

## CHAPTER 25

**AN ACT** concerning certain penalties for violations of the "New Jersey Conflicts of Interest Law" and amending P.L.1971, c.182.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. Section 10 of P.L.1971, c.182 (C.52:13D-21) is amended to read as follows:

C.52:13D-21 Executive Commission on Ethical Standards; membership; powers, duties, penalties.

10. (a) The Executive Commission on Ethical Standards created pursuant to P.L.1967, c.229, is continued and established in the Department of Law and Public Safety and shall constitute the first commission under P.L.1971, c.182 (C.52:13D-12 et al.).

(b)(1) The commission shall be composed of nine members as follows: seven members appointed by the Governor from among State officers and employees serving in the Executive Branch; and two public members appointed by the Governor, not more than one of whom shall be of the same political party.

Each member appointed from the Executive Branch shall serve at the pleasure of the Governor during the term of office of the Governor appointing the member and until the member's successor is appointed and qualified. The public members shall serve for terms of four years and until the appointment and qualification of their successors, but of the public members first appointed pursuant to P.L.2003, c.160, one shall serve for a term of two years and one shall serve for a term of four years. The Governor shall designate one member to serve as chairman and one member to serve as vice-chairman of the commission.

(2) Commencing with the third Tuesday in January of the year in which the Governor takes office, next following enactment of P.L.2004, c.24, the commission shall be composed of eight members as follows: four members appointed by the Governor from among State officers and employees serving in the Executive Branch; and four public members appointed by the Governor, not more than two of whom shall be of the same political party.

Each member appointed from the Executive Branch shall serve at the pleasure of the Governor during the term of office of the Governor appointing the member and until the member's successor is appointed and qualified. The public members shall serve for terms of four years. The Governor shall designate one member to serve as chairman and one member to serve as vice-chairman of the commission.

The members of the Executive Commission on Ethical Standards who were appointed by the Governor from among the State officers and employees serving in the Executive Branch serving on the third Tuesday in January of the year in which the Governor takes office, next following enactment of P.L.2004, c.24, are terminated as of that day. A member terminated pursuant to this paragraph shall be eligible for reappointment.

(3) Vacancies in the membership of the commission shall be filled in the same manner as the original appointments but, in the case of public members, for the unexpired term only. None of the public members shall be State officers or employees or special State officers or employees, except by reason of their service on the commission. A public member may be reappointed for subsequent terms on the commission.

(c) Each member of the commission shall serve without compensation but shall be entitled to be reimbursed for all actual and necessary expenses incurred in the performance of the member's duties.

(d) The Attorney General shall act as legal adviser and counsel to the commission. The Attorney General shall upon request advise the commission in the rendering of advisory opinions by the commission, in the approval and review of codes of ethics adopted by State agencies in the Executive Branch and in the recommendation of revisions in codes of ethics or legislation relating to the conduct of State officers and employees in the Executive Branch.

(e) The commission may, within the limits of funds appropriated or otherwise made available

to it for the purpose, employ such other professional, technical, clerical or other assistants, excepting legal counsel, and incur such expenses as may be necessary for the performance of its duties.

(f) The commission, in order to perform its duties pursuant to the provisions of P.L.1971, c.182 (C.52:13D-12 et al.), shall have the power to conduct investigations, hold hearings, compel the attendance of witnesses and the production before it of such books and papers as it may deem necessary, proper and relevant to the matter under investigation. The members of the commission and the persons appointed by the commission for that purpose are hereby empowered to administer oaths and examine witnesses under oath.

(g) The commission is authorized to render advisory opinions as to whether a given set of facts and circumstances would, in its opinion, constitute a violation of the provisions of P.L.1971, c.182 (C.52:13D-12 et al.) or of a code of ethics promulgated pursuant to the provisions of P.L.1971, c.182 (C.52:13D-12 et al.).

(h) The commission shall have jurisdiction to initiate, receive, hear and review complaints regarding violations, by any State officer or employee or special State officer or employee in the Executive Branch, of the provisions of P.L.1971, c.182 (C.52:13D-12 et al.) or of any code of ethics promulgated pursuant to the provisions of P.L.1971, c.182 (C.52:13D-12 et al.). Any complaint regarding a violation of a code of ethics may be referred by the commission for disposition in accordance with subsection (d) of section 12 of P.L.1971, c.182 (C.52:13D-23).

(i) Any State officer or employee or special State officer or employee found guilty by the commission of violating any provision of P.L.1971, c.182 (C.52:13D-12 et al.) or of a code of ethics promulgated pursuant to the provisions of P.L.1971, c.182 (C.52:13D-12 et al.) shall be fined not less than \$500 nor more than \$10,000, which penalty may be collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and may be suspended from office or employment by order of the commission for a period of not in excess of one year. If the commission finds that the conduct of the officer or employee constitutes a willful and continuous disregard of the provisions of P.L.1971, c.182 (C.52:13D-12 et al.) or of a code of ethics promulgated pursuant to the provisions of P.L.1971, c.182 (C.52:13D-12 et al.), it may order that person removed from office or employment and may further bar the person from holding any public office or employment in this State in any capacity whatsoever for a period of not exceeding five years from the date on which the person was found guilty by the commission.

(j) The remedies provided herein are in addition to all other criminal and civil remedies provided under the law.

2. Section 11 of P.L.1971, c.182 (C.52:13D-22) is amended to read as follows:

C.52:13D-22 Joint Legislative Committee on Ethical Standards; membership; powers, duties; penalties.

11. (a) The Joint Legislative Committee on Ethical Standards created pursuant to the provisions of P.L.1967, c.229, as continued and established pursuant to P.L.1971, c.182, is continued and established in the Legislative Branch of State Government with the addition of the public members as set forth in this section.

(b)(1) The joint committee shall be composed of 12 members as follows: four members of the Senate appointed by the President thereof, no more than two of whom shall be of the same political party; four members of the General Assembly, appointed by the Speaker thereof, no more than two of whom shall be of the same political party; and four public members, one appointed by the President of the Senate, one appointed by the Speaker of the General Assembly, one appointed by the Minority Leader of the Senate and one appointed by the Minority Leader of the General Assembly.

(2) Commencing with the second Tuesday in January of the next even numbered year following the effective date of P.L.2004, c.24, the Joint committee shall be composed of sixteen members as follows: four members of the Senate, appointed by the President thereof, no more than two of whom shall be of the same political party; four members of the General Assembly, appointed by the Speaker thereof, no more than two of whom shall be of the same political party; and eight public members, two appointed by the President of the Senate, two appointed by the Speaker of the General Assembly, two appointed by the Minority Leader of the Senate and two appointed by the Minority Leader of the General Assembly.

(3) No public member shall be a lobbyist or legislative agent as defined by the "Legislative Activities Disclosure Act of 1971," P.L.1971, c.183 (C.52:13C-18 et seq.), a full-time State employee or an officer or director of any entity which is required to file a statement with the Election Law Enforcement Commission, and no former lobbyist or legislative agent shall be eligible to serve as a public member for one year following the cessation of all activity by that person as a legislative agent or lobbyist.

The legislative members shall serve until the end of the two-year legislative term during which the members are appointed. The public members shall serve for terms of two years and until the appointment and qualification of their successors.

The terms of the public members shall run from the second Tuesday in January of an even-numbered year to the second Tuesday in January of the next even-numbered year, regardless of the original date of appointment.

Vacancies in the membership of the joint committee shall be filled in the same manner as the original appointments, but for the unexpired term only. Public members of the joint committee shall serve without compensation, but shall be entitled to be reimbursed for all actual and necessary expenses incurred in the performance of their duties.

(c) The joint committee shall organize as soon as may be practicable after the appointment of its members, by the selection of a chairman and vice chairman from among its membership and the appointment of a secretary, who need not be a member of the joint committee.

(d) The Legislative Counsel in the Office of Legislative Services shall act as legal adviser to the joint committee. The Legislative Counsel shall, upon request, assist and advise the joint committee in the rendering of advisory opinions by the joint committee, in the approval and review of codes of ethics adopted by State agencies in the Legislative Branch, and in the recommendation of revisions in codes of ethics or legislation relating to the conduct of members of the Legislature or State officers and employees in the Legislative Branch.

(e) The joint committee may, within the limits of funds appropriated or otherwise available to it for the purpose, employ other professional, technical, clerical or other assistants, excepting legal counsel, and incur expenses as may be necessary to the performance of its duties.

(f) The joint committee shall have all the powers granted pursuant to chapter 13 of Title 52 of the Revised Statutes.

(g) The joint committee is authorized to render advisory opinions as to whether a given set of facts and circumstances would, in its opinion, constitute a violation of the provisions of this act, of a code of ethics promulgated pursuant to the provisions of this act or of any rule of either or both Houses which gives the joint committee jurisdiction and the authority to investigate a matter.

(h) The joint committee shall have jurisdiction to initiate, receive, hear and review complaints regarding violations of the provisions of this act or of a code of ethics promulgated pursuant to the provisions of this act. It shall further have such jurisdiction as to enforcement of the rules of either or both Houses of the Legislature governing the conduct of the members or employees thereof as those rules may confer upon the joint committee. A complaint regarding a violation of a code of ethics promulgated pursuant to the provisions of this act may be referred by the joint committee for disposition in accordance with subsection 12(d) of this act.

P.L. 2004, CHAPTER 25

4

(i) Any State officer or employee or special State officer or employee in the Legislative Branch found guilty by the joint committee of violating any provisions of this act, of a code of ethics promulgated pursuant to the provisions of this act or of any rule of either or both Houses which gives the joint committee jurisdiction and the authority to investigate a matter shall be fined not less than \$500.00 nor more than \$10,000, which penalty may be collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) , and may be reprimanded and ordered to pay restitution where appropriate and may be suspended from office or employment by order of the joint committee for a period not in excess of one year. If the joint committee finds that the conduct of the officer or employee constitutes a willful and continuous disregard of the provisions of this act, of a code of ethics promulgated pursuant to the provisions of this act or of any rule of either or both Houses which gives the joint committee jurisdiction and the authority to investigate a matter, it may order that person removed from office or employment and may further bar the person from holding any public office or employment in this State in any capacity whatsoever for a period of not exceeding five years from the date on which the person was found guilty by the joint committee.

(j) A member of the Legislature who shall be found guilty by the joint committee of violating the provisions of this act, of a code of ethics promulgated pursuant to the provisions of this act or of any rule of either or both Houses which gives the joint committee jurisdiction and the authority to investigate a matter shall be fined not less than \$500.00 nor more than \$10,000, which penalty may be collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and shall be subject to such further action as may be determined by the House of which the person is a member. In such cases the joint committee shall report its findings to the appropriate House and shall recommend to the House such further action as the joint committee deems appropriate, but it shall be the sole responsibility of the House to determine what further action, if any, shall be taken against such member.

3. This act shall take effect immediately, but any increased penalties shall apply only to violations occurring on or after the effective date of this act.

Approved June 16, 2004.