Public Integrity Reform Act of 2011

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ISSUE: **ETHICS**

The New York State Senate today passed major ethics reform legislation, entitled the Public Integrity Reform Act of 2011. The measure represents a three-way agreement with the Assembly and Governor Andrew Cuomo, and is a significant step toward restoring the public's trust in government.

The Public Integrity Reform Act of 2011, bill S.5679, significantly expands disclosure of outside employment and income of all legislators and makes the information available to the public. It creates unprecedented transparency and creates an independent, bipartisan Commission on Public Ethics with strong enforcement powers to investigate violations of law by members of the executive and legislative branches – as well as oversee lobbyists with newly expanded disclosure rules. The bill could also result in stripping violators of their pensions if they betray the public's trust.

DETAILS OF THE PUBLIC INTEGRITY REFORM ACT OF 2011:

Greater Financial Disclosure: Financial disclosure statements filed with the new Joint Commission on Public Ethics from elected officials will now be posted on the internet and the practice of redacting the monetary values and amounts reported by the filer will end. The Act also includes 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. The Act requires disclosure of the reporting individual's outside clients and customers doing business with, receiving grants or contracts from, seeking legislation or resolutions from, or involved in cases or proceedings before the State as well as such clients who meet the above criteria brought to the firm by the public official.

Increased Access to Information About Individuals Appearing Before the State: The Act establishes a new database of any individual or firm that appears in a representative capacity before any state governmental entity and the reason for their appearance.

Additional Disclosures for Registered Lobbyists: The bill expands lobbying disclosure requirements, including the disclosure by lobbyists of any "reportable business relationships" of more than $1,000 with public officials. It also 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.

Forfeiture of Pensions for Public Officials Convicted of a Felony: Certain public officials who commit crimes related to their public offices may have their pensions reduced or forfeited in a new civil forfeiture proceeding brought by the Attorney General or the prosecutor who handled the conviction of the official.

A New Joint Commission on Public Ethics: The Joint Commission on Public Ethics will replace the existing Commission on Public Integrity with jurisdiction over all elected state officials and their employees, both executive and legislative, as well as lobbyists. The bipartisan Joint

Commission will consist of 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
· Eight appointed by the legislative leaders (four each from the two major political parties)

Among other restrictions, no individual will be eligible to serve on the Joint Commission who has within the last three years been a registered lobbyist, a statewide office holder, a legislator, a state commissioner or a political party chairman. The executive director of the Commission will be selected without regard to party affiliation. Commissioners will be prohibited from making campaign contributions to candidates for elected executive or legislative offices during their tenure.

The Joint Commission will have jurisdiction to investigate potential violations of law by legislators and legislative employees and, if violations are found, issue findings to the Legislative Ethics Commission, which will have jurisdiction to impose penalties. Significantly, if the Joint Commission reports such a violation to the Legislative Ethics Commission (with full findings of fact and conclusions of law), that report must be made public within strict timeframes, along with the Legislative Ethics Commission's disposition of the matter. The Joint Commission will have jurisdiction to impose penalties on executive employees and lobbyists. Any potential violations of federal or state criminal laws will be referred to the appropriate prosecutor for further action.

The Joint Commission will also conduct mandatory ethics training for executive and legislative officials, except instances where such training already exists, and track the status of compliance and make it available to the public.

A majority (8 members) of the board must consent to the initiation of the investigation, and at least two of those consenting must be of the same party and branch as the subject of the investigation. The 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.

Clarifying Independent Expenditures for Elections: The Act requires the state Board of Elections to issue new regulations clarifying disclosure of independent expenditures.

Increased Penalties for Violations: The Act substantially increases penalties for violations of the filing requirements and contribution limits in the Election Law, and provides for a special enforcement proceeding in the Supreme Court. The bill also increases penalties for violations of certain provisions of the state's Code of Ethics that prohibits conflicts of interest.

The bill has been sent to the Assembly.

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