

SENATE, No. 2074

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JUNE 10, 2010

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator JENNIFER BECK

District 12 (Mercer and Monmouth)

SYNOPSIS

Establishes deadlines for filing financial disclosure statements with State Ethics Commission.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/29/2010)

1 AN ACT concerning the filing of financial disclosure statements
2 with the State Ethics Commission and amending P.L.1971 c.182.

3

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

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

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

13 Upon the effective date of P.L.2005, c.382, the Executive
14 Commission on Ethical Standards shall be renamed, and thereafter
15 referred to, as the State Ethics Commission. For the purposes of
16 complying with the provisions of Article V, Section IV, paragraph 1
17 of the New Jersey Constitution, the State Ethics Commission is
18 allocated in, but not of, the Department of Law and Public Safety,
19 but notwithstanding that allocation, the commission shall be
20 independent of any supervision and control by the department or by
21 any board or officer thereof.

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

27 Each member appointed from the Executive Branch shall serve at
28 the pleasure of the Governor during the term of office of the
29 Governor appointing the member and until the member's successor
30 is appointed and qualified. The public members shall serve for
31 terms of four years and until the appointment and qualification of
32 their successors, but of the public members first appointed pursuant
33 to P.L.2003, c.160, one shall serve for a term of two years and one
34 shall serve for a term of four years, and of the two public members
35 first appointed pursuant to P.L.2005, c.382, one shall serve for a
36 term of one year and one shall serve for a term of three years. The
37 Governor shall designate one public member to serve as chairman
38 and one member to serve as vice-chairman of the commission.

39 The members of the State Ethics Commission who were
40 appointed by the Governor from among the State officers and
41 employees serving in the Executive Branch serving on January 17,
42 2006 are terminated as of that day. A member terminated pursuant
43 to this paragraph shall be eligible for reappointment.

44 Vacancies in the membership of the commission shall be filled in
45 the same manner as the original appointments but, in the case of

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 public members, for the unexpired term only. None of the public
2 members shall be State officers or employees or special State
3 officers or employees, except by reason of their service on the
4 commission. A public member may be reappointed for subsequent
5 terms on the commission.

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

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

18 (e) (1) The commission may, within the limits of funds
19 appropriated or otherwise made available to it for the purpose,
20 employ such other professional, technical, clerical or other
21 assistants, excepting legal counsel, and incur such expenses as may
22 be necessary for the performance of its duties.

23 (2) The commission shall employ a training officer who shall be
24 in the unclassified service of the civil service of this State. The
25 training officer shall devote full-time to the creation, maintenance
26 and coordination of a training program on ethical standards. The
27 program shall be established for the purpose specified in section 2
28 of P.L.2005, c.382 (C.52:13D-21.1). The program shall be
29 provided by the training officer or assistants or deputies of such
30 officer, or by such other persons as may be designated by the
31 commission. The commission shall approve the form and content
32 of the training program created by the training officer and shall
33 determine when and at what intervals State officers and employees
34 and special State officers and employees in a State agency in the
35 Executive Branch shall be required to complete such a program.
36 The training program may include content which in particular
37 addresses the situations of certain identified groups of officers or
38 employees such as those who are involved in contracting processes.

39 (3) The commission shall employ a compliance officer who
40 shall be in the unclassified service of the civil service of this State.
41 The compliance officer shall devote full-time to the creation,
42 maintenance, monitoring and coordination of procedures to ensure
43 that all State officers and employees and special State officers and
44 employees in State agencies in the Executive Branch comply fully
45 with all reporting and training requirements and that all materials,
46 forms, codes, orders and notices are distributed to and
47 acknowledged by appropriate individuals, as may be required. In
48 addition, the compliance officer shall conduct, on such regular basis

1 as determined by the commission, systematic audits of State
2 agencies in the Executive Branch for compliance with the laws,
3 regulations, codes, orders, procedures, advisory opinions and
4 rulings concerning the ethical standards for State employees and
5 officers and special State officers and employees.

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

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

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

30 An investigation regarding a violation committed during service
31 by a former State officer or employee or special State officer or
32 employee shall be initiated by the commission not later than two
33 years following the termination of service.

34 The commission shall have the authority to dismiss a complaint
35 that it determines to be frivolous.

36 (i) Any current or former State officer or employee or current
37 or former special State officer or employee found guilty by the
38 commission of violating any provision of P.L.1971, c.182
39 (C.52:13D-12 et al.) or of a code of ethics promulgated pursuant to
40 the provisions of P.L.1971, c.182 (C.52:13D-12 et al.) shall be fined
41 not less than \$500 nor more than \$10,000, which penalty may be
42 collected in a summary proceeding pursuant to the "Penalty
43 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.),
44 and may be suspended from office or employment by order of the
45 commission for a period of not in excess of one year. If the
46 commission finds that the conduct of the officer or employee
47 constitutes a willful and continuous disregard of the provisions of
48 P.L.1971, c.182 (C.52:13D-12 et al.) or of a code of ethics

1 promulgated pursuant to the provisions of P.L.1971, c.182
2 (C.52:13D-12 et al.), it may order that person removed from office
3 or employment and may further bar the person from holding any
4 public office or employment in this State in any capacity
5 whatsoever for a period of not exceeding five years from the date
6 on which the person was found guilty by the commission.

7 In addition, for violations occurring after the effective date of
8 P.L.2005, c.382, the commission may order restitution, demotion,
9 censure or reprimand, or for a failure to file an appropriate financial
10 disclosure statement or form, shall impose a civil penalty of \$50 for
11 each day of the violation, which penalty may be collected in a
12 summary proceeding pursuant to the "Penalty Enforcement Law of
13 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

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

16 (k) The commission shall promulgate, pursuant to the
17 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
18 seq.), such rules and regulations as may be necessary to effectuate
19 the purposes of P.L.1971, c.182 (C.52:13D-12 et al.).

20 (l) (1) The commission shall communicate periodically with
21 the State Auditor, the State Inspector General, the State
22 Commission of Investigation and the Office of Government
23 Integrity, or its successor, in the Department of Law and Public
24 Safety.

25 (2) The Executive Director of the commission shall meet with
26 the head of each principal department of the Executive Branch of
27 State Government, each board member if a board is considered the
28 head of a principal department, and the Secretary of Agriculture, the
29 Commissioner of Education, and the Secretary and Chief Executive
30 Officer of the New Jersey Commerce and Economic Growth
31 Commission, within 30 days after the head, member, secretary or
32 commissioner takes office, and shall meet annually with these
33 individuals as a group, to inform them of the laws, regulations,
34 codes, orders, procedures, advisory opinions and rulings concerning
35 applicable ethical standards.

36 (m) The commission shall create and maintain a toll-free
37 telephone number to receive comments, complaints and questions
38 concerning matters under the jurisdiction of the commission.
39 Information or questions received by the commission by this means
40 shall be confidential and not accessible to the public pursuant to
41 P.L.1963, c.73 (C.47:1A-1 et seq.).

42 (n) Financial disclosure statements required to be submitted to
43 the commission by law, regulation or executive order shall be filed
44 with the commission not later than May 15 of each calendar year
45 and made available to the public, promptly after receipt, on the
46 Internet site of the commission [, commencing with submissions for
47 2005] , except that a person who accepts office or employment,
48 after the 120th day preceding May 15 in a calendar year, which

1 makes that person subject to financial disclosure, shall file a
2 financial disclosure statement with the commission no later than
3 120 days after commencing service in the office or employment.
4 Neither the Governor nor the commission, nor any other official,
5 shall grant an extension of these deadlines. Income information
6 reported in a financial disclosure statement filed on or before May
7 15 shall be for the prior calendar year. Income information reported
8 in a financial disclosure statement filed after May 15 shall be for
9 the prior calendar year and for the period between January 1 and the
10 fifth day preceding the date of filing in the current calendar year.

11 (o) The commission shall prepare and ensure the distribution to
12 each State officer and employee and special State officer and
13 employee in a State agency in the Executive Branch of a plain
14 language ethics guide which provides a clear and concise summary
15 of the laws, regulations, codes, orders, procedures, advisory
16 opinions and rulings concerning ethical standards applicable to such
17 officers and employees. The guide shall be prepared to promote
18 ethical day-to-day decision making, to give general advice
19 regarding conduct and situations, to provide easy reference to
20 sources, and to explain the role, activities and jurisdiction of the
21 State Ethics Commission. Each State officer and employee and
22 special State officer and employee shall certify that he or she has
23 received the guide, reviewed it and understands its provisions.

24 (p) The commission shall have jurisdiction to enforce the
25 provisions of an Executive Order that specifically provides for
26 enforcement by the commission.

27 (cf: P.L.2005, c.382, s.1)

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29 2. During 2010, any person who files a financial disclosure
30 statement with the State Ethics Commission, as required by law,
31 regulation or executive order, after May 15 shall include income
32 information for the period commencing January 1, 2009 and ending
33 on the fifth day preceding the filing of the statement.

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35 3. This act shall take effect immediately.

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STATEMENT

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40 This bill provides that financial disclosure statements which are
41 required to be submitted to the State Ethics Commission by law,
42 regulation or executive order must be filed with the commission not
43 later than May 15 of each calendar year. However, a person who
44 accepts an office or employment after the 120th day preceding May
45 15 in a calendar year, which makes that person subject to financial
46 disclosure, will file a financial disclosure statement with the
47 commission no later than 120 days after commencing service in the
48 office or employment. The bill expressly prohibits the Governor,

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1 the commission, or any other official, from granting an extension of
2 these deadlines. It also provides that income information reported
3 in a financial disclosure statement filed on or before May 15 in any
4 calendar year will be for the prior calendar year. Income
5 information reported in a financial disclosure statement filed after
6 May 15 will be for the prior calendar year and for the period
7 between January 1 and the fifth day preceding the date of filing of
8 the current calendar year.

9 The bill specifically provides that during 2010, any person who
10 files a financial disclosure statement with the State Ethics
11 Commission, as required by law, regulation or executive order, after
12 May 15 must include income information for the period
13 commencing January 1, 2009 and ending on the fifth day preceding
14 the filing of the statement.