gains from the sale
29 or exchange of real or other property. Income from a business or
30 profession and real estate rents shall be reported with the source
31 identified by the building address in the case of real estate rents
32 and otherwise by the name of the entity and not by the name of the
33 individual customers, clients or tenants, with the aggregate net
34 income before taxes for each building address or entity. The
35 receipt of maintenance received in connection with a matrimonial
36 action, alimony and child support payments shall not be listed.

37 Self/ Category
38 Spouse Source Nature of Amount
39 (In Table I)

40 _____
41 _____
42 _____
43 _____
44 _____

45 14. List the sources of any deferred income (not retirement income) in
46 EXCESS of \$1,000 from each source to be paid to the reporting indi-
47 vidual following the close of the calendar year for which this
48 disclosure statement is filed, other than deferred compensation
49 reported in item 11 hereinabove. Deferred income derived from the

S. 5679

15

1 practice of a profession shall be listed in the aggregate and shall
 2 identify as the source, the name of the firm, corporation, partner-
 3 ship or association through which the income was derived, but shall
 4 not identify individual clients.

5
 6 Source Category
 7 of Amount
 8 (In Table I)

9 _____
 10 _____
 11 _____
 12 _____

13 15. List each assignment of income in EXCESS of \$1,000, and each trans-
 14 fer other than to a relative during the reporting period for which
 15 this statement is filed for less than fair consideration of an
 16 interest in a trust, estate or other beneficial interest, securities
 17 or real property, by the reporting individual, in excess of \$1,000,
 18 which would otherwise be required to be reported herein and is not
 19 or has not been so reported.

20 Item Assigned Assigned or Category
 21 or Transferred Transferred to of Value
 22 (In Table I)

23 _____
 24 _____
 25 _____
 26 _____
 27 _____

28 16. List below the type and market value of securities held by the
 29 reporting individual or such individual's spouse from each issuing
 30 entity in EXCESS of \$1,000 at the close of the taxable year last
 31 occurring prior to the date of filing, including the name of the
 32 issuing entity exclusive of securities held by the reporting indi-
 33 vidual issued by a professional corporation. Whenever an interest in
 34 securities exists through a beneficial interest in a trust, the
 35 securities held in such trust shall be listed ONLY IF the reporting
 36 individual has knowledge thereof except where the reporting individ-
 37 ual or the reporting individual's spouse has transferred assets to
 38 such trust for his or her benefit in which event such securities
 39 shall be listed unless they are not ascertainable by the reporting
 40 individual because the trustee is under an obligation or has been
 41 instructed in writing not to disclose the contents of the trust to
 42 the reporting individual. Securities of which the reporting individ-
 43 ual or the reporting individual's spouse is the owner of record but
 44 in which such individual or the reporting individual's spouse has no
 45 beneficial interest shall not be listed. Indicate percentage of
 46 ownership ONLY if the reporting person or the reporting person's
 47 spouse holds more than five percent (5%) of the stock of a corpo-
 48 ration in which the stock is publicly traded or more than ten
 49 percent (10%) of the stock of a corporation in which the stock is
 50 NOT publicly traded. Also list securities owned for investment

S. 5679

16

1 purposes by a corporation more than fifty percent (50%) of the stock
 2 of which is owned or controlled by the reporting individual or such
 3 individual's spouse. For the purpose of this item the term "securi-
 4 ties" shall mean mutual funds, bonds, mortgages, notes, obligations,
 5 warrants and stocks of any class, investment interests in limited or
 6 general partnerships and certificates of deposits (CDs) and such
 7 other evidences of indebtedness and certificates of interest as are
 8 usually referred to as securities. The market value for such secu-
 9 rities shall be reported only if reasonably ascertainable and shall
 10 not be reported if the security is an interest in a general partner-
 11 ship that was listed in item 8 (a) or if the security is corporate
 12 stock, NOT publicly traded, in a trade or business of a reporting
 13 individual or a reporting individual's spouse.

14				Percentage	
15				of corporate	
16				stock owned	
17				or controlled	Category of
18				(if more than	Market Value
19				5% of pub-	as of the close
20				licly traded	of the
21				stock, or	taxable year
22				more than	last occurring
23				10% if stock	prior to
24	Self/	Issuing	Type of	not publicly	the filing of
25	Spouse	Entity	Security	traded, is held)	this statement
26					<u>(In Table II)</u>

27 _____
 28 _____
 29 _____
 30 _____
 31 _____

32 17. List below the location, size, general nature, acquisition date,
 33 market value and percentage of ownership of any real property in
 34 which any vested or contingent interest in EXCESS of \$1,000 is held
 35 by the reporting individual or the reporting individual's spouse.
 36 Also list real property owned for investment purposes by a corpo-
 37 ration more than fifty percent (50%) of the stock of which is owned
 38 or controlled by the reporting individual or such individual's
 39 spouse. Do NOT list any real property which is the primary or
 40 secondary personal residence of the reporting individual or the
 41 reporting individual's spouse, except where there is a co-owner who
 42 is other than a relative.

43						Category
44	Self/					of
45	Spouse/			General	Acquisition	Percentage
46	Corporation	Location	Size	Nature	Date	of
47						Ownership
48						Market
49						Value
						<u>(In</u>
						<u>Table</u>
						<u>II)</u>

50 _____
 51 _____

S. 5679

17

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18. List below all notes and accounts receivable, other than from goods or services sold, held by the reporting individual at the close of the taxable year last occurring prior to the date of filing and other debts owed to such individual at the close of the taxable year last occurring prior to the date of filing, in EXCESS of \$1,000, including the name of the debtor, type of obligation, date due and the nature of the collateral securing payment of each, if any, excluding securities reported in item 16 hereinabove. Debts, notes and accounts receivable owed to the individual by a relative shall not be reported.

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Name of Debtor	Type of Obligation, Date Due, and Nature of Collateral, if any	Category of Amount <u>(In Table II)</u>
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23
24
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19. List below all liabilities of the reporting individual and such individual's spouse, in EXCESS of [~~\$5,000~~] \$10,000 as of the date of filing of this statement, other than liabilities to a relative. Do NOT list liabilities incurred by, or guarantees made by, the reporting individual or such individual's spouse or by any proprietorship, partnership or corporation in which the reporting individual or such individual's spouse has an interest, when incurred or made in the ordinary course of the trade, business or professional practice of the reporting individual or such individual's spouse. Include the name of the creditor and any collateral pledged by such individual to secure payment of any such liability. A reporting individual shall not list any obligation to pay maintenance in connection with a matrimonial action, alimony or child support payments. Any loan issued in the ordinary course of business by a financial institution to finance educational costs, the cost of home purchase or improvements for a primary or secondary residence, or purchase of a personally owned motor vehicle, household furniture or appliances shall be excluded. If any such reportable liability has been guaranteed by any third person, list the liability and name the guarantor.

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43
44
45
46
47
48
49
50

Name of Creditor or Guarantor	Type of Liability and Collateral, if any	Category of Amount <u>(In Table II)</u>
----------------------------------	---	--

S. 5679

18

1 The requirements of law relating to the reporting of financial
 2 interests are in the public interest and no adverse inference of
 3 unethical or illegal conduct or behavior will be drawn merely from
 4 compliance with these requirements.

5

6 (Signature of Reporting Individual) _____ Date (month/day/year) _____

7

TABLE I

8	Category A	none
9	Category B	\$ 1 to under \$ 1,000
10	Category C	\$ 1,000 to under \$ 5,000
11	Category D	\$ 5,000 to under \$ 20,000
12	Category E	\$ 20,000 to under \$ 50,000
13	Category F	\$ 50,000 to under \$ 75,000
14	Category G	\$ 75,000 to under \$ 100,000
15	Category H	\$ 100,000 to under \$ 150,000
16	Category I	\$ 150,000 to under \$ 250,000
17	Category J	\$ 250,000 to under \$ 350,000
18	Category K	\$ 350,000 to under \$ 450,000
19	Category L	\$ 450,000 to under \$ 550,000
20	Category M	\$ 550,000 to under \$ 650,000
21	Category N	\$ 650,000 to under \$ 750,000
22	Category O	\$ 750,000 to under \$ 850,000
23	Category P	\$ 850,000 to under \$ 950,000
24	Category Q	\$ 950,000 to under \$1,050,000
25	Category R	\$1,050,000 to under \$1,150,000
26	Category S	\$1,150,000 to under \$1,250,000
27	Category T	\$1,250,000 to under \$1,350,000
28	Category U	\$1,350,000 to under \$1,450,000
29	Category V	\$1,450,000 to under \$1,550,000
30	Category W	\$1,550,000 to under \$1,650,000
31	Category X	\$1,650,000 to under \$1,750,000
32	Category Y	\$1,750,000 to under \$1,850,000
33	Category Z	\$1,850,000 to under \$1,950,000
34	Category AA	\$1,950,000 to under \$2,050,000
35	Category BB	\$2,050,000 to under \$2,150,000
36	Category CC	\$2,150,000 to under \$2,250,000
37	Category DD	\$2,250,000 to under \$2,350,000
38	Category EE	\$2,350,000 to under \$2,450,000
39	Category FF	\$2,450,000 to under \$2,550,000
40	Category GG	\$2,550,000 to under \$2,650,000
41	Category HH	\$2,650,000 to under \$2,750,000
42	Category II	\$2,750,000 to under \$2,850,000
43	Category JJ	\$2,850,000 to under \$2,950,000
44	Category KK	\$2,950,000 to under \$3,050,000
45	Category LL	\$3,050,000 to under \$3,150,000
46	Category MM	\$3,150,000 to under \$3,250,000
47	Category NN	\$3,250,000 to under \$3,350,000
48	Category OO	\$3,350,000 to under \$3,450,000
49	Category PP	\$3,450,000 to under \$3,550,000
50	Category QQ	\$3,550,000 to under \$3,650,000
51	Category RR	\$3,650,000 to under \$3,750,000
52	Category SS	\$3,750,000 to under \$3,850,000
53	Category TT	\$3,850,000 to under \$3,950,000
54	Category UU	\$3,950,000 to under \$4,050,000

S. 5679

19

1	<u>Category VV</u>	<u>\$4,050,000 to under \$4,150,000</u>
2	<u>Category WW</u>	<u>\$4,150,000 to under \$4,250,000</u>
3	<u>Category XX</u>	<u>\$4,250,000 to under \$4,350,000</u>
4	<u>Category YY</u>	<u>\$4,350,000 to under \$4,450,000</u>
5	<u>Category ZZ</u>	<u>\$4,450,000 to under \$4,550,000</u>
6	<u>Category AAA</u>	<u>\$4,550,000 to under \$4,650,000</u>
7	<u>Category BBB</u>	<u>\$4,650,000 to under \$4,750,000</u>
8	<u>Category CCC</u>	<u>\$4,750,000 to under \$4,850,000</u>
9	<u>Category DDD</u>	<u>\$4,850,000 to under \$4,950,000</u>
10	<u>Category EEE</u>	<u>\$4,950,000 to under \$5,050,000</u>
11	<u>Category FFF</u>	<u>\$5,050,000 to under \$5,150,000</u>
12	<u>Category GGG</u>	<u>\$5,150,000 to under \$5,250,000</u>
13	<u>Category HHH</u>	<u>\$5,250,000 to under \$5,350,000</u>
14	<u>Category III</u>	<u>\$5,350,000 to under \$5,450,000</u>
15	<u>Category JJJ</u>	<u>\$5,450,000 to under \$5,550,000</u>
16	<u>Category KKK</u>	<u>\$5,550,000 to under \$5,650,000</u>
17	<u>Category LLL</u>	<u>\$5,650,000 to under \$5,750,000</u>
18	<u>Category MMM</u>	<u>\$5,750,000 to under \$5,850,000</u>
19	<u>Category NNN</u>	<u>\$5,580,000 to under \$5,950,000</u>
20	<u>Category OOO</u>	<u>\$5,950,000 to under \$6,050,000</u>
21	<u>Category PPP</u>	<u>\$6,050,000 to under \$6,150,000</u>
22	<u>Category QQQ</u>	<u>\$6,150,000 to under \$6,250,000</u>
23	<u>Category RRR</u>	<u>\$6,250,000 to under \$6,350,000</u>
24	<u>Category SSS</u>	<u>\$6,350,000 to under \$6,450,000</u>
25	<u>Category TTT</u>	<u>\$6,450,000 to under \$6,550,000</u>
26	<u>Category UUU</u>	<u>\$6,550,000 to under \$6,650,000</u>
27	<u>Category VVV</u>	<u>\$6,650,000 to under \$6,750,000</u>
28	<u>Category WWW</u>	<u>\$6,750,000 to under \$6,850,000</u>
29	<u>Category XXX</u>	<u>\$6,850,000 to under \$6,950,000</u>
30	<u>Category YYY</u>	<u>\$6,950,000 to under \$7,050,000</u>
31	<u>Category ZZZ</u>	<u>\$7,050,000 to under \$7,150,000</u>
32	<u>Category AAAA</u>	<u>\$7,150,000 to under \$7,250,000</u>
33	<u>Category BBBB</u>	<u>\$7,250,000 to under \$7,350,000</u>
34	<u>Category CCCC</u>	<u>\$7,350,000 to under \$7,450,000</u>
35	<u>Category DDDD</u>	<u>\$7,450,000 to under \$7,550,000</u>
36	<u>Category EEEE</u>	<u>\$7,550,000 to under \$7,650,000</u>
37	<u>Category FFFF</u>	<u>\$7,650,000 to under \$7,750,000</u>
38	<u>Category GGGG</u>	<u>\$7,750,000 to under \$7,850,000</u>
39	<u>Category HHHH</u>	<u>\$7,850,000 to under \$7,950,000</u>
40	<u>Category IIII</u>	<u>\$7,950,000 to under \$8,050,000</u>
41	<u>Category JJJJ</u>	<u>\$8,050,000 to under \$8,150,000</u>
42	<u>Category KKKK</u>	<u>\$8,150,000 to under \$8,250,000</u>
43	<u>Category LLLL</u>	<u>\$8,250,000 to under \$8,350,000</u>
44	<u>Category MMMM</u>	<u>\$8,350,000 to under \$8,450,000</u>
45	<u>Category NNNN</u>	<u>\$8,450,000 to under \$8,550,000</u>
46	<u>Category OOOO</u>	<u>\$8,550,000 to under \$8,650,000</u>
47	<u>Category PPPP</u>	<u>\$8,650,000 to under \$8,750,000</u>
48	<u>Category QQQQ</u>	<u>\$8,750,000 to under \$8,850,000</u>
49	<u>Category RRRR</u>	<u>\$8,850,000 to under \$8,950,000</u>
50	<u>Category SSSS</u>	<u>\$8,950,000 to under \$9,050,000</u>
51	<u>Category TTTT</u>	<u>\$9,050,000 to under \$9,150,000</u>
52	<u>Category UUUU</u>	<u>\$9,150,000 to under \$9,250,000</u>
53	<u>Category VVVV</u>	<u>\$9,250,000 to under \$9,350,000</u>
54	<u>Category WWWW</u>	<u>\$9,350,000 to under \$9,450,000</u>
55	<u>Category XXXX</u>	<u>\$9,450,000 to under \$9,550,000</u>
56	<u>Category YYYY</u>	<u>\$9,550,000 to under \$9,650,000</u>

S. 5679

20

1	<u>Category ZZZZ</u>	<u>\$9,650,000 to under \$9,750,000</u>
2	<u>Category AAAAA</u>	<u>\$9,750,000 to under \$9,850,000</u>
3	<u>Category BBBB</u>	<u>\$9,850,000 to under \$9,950,000</u>
4	<u>Category CCCC</u>	<u>\$9,950,000 to under \$10,000,000</u>
5	<u>Category DDDD</u>	<u>\$10,000,000 or over</u>

TABLE II

6		
7	<u>Category A</u>	<u>none</u>
8	<u>Category B</u>	<u>\$ 1 to under \$ 1,000</u>
9	<u>Category C</u>	<u>\$ 1,000 to under \$ 5,000</u>
10	<u>Category D</u>	<u>\$ 5,000 to under \$ 20,000</u>
11	<u>Category E</u>	<u>\$ 20,000 to under \$ 50,000</u>
12	<u>Category F</u>	<u>\$ 50,000 to under \$ 75,000</u>
13	<u>Category G</u>	<u>\$ 75,000 to under \$ 100,000</u>
14	<u>Category H</u>	<u>\$ 100,000 to under \$ 150,000</u>
15	<u>Category I</u>	<u>\$ 150,000 to under \$ 250,000</u>
16	<u>Category J</u>	<u>\$ 250,000 to under \$ 500,000</u>
17	<u>Category K</u>	<u>\$ 500,000 to under \$ 750,000</u>
18	<u>Category L</u>	<u>\$ 750,000 to under \$1,000,000</u>
19	<u>Category M</u>	<u>\$1,000,000 to under \$1,250,000</u>
20	<u>Category N</u>	<u>\$1,250,000 to under \$1,500,000</u>
21	<u>Category O</u>	<u>\$1,500,000 to under \$1,750,000</u>
22	<u>Category P</u>	<u>\$1,750,000 to under \$2,000,000</u>
23	<u>Category Q</u>	<u>\$2,000,000 to under \$2,250,000</u>
24	<u>Category R</u>	<u>\$2,250,000 to under \$2,500,000</u>
25	<u>Category S</u>	<u>\$2,500,000 to under \$2,750,000</u>
26	<u>Category T</u>	<u>\$2,750,000 to under \$3,000,000</u>
27	<u>Category U</u>	<u>\$3,000,000 to under \$3,250,000</u>
28	<u>Category V</u>	<u>\$3,250,000 to under \$3,500,000</u>
29	<u>Category W</u>	<u>\$3,500,000 to under \$3,750,000</u>
30	<u>Category X</u>	<u>\$3,750,000 to under \$4,000,000</u>
31	<u>Category Y</u>	<u>\$4,000,000 to under \$4,250,000</u>
32	<u>Category Z</u>	<u>\$4,250,000 to under \$4,500,000</u>
33	<u>Category AA</u>	<u>\$4,500,000 to under \$4,750,000</u>
34	<u>Category BB</u>	<u>\$4,750,000 to under \$5,000,000</u>
35	<u>Category CC</u>	<u>\$5,000,000 to under \$5,250,000</u>
36	<u>Category DD</u>	<u>\$5,250,000 to under \$5,500,000</u>
37	<u>Category EE</u>	<u>\$5,500,000 to under \$5,750,000</u>
38	<u>Category FF</u>	<u>\$5,750,000 to under \$6,000,000</u>
39	<u>Category GG</u>	<u>\$6,000,000 to under \$6,250,000</u>
40	<u>Category HH</u>	<u>\$6,250,000 to under \$6,500,000</u>
41	<u>Category II</u>	<u>\$6,500,000 to under \$6,750,000</u>
42	<u>Category JJ</u>	<u>\$6,750,000 to under \$7,000,000</u>
43	<u>Category KK</u>	<u>\$7,000,000 to under \$7,250,000</u>
44	<u>Category LL</u>	<u>\$7,250,000 to under \$7,500,000</u>
45	<u>Category MM</u>	<u>\$7,500,000 to under \$7,750,000</u>
46	<u>Category NN</u>	<u>\$7,750,000 to under \$8,000,000</u>
47	<u>Category OO</u>	<u>\$8,000,000 to under \$8,250,000</u>
48	<u>Category PP</u>	<u>\$8,250,000 to under \$8,500,000</u>
49	<u>Category QQ</u>	<u>\$8,500,000 to under \$8,750,000</u>
50	<u>Category RR</u>	<u>\$8,750,000 to under \$9,000,000</u>
51	<u>Category SS</u>	<u>\$9,000,000 to under \$9,250,000</u>
52	<u>Category TT</u>	<u>\$9,250,000 to under \$9,500,000</u>
53	<u>Category UU</u>	<u>\$9,500,000 or over</u>

54 4. A reporting individual who knowingly and wilfully fails to file an
 55 annual statement of financial disclosure or who knowingly and wilfully

S. 5679

21

1 with intent to deceive makes a false statement or gives information
2 which such individual knows to be false on such statement of financial
3 disclosure filed pursuant to this section shall be subject to a civil
4 penalty in an amount not to exceed ~~[ten]~~ forty thousand dollars. Assess-
5 ment of a civil penalty hereunder shall be made by the ~~[state] joint~~
6 commission on public ethics [commission] or by the legislative ethics
7 ~~[committee] commission~~, as the case may be, with respect to persons
8 subject to their respective jurisdictions. The ~~[state] joint commission~~
9 on public ethics [commission] acting pursuant to subdivision ~~[thirteen]~~
10 fourteen of section ninety-four of the executive law or the legislative
11 ethics ~~[committee] commission~~ acting pursuant to subdivision ~~[twelve]~~
12 eleven of section eighty of the legislative law, as the case may be,
13 may, in lieu of or in addition to a civil penalty, refer a violation to
14 the appropriate prosecutor and upon such conviction, but only after such
15 referral, such violation shall be punishable as a class A misdemeanor. A
16 civil penalty for false filing may not be imposed hereunder in the event
17 a category of "value" or "amount" reported hereunder is incorrect unless
18 such reported information is falsely understated. Notwithstanding any
19 other provision of law to the contrary, no other penalty, civil or crim-
20 inal may be imposed for a failure to file, or for a false filing, of
21 such statement, except that the appointing authority may impose disci-
22 plinary action as otherwise provided by law. The ~~[state] joint commis-~~
23 sion on public ethics [commission] and the legislative ethics ~~[commit-~~
24 tee] commission shall each be deemed to be an agency within the meaning
25 of article three of the state administrative procedure act and shall
26 adopt rules governing the conduct of adjudicatory proceedings and
27 appeals relating to the assessment of the civil penalties herein author-
28 ized. Such rules, which shall not be subject to the approval require-
29 ments of the state administrative procedure act, shall provide for due
30 process procedural mechanisms substantially similar to those set forth
31 in such article three but such mechanisms need not be identical in terms
32 or scope. Assessment of a civil penalty shall be final unless modified,
33 suspended or vacated within thirty days of imposition and upon becoming
34 final shall be subject to review at the instance of the affected report-
35 ing individual in a proceeding commenced against the ~~[state] joint~~
36 commission on public ethics [commission or legislative ethics committee]
37 or the legislative ethics commission, pursuant to article seventy-eight
38 of the civil practice law and rules.

39 5. Nothing contained in this section shall be construed as precluding
40 any public authority or public benefit corporation from exercising any
41 authority or power now or hereafter existing to require any of its
42 members, directors, officers or employees to file financial disclosure
43 statements with such public authority or public benefit corporation that
44 are the same as, different from or supplemental to any of the require-
45 ments contained herein and to provide only for internal employment
46 discipline for any violation arising out of such internal filing.

47 6. Notwithstanding any other provision of law or any professional
48 disciplinary rule to the contrary, the disclosure of the identity of any
49 client or customer on a reporting individual's annual statement of
50 financial disclosure shall not constitute professional misconduct or a
51 ground for disciplinary action of any kind, or form the basis for any
52 civil or criminal cause of action or proceeding.

53 § 6. Section 94 of the executive law, as added by chapter 813 of the
54 laws of 1987, the section heading and subdivisions 1, 2, 3, 4, 5, 6, 7
55 and 8 as amended by section 2, subdivisions 9, 10, 11, 12, 13, 14, 16
56 and 17 as amended and subdivisions 13-a, 16-a and 18 as added by section

S. 5679

22

1 2-a, paragraph (1) of subdivision 9 as amended by section 3, paragraph
2 (c) of subdivision 12 as amended by section 4, subdivision 15 as amended
3 by section 5, and paragraphs (a) and (b) of subdivision 17 as amended by
4 section 6 of chapter 14 of the laws of 2007, is amended to read as
5 follows:

6 § 94. ~~[Commission]~~ Joint commission on public ~~[integrity]~~ ethics;
7 functions, powers and duties; review of financial disclosure statements;
8 advisory opinions; investigation and enforcement.

9 1. There is established within the department of state a joint commis-
10 sion on public ~~[integrity]~~ ethics which shall consist of ~~[thirteen]~~
11 fourteen members and shall have and exercise the powers and duties set
12 forth in this section ~~[only]~~ with respect to statewide elected
13 officials, members of the legislature and employees of the legislature,
14 and state officers and employees, as defined in sections seventy-three
15 and seventy-three-a of the public officers law, candidates for statewide
16 elected office and for the senate or assembly, and the political party
17 chairman as that term is defined in section seventy-three-a of the
18 public officers law, lobbyists and the clients of lobbyists as such
19 terms are defined in article one-A of the legislative law, and individ-
20 uals who have formerly held such positions, were lobbyists or clients of
21 lobbyists, as such terms are defined in article one-A of the legislative
22 law, or who have formerly been such candidates. This section shall not
23 ~~[revoke or rescind]~~ be deemed to have revoked or rescinded any regu-
24 lations or advisory opinions issued by the legislative ethics commis-
25 sion, the commission on public integrity, the state ethics commission
26 and the temporary lobbying commission in effect upon the effective date
27 of ~~[a]~~ chapter fourteen of the laws of two thousand seven which amended
28 this section to the extent that such regulations or opinions are not
29 inconsistent with any law of the state of New York, but such regulations
30 and opinions shall apply only to matters over which such commissions had
31 jurisdiction at the time such regulations and opinions were promulgated
32 or issued. The commission shall undertake a comprehensive review of all
33 such regulations and opinions, which will address the consistency of
34 such regulations and opinions among each other and with the new statuto-
35 ry language, and of the effectiveness of the existing laws, regulations,
36 guidance and ethics enforcement structure to address the ethics of
37 covered public officials and related parties. Such review shall be
38 conducted with the legislative ethics commission and, to the extent
39 possible, the report's findings shall reflect the full input and delib-
40 erations of both commissions after joint consultation. The commission
41 shall, before ~~[April first, two thousand eight]~~ February first, two
42 thousand fifteen, report to the governor and legislature regarding such
43 review and shall propose any regulatory or statutory changes and issue
44 any advisory opinions necessitated by such review.

45 2. The members of the commission shall be appointed ~~[by the governor~~
46 ~~provided, however, that one member shall be appointed on the nomination~~
47 ~~of the comptroller, one member shall be appointed on the nomination of~~
48 ~~the attorney general, one member]~~ as follows: three members shall be
49 appointed ~~[on the nomination of]~~ by the temporary president of the
50 senate, ~~[one member]~~ three members shall be appointed ~~[on the nomination~~
51 ~~of]~~ by the speaker of the assembly, one member shall be appointed ~~[on~~
52 ~~the nomination of]~~ by the minority leader of the senate, ~~[and]~~ one
53 member shall be appointed ~~[on the nomination of]~~ by the minority leader
54 of the assembly, and six members shall be appointed by the governor and
55 the lieutenant governor. In the event that a vacancy arises with
56 respect to a member of the commission first appointed pursuant to the

S. 5679

23

1 chapter of the laws of two thousand eleven which amended this subdivi-
2 sion by a legislative leader, the legislative leaders of the same politi-
3 cal party in the same house shall appoint a member to fill such vacan-
4 cy irrespective of whether that legislative leader's political party is
5 in the majority or minority. Of the [seven] members appointed by the
6 governor [without prior nomination, no more than four members shall
7 belong to the same political party and no members shall be public offi-
8 cers or employees or hold any public office, elected or appointed. No
9 member shall be a member of the legislature, a candidate for member of
10 the legislature, an employee of the legislature, a political party
11 chairman as defined in paragraph (k) of subdivision one of section
12 seventy-three of the public officers law, or a lobbyist as defined in
13 subdivision (a) of section one-c of the legislative law] and the lieu-
14 tenant governor, at least three members shall be and shall have been for
15 at least three years enrolled members of the major political party in
16 which the governor is not enrolled. In the event of a vacancy in a
17 position previously appointed by the governor and lieutenant governor,
18 the governor and lieutenant governor shall appoint a member of the same
19 political party as the member that vacated that position. Prior to
20 making their respective appointments, the governor and the lieutenant
21 governor and the legislative leaders shall solicit and receive recommen-
22 dations for appointees from the attorney general and the comptroller of
23 the state of New York, which recommendations shall be fully and properly
24 considered but shall not be binding.

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

- 27 (i) is or has been registered as a lobbyist in New York state;
28 (ii) is or has been a member of the New York state legislature or a
29 statewide elected official or a commissioner of an executive agency
30 appointed by the governor; or
31 (iii) is or has been a political party chairman, as defined in para-
32 graph (k) of subdivision one of section seventy-three of this article.

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

37 3. Members of the commission shall serve for terms of five years;
38 provided, however, that of the members first appointed [without prior
39 nomination] by the governor and lieutenant governor, one shall serve for
40 one year, one shall serve for two years, one shall serve for three
41 years, and one shall serve for four years, as designated by the gover-
42 nor; the members first appointed [on the nominations of the comptroller
43 and] by the temporary president of the senate and by the speaker of the
44 assembly shall serve for four years and the members first appointed [on
45 the nominations of the attorney general and the speaker of] by the
46 minority leaders of the senate and the assembly shall serve for two
47 years.

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

52 5. Any vacancy occurring on the commission shall be filled within
53 [sixty] thirty days of its occurrence[, by the governor,] in the same
54 manner as the member whose vacancy is being filled was appointed. A
55 person appointed to fill a vacancy occurring other than by expiration of

S. 5679

24

1 a term of office shall be appointed for the unexpired term of the member
2 he or she succeeds.

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

8 7. Members of the commission may be removed by the ~~[governor]~~ appoint-
9 ing authority solely for substantial neglect of duty, gross misconduct
10 in office, violation of the confidentiality restrictions in subdivision
11 nine-a of this section, inability to discharge the powers or duties of
12 office or violation of this section, after written notice and opportu-
13 nity for a reply.

14 8. ~~[The members of the commission shall not receive compensation but~~
15 ~~shall be reimbursed for reasonable expenses incurred in the performance~~
16 ~~of their official duties]~~ The members of the joint commission shall
17 receive a per diem allowance in the sum of three hundred dollars for
18 each day actually spent in the performance of his or her duties under
19 this article, and, in addition thereto, shall be reimbursed for all
20 reasonable expenses actually and necessarily incurred by him or her in
21 the performance of his or her duties under this article.

22 9. The commission shall:

23 (a) Appoint an executive director who shall act in accordance with the
24 policies of the commission. The appointment and removal of the execu-
25 tive director shall be made solely by a vote of a majority of the
26 commission, which majority shall include at least one member appointed
27 by the governor from each of the two major political parties, and one
28 member appointed by a legislative leader from each of the two major
29 political parties. The commission may delegate authority to the execu-
30 tive director to act in the name of the commission between meetings of
31 the commission provided such delegation is in writing ~~[and]~~, the specif-
32 ic powers to be delegated are enumerated, and the commission shall not
33 delegate any decisions specified in this section that require a vote of
34 the commission. The executive director shall be appointed without
35 regard to political affiliation and solely on the basis of fitness to
36 perform the duties assigned by this article, and shall be a qualified,
37 independent professional. The commission may remove the executive
38 director for neglect of duty, misconduct in office, violation of the
39 confidentiality restrictions in subdivision nine-a of this section, or
40 inability or failure to discharge the powers or duties of office,
41 including the failure to follow the lawful instructions of the commis-
42 sion;

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

45 (b-1) Review and approve a staffing plan provided and prepared by the
46 executive director which shall contain, at a minimum, a list of the
47 various units and divisions as well as the number of positions in each
48 unit, titles and their duties, and salaries, as well as the various
49 qualifications for each position including, but not limited to, educa-
50 tion and prior experience for each position.

51 (c) Adopt, amend, and rescind rules and regulations to govern proce-
52 dures of the commission, which shall include, but not be limited to, the
53 procedure whereby a person who is required to file an annual financial
54 disclosure statement with the commission may request an additional peri-
55 od of time within which to file such statement, other than members of
56 the legislature, candidates for members of the legislature and legisla-

S. 5679

25

1 tive employees, due to justifiable cause or undue hardship; such rules
2 or regulations shall provide for a date beyond which in all cases of
3 justifiable cause or undue hardship no further extension of time will be
4 granted;

5 (d) Adopt, amend, and rescind rules and regulations to assist appoint-
6 ing authorities in determining which persons hold policy-making posi-
7 tions for purposes of section seventy-three-a of the public officers
8 law;

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

12 (e) Make available forms for annual statements of financial disclosure
13 required to be filed pursuant to section seventy-three-a of the public
14 officers law;

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

20 (g) Receive complaints and referrals alleging violations of section
21 seventy-three, seventy-three-a or seventy-four of the public officers
22 law, article one-A of the legislative law or section one hundred seven
23 of the civil service law;

24 (h) Permit any person [~~subject to the jurisdiction of the commission~~]
25 who is required to file a financial disclosure statement with the joint
26 commission on public ethics to request that the commission [~~to~~] delete
27 from the copy thereof made available for public inspection and copying
28 one or more items of information which may be deleted by the commission
29 upon a finding by the commission that the information which would other-
30 wise be required to be made available for public inspection and copying
31 will have no material bearing on the discharge of the reporting person's
32 official duties. If such request for deletion is denied, the commission,
33 in its notification of denial, shall inform the person of his or her
34 right to appeal the commission's determination pursuant to its rules
35 governing adjudicatory proceedings and appeals adopted pursuant to
36 subdivision [~~thirteen~~] fourteen of this section;

37 (i) Permit any person [~~subject to the jurisdiction of the commission~~]
38 who is required to file a financial disclosure statement with the joint
39 commission on public ethics to request an exemption from any requirement
40 to report one or more items of information which pertain to such
41 person's spouse or unemancipated children which item or items may be
42 exempted by the commission upon a finding by the commission that the
43 reporting individual's spouse, on his or her own behalf or on behalf of
44 an unemancipated child, objects to providing the information necessary
45 to make such disclosure and that the information which would otherwise
46 be required to be reported will have no material bearing on the
47 discharge of the reporting person's official duties. If such request for
48 exemption is denied, the commission, in its notification of denial,
49 shall inform the person of his or her right to appeal the commission's
50 determination pursuant to its rules governing adjudicatory proceedings
51 and appeals adopted pursuant to subdivision [~~thirteen~~] fourteen of this
52 section;

53 (i-1) Permit any person required to file a financial disclosure state-
54 ment to request an exemption from any requirement to report the identity
55 of a client pursuant to question 8(b) in such statement based upon an
56 exemption set forth in that question. The reporting individual need not

S. 5679

26

1 seek an exemption to refrain from disclosing the identity of any client
2 with respect to any matter he or she or his or her firm provided legal
3 representation to the client in connection with an investigation or
4 prosecution by law enforcement authorities, bankruptcy, or domestic
5 relations matters; in addition, clients or customers receiving medical
6 or dental services, mental health services, residential real estate
7 brokering services, or insurance brokering services need not be
8 disclosed.

9 (j) Advise and assist any state agency in establishing rules and regu-
10 lations relating to possible conflicts between private interests and
11 official duties of present or former statewide elected officials and
12 state officers and employees;

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

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

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

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

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

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

46 (m) Determine a question common to a class or defined category of
47 persons or items of information required to be disclosed, where determi-
48 nation of the question will prevent undue repetition of requests for
49 exemption or deletion or prevent undue complication in complying with
50 the requirements of such section[-]; and

51 (n) Promulgate guidelines for the commission to conduct a program of
52 random reviews, to be carried out in the following manner: (i) annual
53 statements of financial disclosure shall be selected for review in a
54 manner pursuant to which the identity of any particular person whose
55 statement is selected is unknown to the commission and its staff prior
56 to its selection; (ii) such review shall include a preliminary examina-

S. 5679

27

1 tion of the selected statement for internal consistency, a comparison
2 with other records maintained by the commission, including previously
3 filed statements and requests for advisory opinions, and examination of
4 relevant public information; (iii) upon completion of the preliminary
5 examination, the commission shall determine whether further inquiry is
6 warranted, whereupon it shall notify the reporting individual in writing
7 that the statement is under review, advise the reporting individual of
8 the specific areas of inquiry, and provide the reporting individual with
9 the opportunity to provide any relevant information related to the
10 specific areas of inquiry, and the opportunity to file amendments to the
11 selected statement on forms provided by the commission; and (iv) if
12 thereafter sufficient cause exists, the commission shall take additional
13 actions, as appropriate and consistent with law.

14 9-a. (a) When an individual becomes a commissioner or staff of the
15 commission, that individual shall be required to sign a non-disclosure
16 statement.

17 (b) Except as otherwise required or provided by law, testimony
18 received or any other information obtained by a commissioner or staff of
19 the commission shall not be disclosed by any such individual to any
20 person or entity outside the commission during the pendency of any
21 matter. Any confidential communication to any person or entity outside
22 the commission related to the matters before the commission may occur
23 only as authorized by the commission.

24 (c) The commission shall establish procedures necessary to prevent the
25 unauthorized disclosure of any information received by any member of the
26 commission or staff of the commission. Any breaches of confidentiality
27 shall be investigated by the inspector general and appropriate action
28 shall be taken. Any commissioner or person employed by the commission
29 who intentionally and without authorization releases confidential infor-
30 mation received by the commission shall be guilty of a class A misdemea-
31 nor.

32 9-b. During the period of his or her service as a commissioner of the
33 commission, each commissioner shall refrain from making, or soliciting
34 from other persons, any contributions to candidates for election to the
35 offices of governor, lieutenant governor, member of the assembly or the
36 senate, attorney general or state comptroller.

37 10. The commission shall prepare materials and design and administer
38 an ethics training program for individuals subject to the financial
39 disclosure requirements of section seventy-three-a of the public offi-
40 cers law with respect to the provisions of sections seventy-three,
41 seventy-three-a, and seventy-four of the public officers law and any
42 other law, administrative regulation, or internal policy that is of
43 relevance to the ethical conduct of such individuals in public service,
44 as follows:

45 (a) The commission shall develop and administer a comprehensive ethics
46 training course and shall designate and train instructors to conduct
47 such training. Such course shall be designed as a two-hour program and
48 shall include practical application of the material covered and a ques-
49 tion-and-answer participatory segment. Unless the commission grants an
50 extension or waiver for good cause shown, all individuals subject to the
51 financial disclosure requirements of section seventy-three-a of the
52 public officers law shall complete such course within two years of the
53 effective date of the chapter of the laws of two thousand eleven which
54 amended this section, or for those individuals elected or appointed
55 after the effective date of the chapter of the laws of two thousand
56 eleven which amended this section, within two years of becoming subject

S. 5679

28

1 to the financial disclosure requirements of section seventy-three-a of
2 the public officers law.

3 (b) The commission shall develop and administer an online ethics
4 orientation course and shall notify all individuals newly subject to the
5 financial disclosure requirements of section seventy-three-a of the
6 public officers law of such course, which shall be completed by such
7 individuals within three months of becoming subject to such require-
8 ments, unless the commission grants an extension or waiver for good
9 cause shown. Individuals who have completed the comprehensive ethics
10 training course shall not be required to complete the online ethics
11 orientation course.

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

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

28 (e) On an annual basis, the joint commission in coordination with the
29 legislative ethics commission shall determine the status of compliance
30 with these training requirements by each state agency and by the senate
31 and the assembly. Such determination shall include aggregate statistics
32 regarding participation in such training, and shall be reported to the
33 governor and the legislature in writing.

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

42 ~~[11.]~~ 12. If a person required to file a financial disclosure state-
43 ment with the commission has failed to file a disclosure statement or
44 has filed a deficient statement, the commission shall notify the report-
45 ing person in writing, state the failure to file or detail the deficien-
46 cy, provide the person with a fifteen day period to cure the deficiency,
47 and advise the person of the penalties for failure to comply with the
48 reporting requirements. Such notice shall be confidential. If the person
49 fails to make such filing or fails to cure the deficiency within the
50 specified time period, the commission shall send a notice of delinquen-
51 cy: (a) to the reporting person; (b) in the case of a statewide elected
52 official, member of the legislature, or a legislative employee, to the
53 temporary president of the senate and the speaker of the assembly; and
54 (c) in the case of a state officer or employee, to the appointing
55 authority for such person. Such notice of delinquency may be sent at any
56 time during the reporting person's service as a statewide elected offi-

S. 5679

29

1 cial, state officer or employee, member of the assembly or the senate,
2 or a legislative employee or a political party chair or while a candi-
3 date for statewide office, or within one year after termination of such
4 service or candidacy. The jurisdiction of the commission, when acting
5 pursuant to subdivision [~~thirteen~~] fourteen of this section with respect
6 to financial disclosure, shall continue notwithstanding that the report-
7 ing person separates from state service, or ceases to hold public or
8 political party office [~~as a statewide elected official or political~~
9 ~~party chair~~], or ceases to be a candidate, provided the commission noti-
10 fies such person of the alleged failure to file or deficient filing
11 pursuant to this subdivision.

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

54 (b) Substantial basis investigation. Upon the affirmative vote of not
55 less than eight commission members to commence a substantial basis
56 investigation, written notice of the commission's decision shall be

S. 5679

30

1 provided to the individual who is the subject of such substantial basis
2 investigation. Such written notice shall include a copy of the commis-
3 sion's rules and procedures and shall also include notification of such
4 individual's right to be heard within thirty calendar days of the date
5 of the commission's written notice. The commission shall also inform the
6 individual of its rules regarding the conduct of adjudicatory
7 proceedings and appeals and the other due process procedural mechanisms
8 available to such individual. If the commission determines at any stage
9 ~~[of the proceeding,]~~ that there is no violation or that any potential
10 conflict of interest violation has been rectified, it shall so advise
11 the individual and the complainant, if any. All of the foregoing
12 proceedings shall be confidential.

13 ~~[(b) If the commission determines that there is reasonable cause to~~
14 ~~believe that a violation has occurred, it shall send a notice of reason-~~
15 ~~able cause: (i) to the reporting person, (ii) to the complainant if any,~~
16 ~~(iii) in the case of a statewide elected official, to the temporary~~
17 ~~president of the senate and the speaker of the assembly, and (iv) in the~~
18 ~~case of a state officer or employee, to the appointing authority for~~
19 ~~such person.]~~

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

34 ~~[13.]~~ 14. An individual subject to the jurisdiction of the commission
35 who knowingly and intentionally violates the provisions of subdivisions
36 two through ~~[five]~~ five-a, seven, eight, twelve or fourteen through
37 seventeen of section seventy-three of the public officers law, section
38 one hundred seven of the civil service law, or a reporting individual
39 who knowingly and wilfully fails to file an annual statement of finan-
40 cial disclosure or who knowingly and wilfully with intent to deceive
41 makes a false statement or fraudulent omission or gives information
42 which such individual knows to be false on such statement of financial
43 disclosure filed pursuant to section seventy-three-a of the public offi-
44 cers law shall be subject to a civil penalty in an amount not to exceed
45 forty thousand dollars and the value of any gift, compensation or bene-
46 fit received as a result of such violation. An individual who knowingly
47 and intentionally violates the provisions of paragraph a, b, c, d, e, g,
48 or i of subdivision three of section seventy-four of the public officers
49 law shall be subject to a civil penalty in an amount not to exceed ten
50 thousand dollars and the value of any gift, compensation or benefit
51 received as a result of such violation. ~~[An individual who knowingly and~~
52 ~~intentionally violates the provisions of paragraph a, e or g of subdivi-~~
53 ~~sion three of section seventy-four of the public officers law shall be~~
54 ~~subject to a civil penalty in an amount not to exceed the value of any~~
55 ~~gift, compensation or benefit received as a result of such violation.]~~
56 An individual subject to the jurisdiction of the commission who knowing-

S. 5679

31

1 ly and willfully violates article one-A of the legislative law shall be
2 subject to civil penalty as provided for in that article. [Assessment]
3 Except with respect to members of the legislature and legislative
4 employees, assessment of a civil penalty hereunder shall be made by the
5 commission with respect to persons subject to its jurisdiction. With
6 respect to a violation of any law other than sections seventy-three,
7 seventy-three-a, and seventy-four of the public officers law, where the
8 commission finds sufficient cause by a vote held in the same manner as
9 set forth in paragraph (b) of subdivision thirteen of this section, it
10 shall refer such matter to the appropriate prosecutor for further inves-
11 tigation. In assessing the amount of the civil penalties to be imposed,
12 the commission shall consider the seriousness of the violation, the
13 amount of gain to the individual and whether the individual previously
14 had any civil or criminal penalties imposed pursuant to this section,
15 and any other factors the commission deems appropriate. [For] Except
16 with respect to members of the legislature and legislative employees,
17 for a violation of this subdivision, other than for conduct which
18 constitutes a violation of section one hundred seven of the civil
19 service law, subdivisions twelve or fourteen through seventeen of
20 section seventy-three or section seventy-four of the public officers law
21 or article one-A of the legislative law, the commission [may, in lieu of
22 a civil penalty,] may, in lieu of or in addition to a civil penalty,
23 refer a violation to the appropriate prosecutor and upon such
24 conviction, such violation shall be punishable as a class A misdemeanor.
25 A civil penalty for false filing may not be imposed hereunder in the
26 event a category of "value" or "amount" reported hereunder is incorrect
27 unless such reported information is falsely understated. Notwithstanding
28 any other provision of law to the contrary, no other penalty, civil or
29 criminal may be imposed for a failure to file, or for a false filing, of
30 such statement, or a violation of subdivision six of section seventy-
31 three of the public officers law, except that the appointing authority
32 may impose disciplinary action as otherwise provided by law. The commis-
33 sion may refer violations of this subdivision to the appointing authori-
34 ty for disciplinary action as otherwise provided by law. The commission
35 shall be deemed to be an agency within the meaning of article three of
36 the state administrative procedure act and shall adopt rules governing
37 the conduct of adjudicatory proceedings and appeals taken pursuant to a
38 proceeding commenced under article seventy-eight of the civil practice
39 law and rules relating to the assessment of the civil penalties herein
40 authorized and commission denials of requests for certain deletions or
41 exemptions to be made from a financial disclosure statement as author-
42 ized in paragraph (h) or paragraph (i) of subdivision nine of this
43 section. Such rules, which shall not be subject to the approval require-
44 ments of the state administrative procedure act, shall provide for due
45 process procedural mechanisms substantially similar to those set forth
46 in article three of the state administrative procedure act but such
47 mechanisms need not be identical in terms or scope. Assessment of a
48 civil penalty or commission denial of such a request shall be final
49 unless modified, suspended or vacated within thirty days of imposition,
50 with respect to the assessment of such penalty, or unless such denial of
51 request is reversed within such time period, and upon becoming final
52 shall be subject to review at the instance of the affected reporting
53 individuals in a proceeding commenced against the commission, pursuant
54 to article seventy-eight of the civil practice law and rules.
55 ~~[13-a. If the commission has a reasonable basis to believe that any~~
56 ~~person subject to the jurisdiction of the legislative ethics commission~~

S. 5679

32

~~1 may have violated any provisions of section seventy-three or seventy-~~
~~2 four of the public officers law, it shall refer such violation to the~~
~~3 legislative ethics commission unless the commission determines that such~~
~~4 a referral would compromise the prosecution or confidentiality of its~~
~~5 investigations and, if so, shall make such a referral as soon as practi-~~
~~6 cable. The referral by the commission to the legislative ethics commis-~~
~~7 sion shall include any information relating thereto coming into the~~
~~8 custody or under the control of the commission at any time prior or~~
~~9 subsequent to the time of the referral.~~

10 14.] 14-a. The joint commission on public ethics shall have jurisdic-
11 tion to investigate, but shall have no jurisdiction to impose penalties
12 upon members of or candidates for member of the legislature or legisla-
13 tive employees for any violation of the public officers law. If, after
14 its substantial basis investigation, by a vote of at least eight
15 members, two of whom are enrolled members of the investigated individ-
16 ual's political party if the individual is enrolled in a major political
17 party and were appointed by a legislative leader of such political
18 party, the joint commission on public ethics has found a substantial
19 basis to conclude that a member of the legislature or a legislative
20 employee or candidate for member of the legislature has violated any
21 provisions of such laws, it shall present a written report to the legis-
22 lative ethics commission, and deliver a copy of the report to the indi-
23 vidual who is the subject of the report. Such written report shall
24 include:

25 (a) the commission's findings of fact and any evidence addressed in
26 such findings; conclusions of law and citations to any relevant law,
27 rule, opinion, regulation or standard of conduct upon which it relied;
28 and

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

32 The joint commission shall also separately provide to the legislative
33 ethics commission copies of additional documents or other evidence
34 considered including evidence that may contradict the joint commission's
35 findings, the names of and other information regarding any additional
36 witnesses, and any other materials. With respect to a violation of any
37 law other than sections seventy-three, seventy-three-a, and seventy-four
38 of the public officers law, where the joint commission finds sufficient
39 cause by a vote held in the same manner as set forth in paragraph (b) of
40 subdivision thirteen of this section, it shall refer such matter to the
41 appropriate prosecutor.

42 14-b. With respect to the investigation of any individual who is not a
43 member of the legislature or a legislative employee or candidate for
44 member of the legislature, if after its investigation the joint commis-
45 sion has found a substantial basis to conclude that the individual has
46 violated the public officers law or the legislative law, the joint
47 commission shall send a substantial basis investigation report contain-
48 ing its findings of fact and conclusions of law to the individual. With
49 respect to an individual who is a statewide elected official or a direct
50 appointee of such an official, no violation may be found unless the
51 majority voting in support of such a finding includes at least two
52 members appointed by the governor and lieutenant governor and enrolled
53 in the individual's major political party, if he or she is enrolled in a
54 major political party. Where the subject of such investigation is a
55 state officer or employee who is not a direct appointee of a statewide
56 elected official, at least two of the eight or more members who vote to

S. 5679

33

1 issue a substantial basis investigation report must have been appointed
2 by the governor and lieutenant governor. The commission shall release
3 such report publicly within forty-five days of its issuance.

4 14-c. With respect to an investigation of a lobbyist, if after its
5 investigation the joint commission has found a substantial basis to
6 conclude that the lobbyist has violated the legislative law, the joint
7 commission shall issue a substantial basis investigation report contain-
8 ing its findings of fact and conclusions of law to the lobbyist and
9 shall make public such report within forty-five days of its issuance.

10 15. A copy of any notice of delinquency or [notice of reasonable cause
11 sent pursuant to subdivisions eleven and twelve of this section]
12 substantial basis investigation report shall be included in the report-
13 ing person's file and be available for public inspection and copying
14 pursuant to the provisions of this section.

15 ~~[15-]~~ 16. Upon written request from any person who is subject to the
16 jurisdiction of the commission and the requirements of sections seven-
17 ty-three, seventy-three-a or seventy-four of the public officers law,
18 other than members of the legislature, candidates for member of the
19 legislature and employees of the legislature, the commission shall
20 render written advisory opinions on the requirements of said provisions.
21 An opinion rendered by the commission, until and unless amended or
22 revoked, shall be binding on the commission in any subsequent proceeding
23 concerning the person who requested the opinion and who acted in good
24 faith, unless material facts were omitted or misstated by the person in
25 the request for an opinion. Such opinion may also be relied upon by such
26 person, and may be introduced and shall be a defense, in any criminal or
27 civil action. Such requests shall be confidential but the commission may
28 publish such opinions provided that the name of the requesting person
29 and other identifying details shall not be included in the publication.

30 ~~[16-]~~ 17. In addition to any other powers and duties specified by law,
31 the commission shall have the power and duty to:

32 (a) Promulgate rules concerning restrictions on outside activities and
33 limitations on the receipt of gifts and honoraria by persons subject to
34 its jurisdiction, provided, however, a violation of such rules in and of
35 itself shall not be punishable pursuant to subdivision [thirteen] four-
36 teen of this section unless the conduct constituting the violation would
37 otherwise constitute a violation of this section; and

38 ~~(b) [Conduct training programs in cooperation with the governor's~~
39 ~~office of employee relations to provide education to individuals subject~~
40 ~~to its jurisdiction; and~~

41 ~~(c)] Administer and enforce all the provisions of this section; and~~

42 ~~[(d)]~~ (c) Conduct any investigation necessary to carry out the
43 provisions of this section. Pursuant to this power and duty, the commis-
44 sion may administer oaths or affirmations, subpoena witnesses, compel
45 their attendance and require the production of any books or records
46 which it may deem relevant or material;

47 ~~[16-a-]~~ 18. Within one hundred twenty days of the effective date of
48 this subdivision, the commission shall create and thereafter maintain a
49 publicly accessible website which shall set forth the procedure for
50 filing a complaint with the commission, and which shall contain the
51 documents identified in subdivision [seventeen] nineteen of this
52 section, other than financial disclosure statements[7] filed by state
53 officers or employees or legislative employees, and any other records or
54 information which the commission determines to be appropriate.

S. 5679

34

1 ~~[17-]~~ 19. (a) Notwithstanding the provisions of article six of the
2 public officers law, the only records of the commission which shall be
3 available 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 ~~[the categories of value or amount, which shall remain~~
7 ~~confidential, and any other item of]~~ information deleted pursuant to
8 paragraph (h) of subdivision nine of this section;

9 (2) notices of delinquency sent under subdivision ~~[eleven]~~ twelve of
10 this section;

11 (3) ~~[notices of reasonable cause sent under paragraph (b) of subdivi-~~
12 ~~sion twelve of this section;~~

13 ~~(4)]~~ notices of civil assessments imposed under this section which
14 shall include a description of the nature of the alleged wrongdoing, the
15 procedural history of the complaint, the findings and determinations
16 made by the commission, and any sanction imposed;

17 ~~[(5)]~~ (4) the terms of any settlement or compromise of a complaint or
18 referral which includes a fine, penalty or other remedy; ~~[and~~

19 ~~(6)]~~ (5) those required to be held or maintained publicly available
20 pursuant to article one-A of the legislative law~~[-]~~; ~~and~~

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

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

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

44 ~~[18]~~ 20. If any part or provision of this section or the application
45 thereof to any person or organization is adjudged by a court of compe-
46 tent jurisdiction to be unconstitutional or otherwise invalid, such
47 judgment shall not affect or impair any other part or provision or the
48 application thereof to any other person or organization, but shall be
49 confined in its operation to such part or provision.

50 § 7. Section 1-d of the legislative law is amended by adding a new
51 subdivision (h) to read as follows:

52 (h) provide an online ethics training course for individuals regis-
53 tered as lobbyists pursuant to section one-e of this article. The
54 curriculum for the course shall include, but not be limited to, explana-
55 tions and discussions of the statutes and regulations of New York
56 concerning ethics in the public officers law, the election law, the

S. 5679

35

1 legislative law, summaries of advisory opinions, underlying purposes and
2 principles of the relevant laws, and examples of practical application
3 of these laws and principles. The commission shall prepare those methods
4 and materials necessary to implement the curriculum. Each individual
5 registered as a lobbyist pursuant to section one-e of this article shall
6 complete such training course at least once in any three-year period
7 during which he or she is registered as a lobbyist.

8 § 7-a. Subdivision (c) of section 1-e of the legislative law is
9 amended by adding a new paragraph 8 to read as follows:

10 (8) (i) the name and public office address of any statewide elected
11 official, state officer or employee, member of the legislature or legis-
12 lative employee and entity with whom the lobbyist has a reportable busi-
13 ness relationship;

14 (ii) a description of the general subject or subjects of the trans-
15 actions between the lobbyist or lobbyists and the statewide elected
16 official, state officer or employee, member of the legislature or legis-
17 lative employee and entity; and

18 (iii) the compensation, including expenses, to be paid and paid by
19 virtue of the business relationship.

20 § 7-b. Subdivision (b) of section 1-j of the legislative law is
21 amended by adding a new paragraph 6 to read as follows:

22 (6) (i) the name and public office address of any statewide elected
23 official, state officer or employee, member of the legislature or legis-
24 lative employee and entity with whom the client of a lobbyist has a
25 reportable business relationship;

26 (ii) a description of the general subject or subjects of the trans-
27 actions between the client of a lobbyist and the statewide elected offi-
28 cial, state officer or employee, member of the legislature or legisla-
29 tive employee and entity; and

30 (iii) the compensation, including expenses, to be paid and paid by
31 virtue of the business relationship.

32 § 8. Section 1-c of the legislative law is amended by adding a new
33 subdivision (w) to read as follows:

34 (w) The term "reportable business relationship" shall mean a relation-
35 ship in which compensation is paid by a lobbyist or by a client of a
36 lobbyist, in exchange for any goods, services or anything of value, the
37 total value of which is in excess of one thousand dollars annually, to
38 be performed or provided by or intended to be performed or provided by

39 (i) any statewide elected official, state officer, state employee,
40 member of the legislature or legislative employee, or (ii) any entity in
41 which the lobbyist or the client of a lobbyist knows or has reason to
42 know the statewide elected official, state officer, state employee,
43 member of the legislature or legislative employee is a proprietor, part-
44 ner, director, officer or manager, or owns or controls ten percent or
45 more of the stock of such entity (or one percent in the case of a corpo-
46 ration whose stock is regularly traded on an established securities
47 exchange).

48 § 9. Section 80 of the legislative law, as amended by chapter 14 of
49 the laws of 2007, is amended to read as follows:

50 § 80. Legislative ethics commission; functions, powers and duties;
51 review of financial disclosure statements; advisory opinions; [~~investi-~~
52 ~~gation and enforcement~~] imposition of penalties or other enforcement
53 actions. 1. There is established a legislative ethics commission which
54 shall consist of nine members. Four members shall be members of the
55 legislature and shall be appointed as follows: one by the temporary
56 president of the senate, one by the speaker of the assembly, one by the

S. 5679

36

1 minority leader of the senate and one by the minority leader of the
2 assembly. The remaining five members shall not be present or former
3 members of the legislature, candidates for member of the legislature,
4 employees of the legislature, political party chairmen as defined in
5 paragraph (k) of subdivision one of section seventy-three of the public
6 officers law, or lobbyists, as defined in section one-c of this chapter,
7 or persons who have been employees of the legislature, political party
8 chairmen as defined in paragraph (k) of subdivision one of section
9 seventy-three of the public officers law, or lobbyists, as defined in
10 section one-c of this chapter in the previous five years, and shall be
11 appointed as follows: one by the temporary president of the senate, one
12 by the speaker of the assembly, one by the minority leader of the
13 senate, one by the minority leader of the assembly, and one jointly by
14 the speaker of the assembly and majority leader of the senate. The
15 commission shall serve as described in this section and have and exer-
16 cise the powers and duties set forth in this section only with respect
17 to members of the legislature, legislative employees as defined in
18 section seventy-three of the public officers law, candidates for member
19 of the legislature and individuals who have formerly held such positions
20 or who have formerly been such candidates.

21 2. Members of the legislature who serve on the commission shall each
22 have a two year term concurrent with their legislative terms of office.
23 The members of the commission who are not members of the legislature and
24 who are first appointed by the temporary president of the senate, speak-
25 er of the assembly, minority leader of the senate, and minority leader
26 of the assembly shall serve one, two, three and four year terms, respec-
27 tively. The member of the commission first appointed jointly by the
28 temporary president of the senate and speaker of the assembly shall
29 serve a four year term. Each member of the commission who is not a
30 member of the legislature shall be appointed thereafter for a term of
31 four years.

32 3. The temporary president of the senate and the speaker of the assem-
33 bly shall each designate one member of the commission as a co-chairper-
34 son thereof. The commission shall meet at least bi-monthly and at such
35 additional times as may be called for by the co-chairpersons jointly or
36 any five members of the commission.

37 4. Any vacancy occurring on the commission shall be filled within
38 thirty days by the appointing authority.

39 5. Five members of the commission shall constitute a quorum, and the
40 commission shall have power to act by majority vote of the total number
41 of members of the commission without vacancy.

42 6. The members of the commission who are not members of the legisla-
43 ture shall be reimbursed for reasonable expenses [incurred] and receive
44 a per diem allowance in the sum of three hundred dollars for each day
45 spent in the performance of their official duties.

46 7. The commission shall:

47 a. Appoint an executive director who shall act in accordance with the
48 policies of the commission, provided that the commission may remove the
49 executive director for neglect of duty, misconduct in office, or inabil-
50 ity or failure to discharge the powers or duties of office;

51 b. Appoint such other staff as are necessary to assist it to carry out
52 its duties under this section;

53 c. Adopt, amend, and rescind policies, rules and regulations consist-
54 ent with this section to govern procedures of the commission which shall
55 not be subject to the promulgation and hearing requirements of the state
56 administrative procedure act;

S. 5679

37

1 d. Administer the provisions of this section;

2 e. Specify the procedures whereby a person who is required to file an
3 annual financial disclosure statement with the commission may request an
4 additional period of time within which to file such statement, due to
5 justifiable cause or undue hardship; such rules or regulations shall
6 provide for a date beyond which in all cases of justifiable cause or
7 undue hardship no further extension of time will be granted;

8 f. Promulgate guidelines to assist appointing authorities in determin-
9 ing which persons hold policy-making positions for purposes of section
10 seventy-three-a of the public officers law and may promulgate guidelines
11 to assist firms, associations and corporations in separating affected
12 persons from net revenues for purposes of subdivision ten of section
13 seventy-three of the public officers law, and promulgate guidelines to
14 assist any firm, association or corporation in which any present or
15 former statewide elected official, state officer or employee, member of
16 the legislature or legislative employee, or political party chairman is
17 a member, associate, retired member, of counsel or shareholder, in
18 complying with the provisions of subdivision ten of section seventy-
19 three of the public officers law with respect to the separation of such
20 present or former statewide elected official, state officer or employee,
21 member of the legislature or legislative employee, or political party
22 chairman from the net revenues of the firm, association or corporation.
23 Such firm, association or corporation shall not be required to adopt the
24 procedures contained in the guidelines to establish compliance with
25 subdivision ten of section seventy-three of the public officers law, but
26 if such firm, association or corporation does adopt such procedures, it
27 shall be deemed to be in compliance with such subdivision ten;

28 g. Make available forms for financial disclosure statements required
29 to be filed pursuant to subdivision six of section seventy-three and
30 section seventy-three-a of the public officers law as provided by the
31 joint commission on public ethics;

32 h. Review financial disclosure statements in accordance with the
33 provisions of this section, provided however, that the commission may
34 delegate all or part of the review function relating to financial
35 disclosure statements filed by legislative employees pursuant to
36 sections seventy-three and seventy-three-a of the public officers law to
37 the executive director who shall be responsible for completing staff
38 review of such statements in a manner consistent with the terms of the
39 commission's delegation;

40 ~~i. [Permit any person required to file a financial disclosure state-~~
41 ~~ment to request the commission to delete from the copy thereof made~~
42 ~~available for public inspection and copying one or more items of infor-~~
43 ~~mation, which may be deleted by the commission upon a finding that the~~
44 ~~information which would otherwise be required to be disclosed will have~~
45 ~~no material bearing on the discharge of the reporting person's official~~
46 ~~duties;~~

47 ~~j. Permit any person required to file a financial disclosure statement~~
48 ~~to request an exemption from any requirement to report one or more items~~
49 ~~of information which pertain to such person's spouse or unemancipated~~
50 ~~children which item or items may be exempted by the commission upon a~~
51 ~~finding that the reporting individual's spouse, on his or her own behalf~~
52 ~~or on behalf of an unemancipated child, objects to providing the infor-~~
53 ~~mation necessary to make such disclosure and that the information which~~
54 ~~would otherwise be required to be reported will have no material bearing~~
55 ~~on the discharge of the reporting person's official duties;~~

S. 5679

38

1 ~~k. Advise and assist the legislature in establishing rules and regu-~~
2 ~~lations relating to possible conflicts between private interests and~~
3 ~~official duties of present members of the legislature and legislative~~
4 ~~employees;~~
5 ~~i. Receive and act on complaints regarding persons subject to its~~
6 ~~jurisdiction alleging a possible violation of section seventy-three,~~
7 ~~seventy-three-a or seventy-four of the public officers law, and conduct~~
8 ~~such investigations and proceedings as are authorized and necessary to~~
9 ~~carry out the provisions of this section. In connection with such inves-~~
10 ~~tigations, the commission may administer oaths or affirmations, subpoena~~
11 ~~witnesses, compel their attendance and require the production of any~~
12 ~~books or records which it may deem relevant or material;~~
13 ~~m. Accept and act upon, as if it were a sworn complaint, any referral~~
14 ~~from another state oversight body indicating that a violation of section~~
15 ~~seventy-three or seventy-four of the public officers law may have~~
16 ~~occurred involving persons subject to the jurisdiction of the commis-~~
17 ~~sion;~~
18 n.] 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 and seventy-four of the public officers law,
21 render formal advisory opinions on the requirements of said provisions.
22 A formal written opinion rendered by the commission, until and unless
23 amended or revoked, shall be binding on the legislative ethics commis-
24 sion in any subsequent proceeding concerning the person who requested
25 the opinion and who acted in good faith, unless material facts were
26 omitted or misstated by the person in the request for an opinion. Such
27 opinion may also be relied upon by such person, and may be introduced
28 and shall be a defense in any criminal or civil action. The joint
29 commission on public ethics shall not investigate an individual for
30 potential violations of law based upon conduct approved and covered in
31 its entirety by such an opinion, except that such opinion shall not
32 prevent or preclude an investigation of and report to the legislative
33 ethics commission concerning the conduct of the person who obtained it
34 by the joint commission on public ethics for violations of section
35 seventy-three, seventy-three-a or seventy-four of the public officers
36 law to determine whether the person accurately and fully represented to
37 the legislative ethics commission the facts relevant to the formal advi-
38 sory opinion and whether the person's conduct conformed to those factual
39 representations. The joint commission shall be authorized and shall have
40 jurisdiction to investigate potential violations of the law arising from
41 conduct outside of the scope of the terms of the advisory opinion; and
42 [o-] j. Issue and publish generic advisory opinions covering questions
43 frequently posed to the commission, or questions common to a class or
44 defined category of persons, or that will tend to prevent undue repe-
45 tition of requests or undue complication, and which are intended to
46 provide general guidance and information to persons subject to the
47 commission's jurisdiction;
48 [p-] k. Develop educational materials and training with regard to
49 legislative ethics for members of the legislature and legislative
50 employees including an online ethics orientation course for newly-hired
51 employees and, as requested by the senate or the assembly, materials and
52 training in relation to a comprehensive ethics training program; and
53 [q-] l. Prepare an annual report to the governor and legislature
54 summarizing the activities of the commission during the previous year
55 and recommending any changes in the laws governing the conduct of
56 persons subject to the jurisdiction of the commission, or the rules,

S. 5679

39

1 regulations and procedures governing the commission's conduct. Such
2 report shall include: (i) a listing by assigned number of each complaint
3 and ~~[referral] report received from the joint commission on public~~
4 ~~ethics~~ which alleged a possible violation within its jurisdiction,
5 including the current status of each complaint, and (ii) where a matter
6 has been resolved, the date and nature of the disposition and any sanc-
7 tion imposed, subject to the confidentiality requirements of this
8 section. Such annual report shall not contain any information for which
9 disclosure is not permitted pursuant to subdivision ~~[fourteen]~~ twelve of
10 this section.

11 ~~8. [The commission, or the executive director and staff of the commis-~~
12 ~~sion if responsibility regarding such financial disclosure statements~~
13 ~~filed by legislative employees has been delegated, shall inspect all~~
14 ~~financial disclosure statements filed with the commission to ascertain~~
15 ~~whether any person subject to the reporting requirements of subdivision~~
16 ~~six of section seventy-three or section seventy-three-a of the public~~
17 ~~officers law has failed to file such a statement, has filed a deficient~~
18 ~~statement or has filed a statement which reveals a possible violation of~~
19 ~~section seventy-three, seventy-three-a or seventy-four of the public~~
20 ~~officers law.~~

21 ~~9. If a person required to file a financial disclosure statement with~~
22 ~~the commission has failed to file a financial disclosure statement or~~
23 ~~has filed a deficient statement, the commission shall notify the report-~~
24 ~~ing person in writing, state the failure to file or detail the deficien-~~
25 ~~cy, provide the person with a fifteen day period to cure the deficiency,~~
26 ~~and advise the person of the penalties for failure to comply with the~~
27 ~~reporting requirements. Such notice shall be confidential. If the person~~
28 ~~fails to make such filing or fails to cure the deficiency within the~~
29 ~~specified time period, the commission shall send a notice of delinquen-~~
30 ~~cy: (a) to the reporting person, (b) in the case of a senator, to the~~
31 ~~temporary president of the senate, and if a member of assembly, to the~~
32 ~~speaker of the assembly, and (c) in the case of a legislative employee,~~
33 ~~to the appointing authority for such person and to the temporary presi-~~
34 ~~dent of the senate and/or the speaker of the assembly, as the case may~~
35 ~~be, who has jurisdiction over such appointing authority. Such notice of~~
36 ~~delinquency may be sent at any time during the reporting person's~~
37 ~~service as a member of the legislature or legislative employee or while~~
38 ~~a candidate for member of the legislature, or within one year after~~
39 ~~separation from such service or the termination of such candidacy. The~~
40 ~~jurisdiction of the commission, when acting pursuant to subdivision~~
41 ~~eleven of this section with respect to financial disclosure, shall~~
42 ~~continue notwithstanding that the reporting person separates from state~~
43 ~~service or terminates his or her candidacy, provided the commission~~
44 ~~notifies such person of the alleged failure to file or deficient filing~~
45 ~~pursuant to this subdivision.~~

46 ~~10. a. If a reporting person has filed a statement which reveals a~~
47 ~~possible violation of section seventy-three, seventy-three-a or seven-~~
48 ~~ty-four of the public officers law, or the commission receives a refer-~~
49 ~~ral from another state oversight body, or the commission receives a~~
50 ~~sworn complaint alleging such a violation by a reporting person or a~~
51 ~~legislative employee subject to the provisions of such laws, or if the~~
52 ~~commission determines on its own initiative to investigate a possible~~
53 ~~violation by a reporting person or a legislative employee subject to the~~
54 ~~provisions of such laws, the commission shall notify the reporting~~
55 ~~person in writing, describe the possible or alleged violation thereof~~
56 ~~and provide the person with a fifteen day period in which to submit a~~

S. 5679

40

1 written response setting forth information relating to the activities
2 cited as a possible or alleged violation of law. If the commission ther-
3 eafter makes a determination that further inquiry is justified, it shall
4 give the reporting person an opportunity to be heard. The commission
5 shall also inform the reporting individual of its rules regarding the
6 conduct of adjudicatory proceedings and appeals and the due process
7 procedural mechanisms available to such individual. If the commission
8 determines at any stage of the proceeding, that there is no violation or
9 that any potential conflict of interest violation has been rectified, it
10 shall so advise the reporting person and the complainant, if any. All of
11 the foregoing proceedings shall be confidential.

12 b. If the commission determines that there is reasonable cause to
13 believe that a violation has occurred, it shall send a notice of reason-
14 able cause: (i) to the reporting person, (ii) to the complainant if any,
15 (iii) in the case of a senator, to the temporary president of the
16 senate, and if a member of the assembly, to the speaker of the assembly,
17 and (iv) in the case of a legislative employee, to the appointing
18 authority for such person and to the temporary president of the senate
19 and/or the speaker of the assembly, as the case may be, who has juris-
20 diction over such appointing authority.

21 c.] The jurisdiction of the commission to impose penalties when acting
22 pursuant to this section shall continue notwithstanding that a member of
23 the legislature or a legislative employee separates from state service,
24 or a candidate for member of the legislature ceases to be a candidate,
25 provided that [~~the commission notifies~~] such individual has been noti-
26 fied of the alleged violation of law [~~pursuant to paragraph a of this~~
27 ~~subdivision~~] within one year from his or her separation from state
28 service or the termination of his or her candidacy. [~~Nothing in this~~
29 ~~section shall serve to limit the jurisdiction of the commission in~~
30 ~~enforcement of subdivision eight of section seventy-three of the public~~
31 ~~officers law.~~

32 ~~11.]~~ 9. (a) An individual subject to the jurisdiction of the commis-
33 sion with respect to the imposition of penalties who knowingly and
34 intentionally violates the provisions of subdivisions two through [~~five~~]
35 ~~five-a~~, seven, eight, twelve, fourteen or fifteen of section seventy-
36 three of the public officers law or a reporting individual who knowingly
37 and wilfully fails to file an annual statement of financial disclosure
38 or who knowingly and wilfully with intent to deceive makes a false
39 statement or gives information which such individual knows to be false
40 on such statement of financial disclosure filed pursuant to section
41 seventy-three-a of the public officers law shall be subject to a civil
42 penalty in an amount not to exceed forty thousand dollars and the value
43 of any gift, compensation or benefit received as a result of such
44 violation. Any such individual who knowingly and intentionally violates
45 the provisions of paragraph a, b, c, d, e, g, or i of subdivision three
46 of section seventy-four of the public officers law shall be subject to a
47 civil penalty in an amount not to exceed ten thousand dollars and the
48 value of any gift, compensation or benefit received as a result of such
49 violation. [~~Any such individual who knowingly and intentionally violates~~
50 ~~the provisions of paragraph a, e or g of subdivision three of section~~
51 ~~seventy-four of the public officers law shall be subject to a civil~~
52 ~~penalty in an amount equal to the value of any gift, compensation or~~
53 ~~benefit received as a result of such violation.] Assessment of a civil
54 penalty hereunder shall be made by the commission with respect to
55 persons subject to its jurisdiction. In assessing the amount of the
56 civil penalties to be imposed, the commission shall consider the seri-~~

S. 5679

41

1 ousness of the violation, the amount of gain to the individual and
2 whether the individual previously had any civil or criminal penalties
3 imposed pursuant to this section, and any other factors the commission
4 deems appropriate. For a violation of this section, other than for
5 conduct which constitutes a violation of subdivision twelve, fourteen or
6 fifteen of section seventy-three or section seventy-four of the public
7 officers law, the legislative ethics commission may, in lieu of or in
8 addition to a civil penalty, refer a violation to the appropriate prose-
9 cutor and upon such conviction, but only after such referral, such
10 violation shall be punishable as a class A misdemeanor. Where the
11 commission finds sufficient cause, it shall refer such matter to the
12 appropriate prosecutor. A civil penalty for false filing may not be
13 imposed hereunder in the event a category of "value" or "amount"
14 reported hereunder is incorrect unless such reported information is
15 falsely understated. Notwithstanding any other provision of law to the
16 contrary, no other penalty, civil or criminal may be imposed for a fail-
17 ure to file, or for a false filing, of such statement, or a violation of
18 subdivision six of section seventy-three of the public officers law,
19 except that the appointing authority may impose disciplinary action as
20 otherwise provided by law. The legislative ethics commission shall be
21 deemed to be an agency within the meaning of article three of the state
22 administrative procedure act and shall adopt rules governing the conduct
23 of adjudicatory proceedings and appeals taken pursuant to a proceeding
24 commenced under article seventy-eight of the civil practice law and
25 rules relating to the assessment of the civil penalties herein author-
26 ized [~~and commission denials of requests for certain deletions or~~
27 ~~exemptions to be made from a financial disclosure statement as author-~~
28 ~~ized in paragraph i or paragraph j of subdivision seven of this~~
29 ~~section]. Such rules, which shall not be subject to the promulgation and~~
30 hearing requirements of the state administrative procedure act, shall
31 provide for due process procedural mechanisms substantially similar to
32 those set forth in such article three but such mechanisms need not be
33 identical in terms or scope. Assessment of a civil penalty [~~or commis-~~
34 ~~sion denial of such a deletion or exemption request]~~ shall be final
35 unless modified, suspended or vacated within thirty days of imposition,
36 with respect to the assessment of such penalty, or unless such denial of
37 request is reversed within such time period, and upon becoming final
38 shall be subject to review at the instance of the affected reporting
39 individuals in a proceeding commenced against the legislative ethics
40 commission, pursuant to article seventy-eight of the civil practice law
41 and rules.

42 [12.] (b) Not later than forty-five calendar days after receipt from
43 the joint commission on public ethics of a written substantial basis
44 investigation report and any supporting documentation or other materials
45 regarding a matter before the commission pursuant to subdivision four-
46 teen-a of section ninety-four of the executive law, unless requested by
47 a law enforcement agency to suspend the commission's action because of
48 an ongoing criminal investigation, the legislative ethics commission
49 shall make public such report in its entirety; provided, however, that
50 the commission may withhold such information for not more than one addi-
51 tional period of the same duration or refer the matter back to the joint
52 commission on public ethics once for additional investigation, in which
53 case the legislative ethics commission shall, upon the termination of
54 such additional period or upon receipt of a new report by the joint
55 commission on public ethics after such additional investigation, make
56 public the written report and publish it on the commission's website.

S. 5679

42

1 If the legislative ethics commission fails to make public the written
2 report received from the joint commission in accordance with this para-
3 graph, the joint commission shall release such report publicly promptly
4 and in any event no later than ten days after the legislative ethics
5 commission is required to release such report. The legislative ethics
6 commission shall not refer the matter back to the joint commission on
7 public ethics for additional investigation more than once. If the
8 commission refers the matter back to the joint commission for additional
9 fact-finding, the joint commission's original report shall remain confi-
10 dential.

11 10. Upon receipt of a written report from the joint commission on
12 public ethics pursuant to subdivision fourteen-a of section seventy-
13 three of the public officers law, the legislative ethics commission
14 shall commence its review of the matter addressed in such report. No
15 later than ninety days after receipt of such report, the legislative
16 ethics commission shall dispose of the matter by making one or more of
17 the following determinations:

18 a. whether the legislative ethics commission concurs with the joint
19 commission's conclusions of law and the reasons therefor;

20 b. whether and which penalties have been assessed pursuant to applica-
21 ble law or rule and the reasons therefor; and

22 c. whether further actions have been taken by the commission to punish
23 or deter the misconduct at issue and the reasons therefor.

24 The commission's disposition shall be reported in writing and
25 published on its website no later than ten days after such disposition
26 unless requested by a law enforcement agency to suspend the commission's
27 action because of an ongoing criminal investigation.

28 11. If the commission has a reasonable basis to believe that any
29 person subject to the jurisdiction of another state oversight body may
30 have violated section seventy-three or seventy-four of the public offi-
31 cers law, section one hundred seven of the civil service law, or article
32 one-A of this chapter, it shall refer such violation to such oversight
33 body unless the commission determines that such a referral would compro-
34 mise the prosecution or confidentiality of its [investigations]
35 proceedings and, if so, shall make such a referral as soon as practica-
36 ble. The referral by the commission shall include any information relat-
37 ing thereto coming into the custody or under the control of the commis-
38 sion at any time prior or subsequent to the time of the referral.

39 ~~[13. A copy of any notice of delinquency or notice of reasonable cause~~
40 ~~sent pursuant to subdivisions nine and ten of this section shall be~~
41 ~~included in the reporting person's file and be available for public~~
42 ~~inspection and copying.~~

43 ~~14.]~~ 12. a. Notwithstanding the provisions of article six of the
44 public officers law, the only records of the commission which shall be
45 available for public inspection and copying are:

46 (1) [the information set forth in an annual statement of financial
47 disclosure filed pursuant to section seventy-three-a of the public offi-
48 cers law except the categories of value or amount which shall be confi-
49 dential, and any other item of information deleted pursuant to paragraph
50 i of subdivision seven of this section;

51 (2) financial disclosure statements filed pursuant to subdivision six
52 of section seventy-three of the public officers law;

53 (3) notices of delinquency sent under subdivision nine of this
54 section;

55 (4) notices of reasonable cause sent under paragraph b of subdivision
56 ten of this section;

S. 5679

43

1 ~~(5) notices of civil assessment imposed under this section which shall~~
2 ~~include a description of the nature of the alleged wrongdoing, the~~
3 ~~procedural history of the complaint, the findings and determinations~~
4 ~~made by the commission, and any sanction imposed;~~

5 ~~(6)] the terms of any settlement or compromise of a complaint or~~
6 ~~referral or report which includes a fine, penalty or other remedy~~
7 ~~reached after the commission has received a report from the joint~~
8 ~~commission on public ethics pursuant to subdivision fourteen-a of~~
9 ~~section ninety-four of the executive law;~~

10 ~~[(7)] (2) generic advisory opinions; [and~~

11 ~~(8)] (3) all reports required by this section[-]; and~~

12 ~~(4) all reports received from the joint commission on public ethics~~
13 ~~pursuant to subdivision fourteen-a of section ninety-four of the execu-~~
14 ~~tive law and in conformance with paragraph (b) of subdivision nine-b of~~
15 ~~this section.~~

16 b. Notwithstanding the provisions of article seven of the public offi-
17 cers law, no meeting or proceeding of the commission shall be open to
18 the public, except if expressly provided otherwise by this section or
19 the commission.

20 ~~[15-] 13.~~ Within one hundred twenty days of the effective date of this
21 subdivision, the commission shall create and thereafter maintain a
22 publicly accessible website which shall set forth the procedure for
23 filing a complaint with the joint commission on public ethics, and which
24 shall contain ~~[the documents identified in subdivision fourteen of this~~
25 ~~section, other than financial disclosure statements, and]~~ any other
26 records or information which the commission determines to be appropri-
27 ate.

28 ~~[16-] 14.~~ This section shall not revoke or rescind any policies,
29 rules, regulations or advisory opinions issued by the legislative ethics
30 committee in effect upon the effective date of this subdivision, to the
31 extent that such regulations or opinions are not inconsistent with any
32 laws of the state of New York. The legislative ethics commission shall
33 undertake a comprehensive review of all such policies, rules, regu-
34 lations or advisory opinions which will address the consistency of such
35 policies, rules, regulations or advisory opinions with the laws of the
36 state of New York. The legislative ethics commission shall, before April
37 first, two thousand eight, report to the governor and legislature
38 regarding such review and shall propose any regulatory changes and issue
39 any advisory opinions necessitated by such review.

40 ~~[17-] 15.~~ Separability clause. If any part or provision of this
41 section or the application thereof to any person is adjudged by a court
42 of competent jurisdiction to be unconstitutional or otherwise invalid,
43 such judgment shall not affect or impair any other part or provision or
44 the application thereof to any other person, but shall be confined to
45 such part or provision.

46 § 10. Paragraph (h) of subdivision 8 of section 73 of the public offi-
47 cers law, as added by chapter 514 of the laws of 2002, is amended to
48 read as follows:

49 (h) Notwithstanding the provisions of subparagraphs (i) and (ii) of
50 paragraph (a) of this subdivision, a former state officer or employee
51 may contract individually, or as a member or employee of a firm, corpo-
52 ration or association, to render services to any state agency when the
53 agency head certifies in writing to the ~~[state ethics]~~ joint commission
54 on public ethics that the services of such former officer or employee
55 are required in connection with the agency's response to a disaster

S. 5679

44

1 emergency declared by the governor pursuant to section twenty-eight of
2 the executive law.

3 § 11. The opening paragraph of subdivision 8-a of section 73 of the
4 public officers law, as amended by chapter 357 of the laws of 2001, is
5 amended to read as follows:

6 The provisions of subparagraphs (i) and (ii) of paragraph (a) of
7 subdivision eight of this section shall not apply to any such former
8 state officer or employee engaged in any of the specific permitted
9 activities defined in this subdivision that are related to any civil
10 action or proceeding in any state or federal court, provided that the
11 attorney general has certified in writing to the ~~[state ethics]~~ joint
12 commission on public ethics, with a copy to such former state officer or
13 employee, that the services are rendered on behalf of the state, a state
14 agency, state officer or employee, or other person or entity represented
15 by the attorney general, and that such former state officer or employee
16 has expertise, knowledge or experience which is unique or outstanding in
17 a field or in a particular matter or which would otherwise be generally
18 unavailable at a comparable cost to the state, a state agency, state
19 officer or employee, or other person or entity represented by the attor-
20 ney general in such civil action or proceeding. In those instances where
21 a state agency is not represented by the attorney general in a civil
22 action or proceeding in state or federal court, a former state officer
23 or employee may engage in permitted activities provided that the general
24 counsel of the state agency, after consultation with the ~~[state ethics]~~
25 joint commission on public ethics, provides to the ~~[state ethics]~~ joint
26 commission on public ethics a written certification which meets the
27 requirements of this subdivision. For purposes of this subdivision the
28 term "permitted activities" shall mean generally any activity performed
29 at the request of the attorney general or the attorney general's desig-
30 nee, or in cases where the state agency is not represented by the attor-
31 ney general, the general counsel of such state agency, including without
32 limitation:

33 § 12. Subdivision 8-b of section 73 of the public officers law, as
34 added by chapter 523 of the laws of 2004, is amended to read as follows:

35 8-b. Notwithstanding the provisions of subparagraphs (i) and (ii) of
36 paragraph (a) of subdivision eight of this section, a former state offi-
37 cer or employee may contract individually, or as a member or employee of
38 a firm, corporation or association, to render services to any state
39 agency if, prior to engaging in such service, the agency head certifies
40 in writing to the ~~[state ethics]~~ joint commission on public ethics that
41 such former officer or employee has expertise, knowledge or experience
42 with respect to a particular matter which meets the needs of the agency
43 and is otherwise unavailable at a comparable cost. Where approval of the
44 contract is required under section one hundred twelve of the state
45 finance law, the comptroller shall review and consider the reasons for
46 such certification. The ~~[state ethics]~~ joint commission on public ethics
47 must review and approve all certifications made pursuant to this subdivi-
48 sion.

49 § 13. Subdivision 10 of section 73 of the public officers law, as
50 amended by chapter 813 of the laws of 1987, is amended to read as
51 follows:

52 10. Nothing contained in this section, the judiciary law, the educa-
53 tion law or any other law or disciplinary rule shall be construed or
54 applied to prohibit any firm, association or corporation, in which any
55 present or former statewide elected official, state officer or employee,
56 or political party chairman, member of the legislature or legislative

S. 5679

45

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

37 § 14. Transfer of records. The state commission on public integrity,
38 shall deliver to the joint commission on public ethics all books,
39 papers, records, and property as requested by the joint commission.

40 § 15. Continuity of authority. For the purpose of succession to all
41 functions, powers, duties and obligations transferred and assigned to,
42 devolved upon and assumed by it pursuant to this act, the joint commis-
43 sion on public ethics shall be deemed and held to constitute the contin-
44 uation of the state commission on public integrity.

45 § 16. Completion of unfinished business. Any business or other matter
46 undertaken or commenced by the state commission on public integrity or
47 the legislative ethics commission pertaining to or connected with the
48 functions, powers, obligations and duties hereby transferred and
49 assigned to the joint commission on public ethics, and pending on the
50 effective date of this act may be conducted and completed by the joint
51 commission on public ethics in the same manner and under the same terms
52 and conditions and with the same effect as if conducted and completed by
53 the former state commission on public integrity or the legislative
54 ethics commission.

55 § 17. Terms occurring in laws, contracts and other documents. Whenever
56 the state commission on public integrity is referred to or designated in

S. 5679

46

1 any law, contract or documents pertaining solely to those functions,
2 powers, obligations and duties hereby transferred and assigned to the
3 joint commission on public ethics, such reference or designation shall
4 be deemed to refer to the joint commission on public ethics as created
5 by this act.

6 § 18. Existing rights and remedies preserved. No existing right or
7 remedy of any character shall be lost, impaired or affected by reason of
8 this act.

9 § 19. Pending actions and proceedings. No action or proceeding pending
10 at the time when this act shall take effect, brought by or against the
11 state commission on public integrity shall be affected by this act, but
12 the same may be prosecuted or defended in the name of the joint commis-
13 sion on public ethics and upon application to the court, the joint
14 commission on public ethics shall be substituted as a party.

15 § 20. Notwithstanding any contrary provision of the state finance law,
16 transfer of appropriations heretofore made to the state commission on
17 public integrity, all appropriations or reappropriations for the func-
18 tions herein transferred heretofore made to the state commission on
19 public integrity, or segregated pursuant to law, to the extent of
20 remaining unexpended or unencumbered balances thereof, whether allocated
21 or unallocated and whether obligated or unobligated, are hereby trans-
22 ferred to the joint commission on public ethics to the extent necessary
23 to carry out its functions, powers and duties subject to the approval of
24 the director of the budget for the same purposes for which originally
25 appropriated or reappropriated and shall be payable on vouchers certi-
26 fied or approved by the joint commission on public ethics on audit and
27 warrant of the comptroller.

28 § 21. No later than June 1, 2014, the governor and the legislative
29 leaders shall jointly appoint a review commission to review and evaluate
30 the activities and performance of the joint commission on public ethics
31 and the legislative ethics commission in implementing the provisions of
32 this act. On or before March 1, 2015, the review commission shall report
33 to the governor and the legislature on its review and evaluation which
34 report shall include any administrative and legislative recommendations
35 on strengthening the administration and enforcement of the ethics law in
36 New York state. The review commission shall be comprised of eight
37 members and the governor and the legislative leaders shall jointly
38 designate a chair from among the members.

39 § 22. This act shall take effect immediately, provided that:

40 1. the state commission on public integrity shall continue to accept
41 filings and provide records as otherwise required but shall not other-
42 wise investigate, discipline or provide advisory opinions;

43 2. the joint commission on public ethics shall be fully operational on
44 or before the one hundred twentieth day after this act shall have become
45 a law and until such time as it becomes operational (a) the state
46 commission on public integrity shall deposit all records in its
47 possession with the inspector general and (b) the legislative ethics
48 commission shall continue to exercise such functions, powers, obli-
49 gations and duties to be transferred to the joint commission on public
50 ethics; and

51 3. section four of this act, the amendments to subdivision 3 of
52 section 73-a of the public officers law made by section five of this
53 act, paragraph (i-1) of subdivision 9 of section 94 of the executive
54 law, as added by section six of this act, and the amendments to subpara-
55 graph 1 of paragraph (a) of subdivision 19 of section 94 of the execu-

S. 5679

47

1 tive law, made by section six of this act, shall take effect January 1,
2 2013.

3

PART B

4 Section 1. Subdivision (c) of section 1-h of the legislative law is
5 amended by adding a new paragraph 4 to read as follows:

6 (4) Any lobbyist registered pursuant to section one-e of this article
7 whose lobbying activity is performed on its own behalf and not pursuant
8 to retention by a client:

9 (i) that has spent over fifty thousand dollars for reportable compen-
10 sation and expenses for lobbying either during the calendar year, or
11 during the twelve-month period, prior to the date of this bi-monthly
12 report, and

13 (ii) at least three percent of whose total expenditures during the
14 same period were devoted to lobbying in New York
15 shall report to the commission the names of each source of funding over
16 five thousand dollars from a single source that were used to fund the
17 lobbying activities reported and the amounts received from each identi-
18 fied source of funding.

19 This disclosure shall not require disclosure of the sources of funding
20 whose disclosure, in the determination of the commission based upon a
21 review of the relevant facts presented by the reporting lobbyist, may
22 cause harm, threats, harassment, or reprisals to the source or to indi-
23 viduals or property affiliated with the source. The reporting lobbyist
24 may appeal the commission's determination and such appeal shall be heard
25 by a judicial hearing officer who is independent and not affiliated with
26 or employed by the commission, pursuant to regulations promulgated by
27 the commission. The reporting lobbyist shall not be required to disclose
28 the sources of funding that are the subject of such appeal pending final
29 judgment on appeal.

30 The disclosure shall not apply to:

31 (i) any corporation registered pursuant to article seven-A of the
32 executive law that is qualified as an exempt organization by the United
33 States Department of the Treasury under I.R.C. § 501(c)(3);

34 (ii) any corporation registered pursuant to article seven-A of the
35 executive law that is qualified as an exempt organization by the United
36 States Department of the Treasury under I.R.C. § 501(c)(4) and whose
37 primary activities concern any area of public concern determined by the
38 commission to create a substantial likelihood that application of this
39 disclosure requirement would lead to harm, threats, harassment, or
40 reprisals to a source of funding or to individuals or property affil-
41 iated with such source, including but not limited to the area of civil
42 rights and civil liberties and any other area of public concern deter-
43 mined pursuant to regulations promulgated by the commission to form a
44 proper basis for exemption on this basis from this disclosure require-
45 ment; or

46 (iii) any governmental entity.

47 The joint commission on public ethics shall promulgate regulations to
48 implement these requirements.

49 § 2. Subdivision (c) of section 1-j of the legislative law is amended
50 by adding a new paragraph 4 to read as follows:

51 (4) Any client of a lobbyist that is required to file a semi-annual
52 report and:

53 (i) that has spent over fifty thousand dollars for reportable compen-
54 sation and expenses for lobbying either during the calendar year, or

S. 5679

48

1 during the twelve-month period, prior to the date of this semi-annual
2 report, and

3 (ii) at least three percent of whose total expenditures during the
4 same period were devoted to lobbying in New York
5 shall report to the commission the names of each source of funding over
6 five thousand dollars from a single source that were used to fund the
7 lobbying activities reported and the amounts received from each identi-
8 fied source of funding.

9 This disclosure shall not require disclosure of the sources of funding
10 whose disclosure, in the determination of the commission based upon a
11 review of the relevant facts presented by the reporting client or lobby-
12 ist, may cause harm, threats, harassment, or reprisals to the source or
13 to individuals or property affiliated with the source. The reporting
14 lobbyist may appeal the commission's determination and such appeal shall
15 be heard by a judicial hearing officer who is independent and not affil-
16 iated with or employed by the commission, pursuant to regulations
17 promulgated by the commission. The reporting lobbyist shall not be
18 required to disclose the sources of funding that are the subject of such
19 appeal pending final judgment on appeal.

20 The disclosure shall not apply to:

21 (i) any corporation registered pursuant to article seven-A of the
22 executive law that is qualified as an exempt organization by the United
23 States Department of the Treasury under I.R.C. § 501(c)(3);

24 (ii) any corporation registered pursuant to article seven-A of the
25 executive law that is qualified as an exempt organization by the United
26 States Department of the Treasury under I.R.C. § 501(c)(4) and whose
27 primary activities concern any area of public concern determined by the
28 commission to create a substantial likelihood that application of this
29 disclosure requirement would lead to harm, threats, harassment, or
30 reprisals to a source of funding or to individuals or property affil-
31 iated with such source, including but not limited to the area of civil
32 rights and civil liberties and any other area of public concern deter-
33 mined pursuant to regulations promulgated by the commission to form a
34 proper basis for exemption on this basis from this disclosure require-
35 ment; or

36 (iii) any governmental entity.

37 The joint commission on public ethics shall promulgate regulations to
38 implement these requirements.

39 § 3. This act shall take effect June 1, 2012.

40 PART C

41 Section 1. The retirement and social security law is amended by adding
42 a new article 3-B to read as follows:

43 ARTICLE 3-B

44 PENSION FORFEITURE FOR PUBLIC OFFICIALS

45 Section 156. Definitions.

46 157. Pension forfeiture.

47 158. Pension contributions returned.

48 159. Miscellaneous.

49 § 156. Definitions. The following words and phrases, as used in this
50 article, shall have the following meanings, unless a different meaning
51 is plainly required by the context:

52 1. "Crime related to public office" shall mean any of the following
53 criminal offenses whether committed in this state or in any other juris-
54 isdiction by a public official through the use of his or her public office

S. 5679

49

- 1 or by the individual representing that he or she was acting with the
2 authority of any governmental entity, and acting as a public official:
- 3 (a) a felony for committing, aiding or abetting a larceny of public
4 funds from the state or a municipality;
- 5 (b) a felony committed in direct connection with service as a public
6 official; or
- 7 (c) a felony committed by such person who, with the intent to defraud,
8 realizes or obtains, or attempts to realize or obtain, a profit, gain or
9 advantage for himself or herself or for some other person, through the
10 use or attempted use of the power, rights, privileges or duties of his
11 or her position as a public official.
- 12 2. "Chief administrator of the retirement system" shall mean the comp-
13 troller of the state of New York with respect to the New York state and
14 local employees' retirement system and the boards of trustees with
15 respect to the other public retirement systems and pension funds of the
16 state and the city of New York.
- 17 3. "Defendant" shall mean a state or local officer against whom a
18 forfeiture action is commenced.
- 19 4. "Dependent person" shall mean and include:
- 20 (a) any child of a public official or other person for whom such
21 person is legally responsible to provide support;
- 22 (b) any present or former spouse or domestic partner of a public offi-
23 cial;
- 24 (c) any family or household member of a public official, regardless of
25 such person's age, where such person has a disability, as defined in
26 subdivision twenty-one of section two hundred ninety-two of the execu-
27 tive law; and
- 28 (d) any person to whom a public official has provided support.
- 29 5. "Pension" shall mean the annual allowance for life, payable in
30 monthly installments, derived from contributions made by a public offi-
31 cial to the appropriate pension accumulation fund of a retirement system
32 pursuant to applicable law.
- 33 6. (a) "Public official" shall mean any of the following individuals
34 who were not members of any retirement system prior to the effective
35 date of the chapter of the laws of two thousand eleven which added this
36 article but who have become members of a covered retirement system on or
37 after the effective date of the chapter of the laws of two thousand
38 eleven which added this article:
- 39 (i) the governor, lieutenant governor, comptroller or attorney gener-
40 al;
- 41 (ii) members of the state legislature;
- 42 (iii) state officers and employees including:
- 43 (A) heads of state departments and their deputies and assistants other
44 than members of the board of regents of the university of the state of
45 New York who receive no compensation or are compensated on a per diem
46 basis;
- 47 (B) officers and employees of statewide elected officials;
- 48 (C) officers and employees of state departments, boards, bureaus,
49 divisions, commissions, councils or other state agencies; and
- 50 (D) members or directors of public authorities, other than multi-state
51 authorities, public benefit corporations and commissions at least one of
52 whose members is appointed by the governor, and employees of such
53 authorities, corporations and commissions;
- 54 (iv) judges, justices and employees of the unified court system;
- 55 (v) officers and employees of the legislature; and

S. 5679

50

1 (vi) paid municipal officers and employees including an officer or
2 employee of a municipality, paid members of any administrative board,
3 commission or other agency thereof and in the case of a county, shall be
4 deemed to also include any officer or employee paid from county funds.

5 (b) A person who receives no compensation or is compensated on a per
6 diem basis for his or her duties as a public official shall not be
7 deemed a public official pursuant to this subdivision.

8 7. "Retirement system" shall mean the New York state and local employ-
9 ees' retirement system, and the New York city employees' retirement
10 system.

11 § 157. Pension forfeiture. 1. Notwithstanding any other law to the
12 contrary, it shall be a term and condition of membership for every
13 public official who becomes a member of any retirement system on or
14 after the effective date of the chapter of the laws of two thousand
15 eleven which added this article, that such public official's rights to a
16 pension in a retirement system that accrue in such retirement system
17 after his or her date of initial membership in the retirement system
18 shall be subject to the provisions of this article.

19 2. In the case of a public official who stands convicted, by plea of
20 nolo contendere or plea of guilty to, or by conviction after trial, of
21 any crime related to public office, an action may be commenced in
22 supreme court of the county in which such public official was convicted
23 of such felony crime, by the district attorney having jurisdiction over
24 such crime, or by the attorney general if the attorney general brought
25 the criminal charge which resulted in such conviction, for an order to
26 reduce or revoke the pension to which such public official is otherwise
27 entitled for service as a public official. Such complaint shall specify
28 with particularity which category of felony pursuant to subdivision one
29 of section one hundred fifty-six of this article the defendant has
30 committed, and all other facts that are alleged to qualify such crime as
31 a felony crime related to public office subject to pension reduction or
32 revocation pursuant to this article, and the amount of pension reduction
33 or revocation requested. Such action shall be commenced within six
34 months after such conviction.

35 3. Before commencing an action described in subdivision two of this
36 section, the district attorney or the attorney general, as the case may
37 be, shall serve written notice on the chief administrator of the defend-
38 ant's retirement system stating that he or she has reason to believe
39 that the person convicted committed the crime related to public office
40 in the performance of or failure to perform the public official's duties
41 and responsibilities. Such notice shall specify with particularity
42 which category of felony pursuant to subdivision one of section one
43 hundred fifty-six of this article the defendant has committed. Within
44 twenty days after receipt of such notice, the chief administrator of the
45 defendant's retirement system shall submit a notice of applicability to
46 the district attorney or the attorney general as the case may be. The
47 notice of applicability shall contain a statement specifying whether the
48 person convicted is or has been a member or retired member of a retire-
49 ment system and shall describe the portion of such rights and benefits
50 to which such person is or will be entitled to solely from service as
51 such a public official.

52 4. No forfeiture action may be commenced by the district attorney or
53 the attorney general until such district attorney or the attorney gener-
54 al, as the case may be, has received and served on the defendant the
55 notice of applicability as set forth in subdivision three of this
56 section.

S. 5679

51

1 5. The district attorney or the attorney general, or any interested
2 party, may seek, or the court on its own motion may order, that some or
3 all of the pension that would otherwise be reduced or revoked pursuant
4 to this article be paid for the benefit of any dependent persons, as may
5 be in the interests of justice.

6 6. The defendant shall have the right to a hearing.

7 7. The burden of proof shall be upon the district attorney or the
8 attorney general, as the case may be, to prove by clear and convincing
9 evidence the facts necessary to establish a claim of pension forfeiture.
10 The district attorney or the attorney general as the case may be must,
11 at the time of the hearing, prove by clear and convincing evidence that
12 the defendant knowingly and intentionally committed the crime related to
13 public office.

14 8. In determining whether the pension shall be reduced or revoked, the
15 supreme court shall consider and make findings of fact and conclusions
16 of law that include, but shall not be limited to, a consideration of the
17 following factors:

18 (a) Whether the defendant stands convicted of such a felony of a crime
19 related to public office, and the specific paragraph or paragraphs of
20 subdivision one of section one hundred fifty-six of this article that
21 have been proven or not proven;

22 (b) The severity of the crime related to public office of which the
23 defendant stands convicted;

24 (c) The amount of monetary loss suffered by such state or municipality
25 as a result of such crime related to public office;

26 (d) The degree of public trust reposed in the public official by
27 virtue of the person's position as a public official;

28 (e) If the crime related to public office was part of a fraudulent
29 scheme against the state or a municipality, the role of the public offi-
30 cial in such fraudulent scheme against such state or a municipality;

31 (f) The defendant's criminal history, if any;

32 (g) The impact of forfeiture, in whole or in part, on defendant's
33 dependents, present or former spouses, or domestic partners;

34 (h) The proportionality of forfeiture of all or part of the pension to
35 the crime committed; and

36 (i) Any such other factors as, in the judgment of the supreme court,
37 justice may require.

38 9. At any time during the pendency of a forfeiture action, the court
39 may dismiss the action if it finds that such relief is warranted by the
40 existence of some compelling factor, consideration or circumstance or
41 other information or evidence which demonstrates that forfeiture would
42 not serve the ends of justice. The court may order that some or all of
43 the reduced or revoked pension be paid to satisfy the terms of any
44 existing order for the payment of maintenance, child support or restitu-
45 tion or for the benefit of any dependent persons, as may be in the
46 interests of justice, after taking into consideration the financial
47 needs and resources available for support of such persons.

48 10. Upon a finding by the court by clear and convincing evidence that
49 the defendant knowingly and intentionally committed a crime related to
50 public office, the court may issue an order to the appropriate retire-
51 ment system to reduce or revoke the defendant's pension to which he or
52 she is otherwise entitled as such a public official. All orders and
53 findings made by the court pursuant to this section shall be served by
54 the attorney general or the district attorney, as the case may be upon
55 the chief administrator of the defendant's retirement system and the
56 defendant.

S. 5679

52

1 11. The court shall issue a written decision including findings of
2 fact and conclusions of law that are the basis for any order issued
3 pursuant to this section.

4 12. Upon a final determination that reverses or vacates the conviction
5 or convictions of a crime related to public office, or reduces such
6 crime to a violation, misdemeanor or other criminal act that is not a
7 crime related to public office, the public official, or if he or she
8 shall be deceased, his or her estate, shall have such pension retroac-
9 tively restored upon application to the court with jurisdiction over the
10 forfeiture action. Such court, upon finding that such a final determi-
11 nation has occurred, shall issue an order retroactively restoring such
12 pension, together with such other relief deemed appropriate.

13 13. A final judgment entered pursuant to this article may be appealed
14 pursuant to subdivision (a) of section fifty-seven hundred one and
15 section fifty-six hundred two of the civil practice law and rules.

16 14. Except as otherwise provided by this article, the civil practice
17 law and rules shall govern the procedure in all actions commenced pursu-
18 ant to this article, except where the action is specifically regulated
19 by any inconsistent provisions herein.

20 § 158. Pension contributions returned. 1. Any public official whose
21 pension is reduced or revoked pursuant to this article shall be entitled
22 to a return of his or her contribution paid into the relevant retirement
23 system, without interest.

24 2. Notwithstanding the provisions of subdivision one of this section,
25 no payments in return of contributions shall be made or ordered unless
26 and until the supreme court determines that the public official whose
27 pension has been reduced or revoked has satisfied in full any judgments
28 or orders rendered by any court of competent jurisdiction for the
29 payment of restitution to the state or a municipality for losses
30 incurred as a result of such crime related to public office. If the
31 supreme court determines that such public official whose pension is to
32 be reduced or revoked has failed to satisfy any outstanding judgment or
33 order of restitution rendered by a court of competent jurisdiction, it
34 may order that any funds otherwise due to such public official as a
35 return of contribution, or any portion thereof, be paid in satisfaction
36 of such judgment or order.

37 § 159. Miscellaneous. The remedies provided for in this article are
38 not intended to substitute for, limit or supersede the lawful authority
39 of any public officer, agency or other person to enforce any other right
40 or remedy provided for by law.

41 § 2. The criminal procedure law is amended by adding a new section
42 220.51 to read as follows:

43 § 220.51 Notice before entry of plea or trial involving a public offi-
44 cial.

45 Prior to trial, and before accepting a defendant's plea to a count or
46 counts of an indictment or a superior court information charging a felo-
47 ny offense, the court must individually advise the defendant, on the
48 record, that if at the time of the alleged felony crime the defendant
49 was a public official, as defined in subdivision six of section one
50 hundred fifty-six of the retirement and social security law, the defend-
51 ant's plea of guilty and the court's acceptance thereof or conviction
52 after trial may result in proceedings for the reduction or revocation of
53 such defendant's pension pursuant to article three-B of the retirement
54 and social security law.

S. 5679

53

1 § 3. This act shall take effect on the ninetieth day after it shall
2 have become a law and shall only apply to acts committed by public offi-
3 cials on or after such date.

4 PART D

5 Section 1. Paragraph (i) of subdivision (c) and subdivision (j) of
6 section 1-c of the legislative law, paragraph (i) of subdivision (c) as
7 added by chapter 1 of the laws of 2005 and subdivision (j) as added by
8 chapter 14 of the laws of 2007, are amended to read as follows:

9 (i) the passage or defeat of any legislation or resolution by either
10 house of the state legislature including but not limited to the intro-
11 duction or intended introduction of such legislation or resolution or
12 approval or disapproval of any legislation by the governor;

13 (j) The term "gift" shall mean anything of more than nominal value
14 given to a public official in any form including, but not limited to
15 money, service, loan, travel, lodging, meals, refreshments, enter-
16 tainment, discount, forbearance, or promise, having a monetary value.
17 The following are excluded from the definition of a gift:

18 (i) complimentary attendance, including food and beverage, at bona
19 fide charitable or political events [~~and food and beverage of a nominal~~
20 ~~value offered other than as part of a meal~~];

21 (ii) complimentary attendance, food and beverage offered by the spon-
22 sor of [~~an event that is~~] a widely attended [~~or was in good faith~~
23 ~~intended to be widely attended, when attendance at the event is related~~
24 ~~to the attendee's duties or responsibilities as a public official or~~
25 ~~allows the public official to perform a ceremonial function appropriate~~
26 ~~to his or her position] event. The term "widely attended event" shall~~

27 mean an event: (A) which at least twenty-five individuals other than
28 members, officers, or employees from the governmental entity in which
29 the public official serves attend or were, in good faith, invited to
30 attend, and (B) which is related to the attendee's duties or responsi-
31 bilities or which allows the public official to perform a ceremonial
32 function appropriate to his or her position. For the purposes of this
33 exclusion, a public official's duties or responsibilities shall include
34 but not be limited to either (1) attending an event or a meeting at
35 which a speaker or attendee addresses an issue of public interest or
36 concern as a significant activity at such event or meeting; or (2) for
37 elected public officials, or their staff attending with or on behalf of
38 such elected officials, attending an event or a meeting at which more
39 than one-half of the attendees, or persons invited in good faith to
40 attend, are residents of the county, district or jurisdiction from which
41 the elected public official was elected;

42 (iii) awards, plaques, and other ceremonial items which are publicly
43 presented, or intended to be publicly presented, in recognition of
44 public service, provided that the item or items are of the type custom-
45 arily bestowed at such or similar ceremonies and are otherwise reason-
46 able under the circumstances, and further provided that the functionali-
47 ty of such items shall not determine whether such items are permitted
48 under this paragraph;

49 (iv) an honorary degree bestowed upon a public official by a public or
50 private college or university;

51 (v) promotional items having no substantial resale value such as pens,
52 mugs, calendars, hats, and t-shirts which bear an organization's name,
53 logo, or message in a manner which promotes the organization's cause;

S. 5679

54

- 1 (vi) goods and services, or discounts for goods and services, offered
2 to the general public or a segment of the general public defined on a
3 basis other than status as a public official and offered on the same
4 terms and conditions as the goods or services are offered to the general
5 public or segment thereof;
- 6 (vii) gifts from a family member, member of the same household, or
7 person with a personal relationship with the public official, including
8 invitations to attend personal or family social events, when the circum-
9 stances establish that it is the family, household, or personal
10 relationship that is the primary motivating factor; in determining moti-
11 vation, the following factors shall be among those considered: (A) the
12 history and nature of the relationship between the donor and the recipi-
13 ent, including whether or not items have previously been exchanged; (B)
14 whether the item was purchased by the donor; and (C) whether or not the
15 donor at the same time gave similar items to other public officials; the
16 transfer shall not be considered to be motivated by a family, household,
17 or personal relationship if the donor seeks to charge or deduct the
18 value of such item as a business expense or seeks reimbursement from a
19 client;
- 20 (viii) contributions reportable under article fourteen of the election
21 law, including contributions made in violation of that article of the
22 election law;
- 23 (ix) travel reimbursement or payment for transportation, meals and
24 accommodations for an attendee, panelist or speaker at an informational
25 event or informational meeting when such reimbursement or payment is
26 made by a governmental entity or by an in-state accredited public or
27 private institution of higher education that hosts the event on its
28 campus, provided, however, that the public official may only accept
29 lodging from an institution of higher education: (A) at a location on or
30 within close proximity to the host campus; and (B) for the night preced-
31 ing and the nights of the days on which the attendee, panelist or speak-
32 er actually attends the event or meeting;
- 33 (x) provision of local transportation to inspect or tour facilities,
34 operations or property [~~owned or operated by the entity providing such~~
35 ~~transportation~~] located in New York state, provided, however, that such
36 inspection or tour is related to the individual's official duties or
37 responsibilities and that payment or reimbursement [of] for expenses for
38 lodging [meals] or travel expenses to and from the locality where such
39 facilities, operations or property are located shall be considered to be
40 gifts unless otherwise permitted under this subdivision; [and]
- 41 (xi) meals or refreshments when participating in a professional or
42 educational program and the meals or refreshments are provided to all
43 participants; and
- 44 (xii) food or beverage valued at fifteen dollars or less.
- 45 § 2. This act shall take effect immediately.

46

PART E

47 Section 1. The state board of elections shall, no later than January
48 1, 2012, issue regulations setting forth and implementing the require-
49 ments under existing law for individuals, organizations, corporations,
50 political committees, or any other entities to disclose independent
51 expenditures made for advertisements or any other type of advocacy that
52 expressly identifies a political candidate or ballot proposal. Such
53 regulations shall require such disclosure to the fullest extent of the
54 law.

S. 5679

55

1 § 2. Section 14-106 of the election law, as amended by chapter 8 of
2 the laws of 1978, is amended to read as follows:

3 § 14-106. Political [~~advertisements and literature~~] communication.
4 The statements required to be filed under the provisions of this article
5 next succeeding a primary, general or special election shall be accompa-
6 nied by a [~~facsimile or~~] copy of all broadcast, cable or satellite sche-
7 dules and scripts, internet, print and other types of advertisements,
8 pamphlets, circulars, flyers, brochures, letterheads and other printed
9 matter purchased or produced [~~and a schedule of all radio or television~~
10 ~~time, and scripts used therein~~], purchased in connection with such
11 election by or under the authority of the person filing the statement or
12 the committee or the person on whose behalf it is filed, as the case may
13 be. Such [~~facsimiles,~~] copies, schedules and scripts shall be preserved
14 by the officer with whom or the board with which it is required to be
15 filed for a period of one year from the date of filing thereof.

16 § 3. Section 14-126 of the election law, as amended by chapter 8 of
17 the laws of 1978, subdivision 1 as amended by chapter 128 of the laws of
18 1994 and subdivisions 2, 3 and 4 as redesignated by chapter 9 of the
19 laws of 1978, is amended to read as follows:

20 § 14-126. Violations; penalties. 1. Any person who fails to file a
21 statement required to be filed by this article shall be subject to a
22 civil penalty, not in excess of [~~five hundred~~] one thousand dollars, to
23 be recoverable in a special proceeding or civil action to be brought by
24 the state board of elections or other board of elections. Any person
25 who, three or more times within a given election cycle for such term of
26 office, fails to file a statement or statements required to be filed by
27 this article, shall be subject to a civil penalty, not in excess of ten
28 thousand dollars, to be recoverable as provided for in this subdivision.

29 2. Any person who, acting as or on behalf of a candidate or political
30 committee, under circumstances evincing an intent to violate such law,
31 unlawfully accepts a contribution in excess of a contribution limitation
32 established in this article, shall be required to refund such excess
33 amount and shall be subject to a civil penalty equal to the excess
34 amount plus a fine of up to ten thousand dollars, to be recoverable in a
35 special proceeding or civil action to be brought by the state board of
36 elections.

37 3. Any person who knowingly and willfully fails to file a statement
38 required to be filed by this article within ten days after the date
39 provided for filing such statement or any person who knowingly and will-
40 fully violates any other provision of this article shall be guilty of a
41 misdemeanor.

42 [~~3-~~] 4. Any person who knowingly and willfully contributes, accepts or
43 aids or participates in the acceptance of a contribution in an amount
44 exceeding an applicable maximum specified in this article shall be guilty
45 of a misdemeanor.

46 [~~4-~~] 5. Any person who shall, acting on behalf of a candidate or poli-
47 tical committee, knowingly and willfully solicit, organize or coordinate
48 the formation of activities of one or more unauthorized committees, make
49 expenditures in connection with the nomination for election or election
50 of any candidate, or solicit any person to make any such expenditures,
51 for the purpose of evading the contribution limitations of this article,
52 shall be guilty of a class E felony.

53 § 4. Section 16-100 of the election law is amended to read as follows:

54 § 16-100. Jurisdiction; supreme court, county court. 1. The supreme
55 court is vested with jurisdiction to summarily determine any question of

S. 5679

56

1 law or fact arising as to any subject set forth in this article, which
2 shall be construed liberally.

3 2. The county court is vested with jurisdiction to summarily determine
4 any question of law or fact except proceedings as to a nomination or
5 election at a primary election or a nomination at a judicial convention,
6 proceedings as to the casting and canvass of ballots [and], proceedings
7 for examination or preservation of ballots and proceedings to enforce
8 the provisions of article fourteen of this chapter.

9 § 5. The election law is amended by adding a new section 16-120 to
10 read as follows:

11 § 16-120. Enforcement proceedings. 1. The supreme court or a justice
12 thereof, in a proceeding instituted by the state board of elections, may
13 impose a civil penalty, as provided for in subdivisions one and two of
14 section 14-126 of this chapter.

15 2. Upon proof that a violation of article fourteen of this chapter, as
16 provided in subdivision one of this section, has occurred, the court may
17 impose a civil penalty, pursuant to subdivisions one and two of section
18 14-126 of this chapter, after considering, among other factors, the
19 severity of the violation or violations, whether the subject of the
20 violation made a good faith effort to correct the violation and whether
21 the subject of the violation has a history of similar violations. All
22 such determinations shall be made on a fair and equitable basis without
23 regard to the status of the candidate or political committee.

24 § 6. Separability clause. If any clause, sentence, paragraph, section
25 or part of this act shall be adjudged by any court of competent juris-
26 diction to be invalid, such judgment shall not affect, impair or invali-
27 date the remainder thereof, but shall be confined in its operation to
28 the clause, sentence, paragraph, section or part thereof directly
29 involved in the controversy in which such judgment shall have been
30 rendered.

31 § 7. This act shall take effect immediately.

32 § 3. Severability clause. If any clause, sentence, paragraph, subdivi-
33 sion, section or part of this act shall be adjudged by any court of
34 competent jurisdiction to be invalid, such judgment shall not affect,
35 impair, or invalidate the remainder thereof, but shall be confined in
36 its operation to the clause, sentence, paragraph, subdivision, section
37 or part thereof directly involved in the controversy in which such judg-
38 ment shall have been rendered. It is hereby declared to be the intent of
39 the legislature that this act would have been enacted even if such
40 invalid provisions had not been included herein.

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