

ASSEMBLY, No. 1298

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman GREENWALD

1 AN ACT concerning ethical standards for State officers and employees,  
2 special State officers and employees and members of the  
3 Legislature, reconstituting the Executive Commission on Ethical  
4 Standards and amending and supplementing P.L.1971, c.182.

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

8  
9 1. (New section) This act shall be known and may be cited as the  
10 "Comprehensive Ethics Reform Act of 1992."

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

14 2. As used in this act, and unless a different meaning clearly  
15 appears from the context, the following terms shall have the following  
16 meanings:

17 a. "State agency" means the office of the Governor, any of the  
18 principal departments in the Executive Branch of the State  
19 Government, and any division, board, bureau, office, commission or  
20 other instrumentality within or created by or allocated to such  
21 department, the Legislature of the State and any office, board, bureau  
22 or commission within or created by the Legislative Branch, and, to the  
23 extent consistent with law, any interstate agency to which New Jersey  
24 is a party and any independent State authority, commission,  
25 instrumentality or agency. A county or municipality shall not be  
26 deemed an agency or instrumentality of the State.

27 b. "State officer or employee" means any person, other than a  
28 special State officer or employee (1) holding an office or employment  
29 in a State agency, excluding an interstate agency, other than a member  
30 of the Legislature or (2) appointed as a New Jersey member to an  
31 interstate agency.

32 c. "Member of the Legislature" means any person elected to serve

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

**Matter underlined thus is new matter.**

1 in the General Assembly or the Senate.

2 d. "Head of a State agency" means (1) in the case of the Executive  
3 Branch of government, except with respect to interstate agencies, the  
4 department head or, if the agency is not [assigned] allocated to a  
5 department[, the Governor,] or is allocated to but is not subject to the  
6 supervision or control of a department, the governing body or chief  
7 executive officer of the agency, and (2) in the case of the Legislative  
8 Branch, the chief presiding officer of each House of the Legislature.

9 e. "Special State officer or employee" means (1) any person  
10 holding an office or employment in a State agency, excluding an  
11 interstate agency, for which office or employment no compensation is  
12 authorized or provided by law, or no compensation other than a sum  
13 in reimbursement of expenses, whether payable per diem or per annum,  
14 is authorized or provided by law; (2) any person, not a member of the  
15 Legislature, holding a part-time elective or appointive office or  
16 employment in a State agency, excluding an interstate agency, or (3)  
17 any person appointed as a New Jersey member to an interstate agency  
18 the duties of which membership are not full-time.

19 f. "Person" means any natural person, association or corporation.

20 g. "Interest" means (1) the ownership or control of more than 10%  
21 of the profits or assets of a firm, association, or partnership, or more  
22 than 10% of the stock in a corporation for profit other than a  
23 professional service corporation organized under the "Professional  
24 Service Corporation Act," P.L.1969, c.232 (C.14A:17-1 et seq.); or  
25 (2) the ownership or control of more than 1% of the profits of a firm,  
26 association, or partnership, or more than 1% of the stock in any  
27 corporation, which is the holder of, or an applicant for, a casino  
28 license or in any holding or intermediary company with respect  
29 thereto, as defined by the "Casino Control Act," P.L.1977, c.110  
30 (C.5:12-1 et seq.). The provisions of this act governing the conduct  
31 of individuals are applicable to shareholders, associates or professional  
32 employees of a professional service corporation or of any other firm,  
33 partnership or association that provides professional services  
34 regardless of the extent or amount of their shareholder interest in such  
35 a corporation or of the amount of the assets or profits of the firm,  
36 partnership or association that they control.

37 h. "Cause, proceeding, application or other matter" means a  
38 specific cause, proceeding or matter and does not mean or include  
39 determinations of general applicability or the preparation or review of  
40 legislation which is no longer pending before the Legislature or the  
41 Governor.

42 i. "Member of the immediate family" of any person means the  
43 person's spouse, child, parent or sibling residing in the same  
44 household.

45 j. "Code of ethics" means the code of ethics promulgated for the  
46 Executive Branch of the State Government or the Legislative Branch

1 of the State Government pursuant to section 12 of P.L.1971, c.182  
2 (C.52:13D-23), and any code of ethics adopted by a State agency  
3 pursuant to that section to apply to the particular needs and problems  
4 of that agency.

5 (cf: P.L.1987, c.432, s.2)

6  
7 3. Section 6 of P.L.1971, c.182 (C.52:13D-17) is amended to read  
8 as follows:

9 6. a. No State officer or employee or special State officer or  
10 employee, subsequent to the termination of his office or employment  
11 in any State agency, shall represent, appear for, negotiate on behalf of,  
12 or provide information not generally available to members of the  
13 public or services to, or agree to represent, appear for, negotiate on  
14 behalf of, or provide information not generally available to members  
15 of the public or services to, whether by himself or through any  
16 partnership, firm or corporation in which he has an interest or through  
17 any partner, officer or employee thereof, any person or party other  
18 than the State in connection with any cause, proceeding, application  
19 or other matter with respect to which such State officer or employee  
20 or special State officer or employee shall have made any investigation,  
21 rendered any ruling, given any opinion, or been otherwise substantially  
22 and directly involved at any time during the course of his office or  
23 employment.

24 b. For two years next subsequent to the termination of his office or  
25 employment, no State officer or employee or special State officer or  
26 employee shall represent, appear for, negotiate on behalf of, or provide  
27 information not generally available to members of the public or  
28 services to, or agree to represent, appear for, negotiate on behalf of,  
29 or provide information not generally available to members of the  
30 public or services to any person or party other than the State in  
31 connection with any cause, proceeding, application or other matter  
32 over which the State officer or employee or special State officer or  
33 employee had supervisory responsibility at any time during his office  
34 or employment. The provisions of this subsection shall not apply to  
35 any partnership, firm or corporation in which such person has an  
36 interest or is employed, or to any partner, officer, director or employee  
37 of such partnership, firm or corporation.

38 c. For one year next subsequent to the termination of the office or  
39 employment of any State officer or employee or special State officer  
40 or employee who was subject to mandatory financial disclosure by law  
41 or executive order during the office or employment, no such State  
42 officer or employee or special State officer or employee, whether or  
43 not for compensation, shall knowingly make, with the intent to  
44 influence, any communication to or appearance before any officer or  
45 employee of the State agency in which such person served on behalf  
46 of any person or party other than the State in connection with any

1 cause, proceeding, application or other matter in which an officer or  
2 employee of the State agency had the authority or responsibility to  
3 render a final decision or to take final action. For purposes of this  
4 subsection, "State agency" means: (1) in the case of a State officer  
5 or employee or special State officer or employee who serves in an  
6 agency that is a principal department or that is allocated to a principal  
7 department, the department and all entities allocated to the  
8 department; (2) in the case of a State officer or employee or special  
9 State officer or employee who serves on or in an independent State  
10 authority commission, instrumentality, or agency, the independent  
11 State authority, commission, instrumentality, or agency; (3) in the case  
12 of a State officer or employee or special State officer or employee  
13 appointed as a New Jersey member to an interstate agency, the  
14 interstate agency; and (4) in the case of a State officer or employee or  
15 special State officer or employee who serves in the Office of the  
16 Governor, the Office of the Governor. The provisions of this  
17 subsection shall not apply to any partnership, firm or corporation in  
18 which such person has an interest or is employed, or to any partner,  
19 officer, director of employee of such partnership, firm or corporation.

20 d. Any person who willfully violates the provisions of this section  
21 [is a disorderly person, and] shall be subject to a [fine not to exceed  
22 \$500.00 or imprisonment not to exceed six months, or both] civil  
23 penalty of not less than \$100 nor more than \$5,000. The Executive  
24 Commission on Ethical Standards and the Joint Legislative Committee  
25 on Ethical Standards shall have jurisdiction to initiate, receive, hear  
26 and review complaints regarding violations of this section by former  
27 officers and employees of their respective branches and, upon finding  
28 any person to have committed a violation of this section, to assess a  
29 civil penalty within the limits prescribed. A civil penalty imposed  
30 pursuant to this section shall be paid forthwith to the State Treasury  
31 for the general purposes of the State. Such penalty shall be  
32 enforceable in a summary proceeding under the "penalty enforcement  
33 law" (N.J.S.2A:58-1 et seq.). If the commission or joint committee,  
34 as appropriate, finds that the conduct of such former State officer or  
35 employee or such former special State officer or employee constitutes  
36 a willful and continuous disregard of the provisions of this section, it  
37 may bar such person from holding any public office or employment in  
38 this State in any capacity whatsoever for a period not exceeding five  
39 years from the date of its decision.

40 (cf: P.L.1987, c.432, s.4)

41

42 4. Section 7 of P.L.1971, c.182 (C.52:13D-18) is amended to read  
43 as follows:

44 7. (a) No member of the Legislature shall participate by voting or  
45 any other action, on the floor of the General Assembly or the Senate,  
46 or in committee or elsewhere, in the enactment or defeat of legislation

1 in which he has a personal interest until he files with the Clerk of the  
2 General Assembly or the Secretary of the Senate, as the case may be,  
3 a statement (which shall be entered verbatim on the journal of the  
4 General Assembly or the Senate) stating in substance that he has a  
5 personal interest in the legislation and that notwithstanding such  
6 interest, he is able to cast a fair and objective vote and otherwise  
7 participate in connection with such legislation.

8 (b) A member of the Legislature shall be deemed to have a personal  
9 interest in any legislation within the meaning of this section if, by  
10 reason of his participation in the enactment or defeat of any legislation,  
11 he has reason to believe that he will derive a direct monetary gain or  
12 suffer a direct monetary loss. No member of the Legislature shall be  
13 deemed to have a personal interest in any legislation within the  
14 meaning of this section if, by reason of his participation in the  
15 enactment or defeat of any legislation, no benefit or detriment could  
16 reasonably be expected to accrue to him, as a member of a business,  
17 profession, occupation or group, to any greater extent than any such  
18 benefit or detriment could reasonably be expected to accrue to any  
19 other member of such business, profession, occupation or group.

20 (c) Upon a finding by the Joint Legislative Committee on Ethical  
21 Standards that a member has a personal interest in the enactment or  
22 defeat of legislation, it shall direct the member to withdraw  
23 sponsorship of, or withdraw from participation in, the enactment or  
24 defeat of the legislation. Upon a finding that a member of the  
25 Legislature who is or has been appointed chair of a committee has a  
26 personal interest in the affairs of that committee, the joint committee  
27 shall direct the member to refuse the appointment or to resign the  
28 position.

29 (cf: P.L.1971, c.182, s.7)

30

31 5. Section 8 of P.L.1971, c.182 (C.52:13D-19), is amended to read  
32 as follows:

33 8. a. No member of the Legislature or State officer or employee  
34 shall knowingly himself, or by his partners or through any corporation  
35 which he controls or in which he owns or controls more than 1% of  
36 the stock, or by any other person for his use or benefit or on his  
37 account, undertake or execute, in whole or in part, any contract,  
38 agreement, sale or purchase of the value of \$25.00 or more, made,  
39 entered into, awarded or granted by any State agency, except as  
40 provided in subsection b. of this section. No special State officer or  
41 employee having any duties or responsibilities in connection with the  
42 purchase or acquisition of property or services by the State agency  
43 where he is employed or an officer shall knowingly himself, by his  
44 partners or through any corporation which he controls or in which he  
45 owns or controls more than 1% of the stock, or by any other person  
46 for his use or benefit or on his account, undertake or execute, in whole

1 or in part, any contract, agreement, sale or purchase of the value of  
2 \$25.00 or more, made, entered into, awarded or granted by that State  
3 agency, except as provided in subsection b. of this section. The  
4 restriction contained in this subsection shall apply to the contracts of  
5 interstate agencies to the extent consistent with law only if the  
6 contract, agreement, sale or purchase is undertaken or executed by a  
7 New Jersey member to that agency or by his partners or a corporation  
8 in which he owns or controls more than 1% of the stock.

9 b. The provisions of subsection a. of this section shall not apply to  
10 (a) purchases, contracts, agreements or sales which (1) are made or let  
11 after public notice and competitive bidding or which (2), pursuant to  
12 section 5 of chapter 48 of the laws of 1944 (C.52:34-10) or such other  
13 similar provisions contained in the public bidding laws or regulations  
14 applicable to other State agencies, may be made, negotiated or  
15 awarded without public advertising for bids, or (b) any contract of  
16 insurance entered into by the Director of the Division of Purchase and  
17 Property pursuant to section 10 of article 6 of chapter 112 of the laws  
18 of 1944 (C. 52:27B-62), if such purchases, contracts or agreements,  
19 including change orders and amendments thereto, shall receive prior  
20 approval of the Joint Legislative Committee on Ethical Standards if a  
21 member of the Legislature or State officer or employee or special  
22 State officer or employee in the Legislative Branch has an interest  
23 therein, or the Executive Commission on Ethical Standards if a State  
24 officer or employee or special State officer or employee in the  
25 Executive Branch has an interest therein.

26 c. Notwithstanding the provisions of section 4 of P.L.1971, c.182  
27 (C.52:13D-15) and subsections a. and b. of this section or any other  
28 law to the contrary, a State agency shall not lease or purchase real  
29 property, title to which is held, in whole or in part, by a State officer  
30 or employee or special State officer or employee, who is subject to  
31 mandatory financial disclosure by law or executive order, or a member  
32 of his or her immediate family, by any partnership, firm or corporation  
33 in which the officer or emoloyee has an interest, or by a trust of any  
34 nature into which the officer or employee has placed control of real  
35 property regardless of whether or not the officer or employee has  
36 retained control of the trust assets or has knowledge of the  
37 management of trust assets. A State agency may acquire real  
38 property, the acquisition of which is prohibited by this subsection, only  
39 pursuant to the "Eminent Domain Act of 1971," P.L. 1971, c.361  
40 (C.20:3-1 et seq.).

41 (cf: P.L.1987, c.432, s.5)

42

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

45 10. (a) The Executive Commission on Ethical Standards created  
46 pursuant to P.L.1967, chapter 229, and as continued and established

1 pursuant to P.L.1971, c.182, is continued and established in but not of  
2 the Department of Law and Public Safety and shall [constitute the first  
3 commission under this act] be independent of any supervision or  
4 control by the department or any board or office thereof.

5 (b) The commission shall be composed of seven members, four of  
6 whom shall be public members appointed by the Governor [from  
7 among State officers and employees serving in the Executive Branch.  
8 Each member shall serve at the pleasure of the Governor], no more  
9 than two of whom shall be of the same political party. The other three  
10 members shall be appointed by the Governor from among State  
11 officers or employees and special State officers or employees serving  
12 in the Executive Branch and shall serve during the term of office and  
13 at the pleasure of the Governor appointing [him and until his successor  
14 is] them and until their successors are appointed and have qualified.  
15 Each of the Executive Branch members may designate an officer or  
16 employee under his supervision to act on his behalf. The Governor  
17 shall designate one public member to serve as chairman and one public  
18 member to serve as vice-chairman of the commission, both to serve as  
19 such at his pleasure. The public members of the commission shall  
20 serve for terms of four years and until the appointment and  
21 qualification of their successors, but of the first members appointed,  
22 one shall serve for a term of one year, one for a term of two years, one  
23 for a term of three years and one for a term of four years.

24 Vacancies in the membership of the commission shall be filled in the  
25 same manner as the original appointments were made but, in the case  
26 of public members, for the unexpired term only. None of the public  
27 members shall be State officers or employees or special State officers  
28 or employees except by reason of their service on the commission.

29 (c) Each member of the [said] commission shall serve without  
30 compensation but shall be entitled to be reimbursed for all actual and  
31 necessary expenses incurred in the performance of his duties.

32 (d) The Attorney General shall act as legal adviser and counsel to  
33 the [said] commission. He shall upon request advise the commission  
34 in the rendering of advisory opinions by the commission, in the  
35 development of a uniform code of ethics, in the approval and review  
36 of codes of ethics adopted by State agencies in the Executive Branch  
37 [and], in the recommendation of revisions in codes of ethics or  
38 legislation relating to the conduct of State officers [and] or employees  
39 or special State officers or employees in the Executive Branch, and in  
40 the performance of any of its other duties under this act.

41 (e) The [said] commission [may], within the limits of funds  
42 appropriated or otherwise made available to it for the purpose, may  
43 employ [such] other professional, technical, clerical or other assistants,  
44 excepting legal counsel, and incur [such] expenses as may be necessary  
45 for the performance of its duties.

46 (f) The [said] commission, in order to perform its duties pursuant

1 to the provisions of this act, shall have the power to conduct  
2 investigations, hold hearings, compel the attendance of witnesses and  
3 the production before it of such books and papers as it may deem  
4 necessary, proper and relevant to the matter under investigation. The  
5 members of the [said] commission and the persons appointed by the  
6 commission for such purpose are hereby empowered to administer  
7 oaths and examine witnesses under oath.

8 (g) The [said] commission is authorized to render advisory opinions  
9 as to whether a given set of facts and circumstances would, in its  
10 opinion, constitute a violation of the provisions of this act, [or of] a  
11 code of ethics promulgated pursuant to the provisions of this act, or  
12 an executive order in which the Governor has granted the commission  
13 jurisdiction of its provisions. These advisory opinions shall be filed  
14 with the commission and shall be public records, but no opinion so  
15 filed shall contain the name of the person or persons who shall have  
16 requested the opinion. The commission is also authorized to develop  
17 methods to assist any State officer or employee and any special State  
18 officer or employee in understanding and complying with the  
19 obligations of that officer or employee under this act.

20 (h) The [said] commission shall have jurisdiction to initiate, receive,  
21 hear and review complaints regarding violations, by any State officer  
22 or employee or special State officer or employee in the Executive  
23 Branch, of the provisions of this act [or], of any code of ethics  
24 promulgated pursuant to the provisions of this act or of any executive  
25 order in which the Governor has granted the commission jurisdiction.  
26 Any complaint regarding a violation of a code of ethics or such  
27 executive order may be referred by the commission for disposition in  
28 accordance with subsection 12(d) of this act.

29 (i) The commission shall prepare and publish, prior to May 1 of  
30 each year, an annual report to the Governor and the Legislature.

31 [(i)]j. Any State officer or employee or special State officer or  
32 employee in the Executive Branch found [guilty by the commission of  
33 violating] by the commission to have violated any provision of this act  
34 [or of], a code of ethics promulgated pursuant to the provisions of this  
35 act or an executive order in which the Governor has granted the  
36 commission jurisdiction of its provisions shall be fined not less than  
37 \$100.00 nor more than ~~[\$500.00]~~ \$5000, which penalty may be  
38 collected in a summary proceeding pursuant to [the Penalty  
39 Enforcement Law (N.J.S.2A:58-1)] "the penalty enforcement law"  
40 (N.J.S.2A:58-1 et seq.), and may be suspended from his office or  
41 employment by order of the commission for a period of not in excess  
42 of [1] one year. If the commission finds that the conduct of such  
43 officer or employee constitutes a willful and continuous disregard of  
44 the provisions of this act or [of a], code of ethics promulgated  
45 pursuant to the provisions of this act or an executive order in which  
46 the Governor has granted the commission jurisdiction of its provisions,

1 it may order such person removed from his office or employment and  
2 may further bar such person from holding any public office or  
3 employment in this State in any capacity whatsoever for a period of  
4 not exceeding [5] five years from the date on which he was found  
5 [guilty] to have violated any provision of this act, code or executive  
6 order by the commission.

7 Notwithstanding the provisions of this subsection to the contrary,  
8 any constitutional officer subject to this act, a code of ethics  
9 promulgated pursuant to the provisions of this act or an executive  
10 order in which the Governor has granted the commission jurisdiction  
11 of its provisions may not be suspended or barred from office or  
12 employment but shall be subject to impeachment as provided in Article  
13 VII, Section III, para. 1 of the New Jersey Constitution.

14 (k) The commission shall be assigned suitable quarters.

15 (cf: P.L.1971, c.182, s.10)

16

17 7. Section 12 of P.L.1971, c.182 (C.52:13D-23) is amended to  
18 read as follows:

19 12. (a) The [head of each State agency, or the principal officer in  
20 charge of a division, board, bureau, commission or other  
21 instrumentality within a department of State Government designated  
22 by the head of such department for the purposes hereinafter set  
23 forth,] commission shall within six months from the [date of  
24 enactment,] effective date of this amendatory and supplementary act,  
25 P.L. , c. , (now pending before the Legislature as this bill),  
26 promulgate and revise from time to time a code of ethics to govern  
27 and guide the conduct of [the members of the Legislature, the] State  
28 officers [and] or employees [or the] and special State officers [and] or  
29 employees in the [agency to which said code is applicable] Executive  
30 Branch of the State Government. Such code shall conform to the  
31 general standards [hereinafter] set forth in paragraphs (1) through (7)  
32 of subsection (e) of this section[, but it shall be formulated with  
33 respect to the particular needs and problems of the agency to which  
34 said code is to apply]. The head of a State agency may adopt a code  
35 of ethics, the provisions of which shall be at least as stringent as those  
36 of the uniform code, to apply to the particular needs and problems of  
37 the agency, provided that the State agency code of ethics is approved  
38 by the commission. Notwithstanding any other provisions of this  
39 section, the New Jersey members to any interstate agency to which  
40 New Jersey is a party and the officers and employees of any State  
41 agency which [fails to] does not promulgate [a] its own code of ethics  
42 shall be deemed to be subject to [a] the uniform code of ethics [the  
43 provisions of which shall be paragraphs (1) through (6) of subsection  
44 (e) of this section] promulgated pursuant to this subsection.

45 (b) [A code of ethics formulated pursuant to this section to govern  
46 and guide the conduct of the State officers and employees or the

1 special State officers and employees in any State agency in the  
2 Executive Branch, or any portion of such a code, shall not be effective  
3 unless it has first been approved by the Executive Commission on  
4 Ethical Standards. When a proposed code is submitted to the said  
5 commission it shall be accompanied by an opinion of] Prior to the  
6 adoption of a uniform code the Attorney General shall provide an  
7 opinion as to its compliance with the provisions of this act and any  
8 other applicable provision of law. Nothing contained herein shall  
9 prevent officers of State agencies in the Executive Branch from  
10 consulting with the Attorney General or with the Executive  
11 Commission on Ethical Standards at any time in connection with the  
12 preparation or revision of [such] codes of ethics.

13 (c) A code of ethics shall be formulated pursuant to this section to  
14 govern and guide the conduct of the members of the Legislature, State  
15 officers [and] or employees or special State officers and employees in  
16 any State agency in the Legislative Branch[, or any portion of such  
17 code,] and shall not be effective unless it has first been approved by  
18 the Legislature by concurrent resolution. A State agency in the  
19 Legislative Branch may adopt a code of ethics, the provisions of which  
20 shall not be inconsistent with the Legislative Code of Ethics, to apply  
21 to the particular needs and problems of the agency, provided that the  
22 State agency code of ethics is approved in accordance with this  
23 subsection. When a proposed code is submitted to the Legislature for  
24 approval it shall be accompanied by an opinion of the [chief counsel]  
25 Legislative Counsel as to its compliance with the provisions of this act  
26 and any other applicable provisions of law. Nothing contained herein  
27 shall prevent officers of State agencies in the Legislative Branch from  
28 consulting with the [Chief] Legislative Counsel or the Joint Legislative  
29 Committee on Ethical Standards at any time in connection with the  
30 preparation or revision of such codes of ethics.

31 (d) Violations of a code of ethics promulgated pursuant to this  
32 section or an executive order in which the Governor has granted the  
33 commission jurisdiction of its provisions shall be cause for removal,  
34 suspension, demotion or other disciplinary action by the State officer  
35 or agency having the power of removal or discipline. When a person  
36 who is in the [classified civil] career service is charged with a violation  
37 of such a code of ethics, the procedure leading to such removal or  
38 discipline shall be governed by any applicable provisions of the Civil  
39 Service [Law] Act and the Rules of the Department of [Civil Service]  
40 Personnel. No action for removal or discipline shall be taken under this  
41 subsection except upon the referral or with the approval of the  
42 Executive Commission on Ethical Standards or the Joint Legislative  
43 Committee on Ethical Standards, whichever is authorized to exercise  
44 jurisdiction with respect to the complaint upon which such action for  
45 removal or discipline is to be taken.

46 (e) A code of ethics for officers and employees of a State agency

1 shall conform to the following general standards:

2 (1) No State officer or employee or special State officer or  
3 employee should have any interest, financial or otherwise, direct or  
4 indirect, or engage in any business or transaction or professional  
5 activity, which is in substantial conflict with the proper discharge of  
6 his duties in the public interest.

7 (2) No State officer or employee or special State officer or  
8 employee should engage in any particular business, profession, trade  
9 or occupation which is subject to licensing or regulation by a specific  
10 agency of State Government without promptly filing notice of such  
11 activity with the Executive Commission on Ethical Standards, if he is  
12 an officer or employee in the Executive Branch, or with the Joint  
13 Legislative Committee on Ethical Standards, if he is an officer or  
14 employee in the Legislative Branch.

15 (3) No State officer or employee or special State officer or  
16 employee should use or attempt to use his official position to secure  
17 unwarranted privileges or advantages for himself or others.

18 (4) No State officer or employee or special State officer or  
19 employee should act in his official capacity in any matter wherein he  
20 has a direct or indirect personal financial interest that might reasonably  
21 be expected to impair his objectivity or independence of judgment.

22 (5) No State officer or employee or special State officer or  
23 employee should undertake any employment or service, whether  
24 compensated or not, which might reasonably be expected to impair his  
25 objectivity and independence of judgment in the exercise of his official  
26 duties.

27 (6) No State officer or employee or special State officer or  
28 employee should accept any gift, favor, service or other thing of value  
29 under circumstances from which it might be reasonably inferred that  
30 such gift, service or other thing of value was given or offered for the  
31 purpose of influencing him in the discharge of his official duties.

32 (7) No State officer or employee or special State officer or  
33 employee should knowingly act in any way that might reasonably be  
34 expected to create an impression or suspicion among the public having  
35 knowledge of his acts that he may be engaged in conduct violative of  
36 his trust as a State officer or employee or special State officer or  
37 employee.

38 (8) Rules of conduct adopted pursuant to these principles should  
39 recognize that under our democratic form of government public  
40 officials and employees should be drawn from all of our society, that  
41 citizens who serve in government cannot and should not be expected  
42 to be without any personal interest in the decisions and policies of  
43 government; that citizens who are government officials and employees  
44 have a right to private interests of a personal, financial and economic  
45 nature; that standards of conduct should separate those conflicts of  
46 interest which are unavoidable in a free society from those conflicts of

1 interest which are substantial and material, or which bring government  
2 into disrepute.

3 (f) The code of ethics for members of the Legislature shall conform  
4 to subsection (e) hereof as nearly as may be possible.

5 (cf: P.L.1987, c.432, s.6)

6

7 8. Section 13 of P.L.1971, c.182 (C.52:13D-24) is amended to  
8 read as follows:

9 13. No State officer or employee, special State officer or  
10 employee, or member of the Legislature shall solicit, receive or agree  
11 to receive, whether directly or indirectly, any compensation, reward,  
12 employment, gift or other thing of value from any source other than  
13 the State of New Jersey, for any service, advice, assistance or other  
14 matter related to his official duties, except, with respect only to a State  
15 officer or employee or special State officer or employee and only if  
16 permitted by the code of ethics by which the officer or employee is  
17 governed, reasonable fees for speeches or published works on matters  
18 within his official duties and except, in connection therewith,  
19 reimbursement of actual expenditures for travel and reasonable  
20 subsistence for which no payment or reimbursement is made by the  
21 State of New Jersey. This section shall not apply to the solicitation or  
22 acceptance of contributions to the campaign of an announced  
23 candidate for elective public office.

24 (cf: P.L.1971, c.182, s.13)

25

26 9. (New section) a. Every member of the Legislature, and each  
27 senior member of legislative staff as determined by the Joint  
28 Legislative Committee on Ethical Standards, shall annually file a sworn  
29 and duly notarized statement which is current as of five days prior to  
30 the date of filing. Each statement shall include the following  
31 information:

32 (1) any occupation, trade, business or profession engaged in by the  
33 member, his or her spouse, and dependent children which is subject to  
34 a licensing or regulation by a State agency;

35 (2) a list of all assets having a value of more than \$1,000, both  
36 tangible and intangible, in which a direct or indirect interest is held by  
37 the member, his or her spouse, and dependent children, valued as of  
38 the statement date; provided, however, that when the value cannot be  
39 determined as of that date, a separate valuation date shall be specified  
40 for the particular asset. Where stocks and bonds are involved, there  
41 shall be included the name of the company or government agency  
42 issuing them, except that whenever such interest exists through  
43 ownership in a mutual fund or holding company, the stocks held by  
44 such mutual fund or holding company need not be listed; whenever  
45 such interest exists through a beneficial interest in a trust, the stocks  
46 and bonds held in such trust shall be listed only if the member has

1 knowledge of what stocks and bonds are so held. Where more than  
2 10% of the stock of a corporation is held, the percentage of ownership  
3 shall be stated. The list shall include any direct or indirect interest,  
4 whether vested or contingent, any contract made or executed by a  
5 government instrumentality. In the case of real estate interests, there  
6 shall be given the location, including municipality and block and lot  
7 number, size, general nature and acquisition date of any real property  
8 in New Jersey in which any direct, indirect, vested or contingent  
9 interest is held, together with the names of all individuals or entities  
10 who share a direct or indirect interest therein and the name of any  
11 government instrumentality that is a tenant of such property or that  
12 has before it an application, complaint or proceeding directly affecting  
13 such property. Assets of a member and his or her spouse shall be  
14 listed according to the following value categories:

- 15 (i) greater than \$1,000, but not more than \$5,000;
- 16 (ii) greater than \$5,000, but not more than \$25,000;
- 17 (iii) greater than \$25,000, but not more than \$50,000;
- 18 (iv) greater than \$50,000, but not more than \$100,000;
- 19 (v) greater than \$100,000, but not more than \$250,000;
- 20 (vi) greater than \$250,000.

21 The value of assets of the dependent children of the member need  
22 not be disclosed unless specifically requested by the Joint Legislative  
23 Committee on Ethical Standards. Disclosure of assets pursuant to this  
24 paragraph may be waived by the committee upon the establishment of  
25 a blind trust. The trustee shall be selected at random from a list of  
26 qualified financial managers prepared by the committee. In preparing  
27 the list the committee shall solicit the opinion of a major organization  
28 representing the interests of and largely composed of certified public  
29 accountants with respect to the qualifications of financial managers;

30 (3) A list of all liabilities of the member, his or her spouse, and  
31 dependent children, valued by category in the same manner as required  
32 by paragraph (2) of this subsection, except liabilities which are:

- 33 (i) less than \$10,000 and owed to a relative as defined in  
34 subsection d. of this section;
- 35 (ii) less than \$1,000 and owed to any other person;
- 36 (iii) loans secured by a personal motor vehicle, household furniture  
37 or appliances where the loan did not exceed the purchase price of the  
38 item and the outstanding balance did not exceed \$10,000 as of the  
39 close of the preceding calendar year; and
- 40 (iv) revolving charge accounts where the outstanding liability does  
41 not exceed \$10,000 as of the close of the preceding calendar year;

42 (4) a list of all liabilities otherwise subject to disclosure pursuant  
43 to paragraph (3) of this subsection of the member, his or her spouse,  
44 and dependent children which have been forgiven by the creditor  
45 within twelve months of the statement date. For each such forgiven  
46 liability so listed, the name of the creditor to whom such liability was

1 owed shall be stated;

2 (5) a list of all sources of income of the member, his or her spouse,  
3 and dependent children including all compensated employment of  
4 whatever nature, all directorships or other fiduciary positions for  
5 which compensation has or will be claimed, all capital gains including  
6 a description of the individual sources of such gains, all contractual  
7 arrangement producing or expected to produce income including, but  
8 not limited to interest, dividends, royalties and rents. Statements shall  
9 provide the amounts and sources of income for the twelve-month  
10 period immediately preceding the filing date of the statement. The  
11 amounts of such income received shall be listed and valued by  
12 category in the same manner as required by paragraph (2) of this  
13 subsection. The amount of income of the dependent children of the  
14 member need not be disclosed unless specifically requested by the  
15 Joint Legislative Committee on Ethical Standards. Not required to be  
16 reported as a source of income are:

17 (i) cash gifts in an aggregated amount of less than \$100 received  
18 during the preceding 12 months from a person;

19 (ii) non-cash gifts with an aggregated fair market value of less than  
20 \$200 received during the preceding 12 months from a person; and

21 (iii) gifts with an aggregated cash or fair market value of less than  
22 \$3,000 received during the preceding 12 months from a relative;

23 (6) A list of any offices, trusteeships, directorships or positions of  
24 any nature whether compensated or uncompensated, held by the  
25 member, his or her spouse, and dependent children with any firm,  
26 corporation, association, partnership or business that either does  
27 business with or is licensed, regulated or inspected by a State agency.

28 b. Each statement shall contain a certification by the member that  
29 he or she has read the statement, that to the best of his or her  
30 knowledge and belief it is true, correct and complete and that he or she  
31 has not and will not transfer any asset, interest or property for the  
32 purpose of concealing it from disclosure while retaining an equitable  
33 interest therein.

34 c. The Joint Legislative Committee on Ethical Standards shall  
35 prescribe the form of the disclosure statement required to be filed by  
36 this section. Initial financial disclosure statements shall be filed within  
37 90 days following the effective date of this amendatory and  
38 supplementary act, P.L. , c. (now pending before the Legislature  
39 as this bill). Thereafter, statements shall be filed on or before May  
40 15th each year. The committee shall review each completed statement  
41 to determine its conformity with the provisions of this section and  
42 other applicable laws and shall file and maintain a copy of its for public  
43 inspection and copying in accordance with the procedures set forth in  
44 P.L.1963, c.73 (C.47:1A-1 et seq.).

45 d. For purposes of this section, (1) "government instrumentality"  
46 means the Legislative, Judicial and Executive Branches of State

1 government, including any office, department, bureau board,  
2 commission, council, authority or agency therein and any county,  
3 municipality, district, public authority, public agency or other political  
4 subdivision or public body in the State; and (2) "relative" means a son,  
5 daughter, grandson, granddaughter, father, mother, grandfather,  
6 grandmother, great-grandfather, great-grandmother, brother, sister,  
7 nephew, niece, uncle, or aunt. Relatives by adoption, half-blood,  
8 marriage or re-marriage shall be treated as relatives of the whole  
9 kinship.

10

11 10. (New section) a. Notwithstanding the provisions of sections  
12 4 and 8 of P.L.1971, c.182 (C.52:13D-15 et al) or any other law to the  
13 contrary and except as provided in subsection b. of this section, a  
14 State agency shall not lease or purchase real property, title to which  
15 is held, in whole or in part, by a member of the Legislature or federal  
16 elected official or a member of his or her immediate family, by any  
17 partnership, firm or corporation in which the member or federal  
18 elected official has an interest, or by a trust of any nature into which  
19 a member or federal elected official has placed control of real property  
20 regardless of whether or not the member or federal elected official has  
21 retained control of the trust assets or has knowledge of the  
22 management of trust assets.

23 b. A State agency may acquire real property the acquisition of  
24 which is prohibited by subsection a. of this section only pursuant to the  
25 "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.)

26 c. For purposes of this section, "interest" means (1) the ownership  
27 or control of more than 1% of the profits or assets of a firm,  
28 association, or partnership, or more than 1% of the stock in a  
29 corporation for profit other than a professional service corporation  
30 organized under the "Professional Service Corporation Act,"  
31 P.L.1969, c.232 (C.14A-17-1 et seq.); and (2) the holding of the status  
32 of shareholder, associate, partner, or professional employee of a  
33 professional service corporation or of any other firm, partnership or  
34 association that provides professional services regardless of the extent  
35 or amount of shareholder interest in the corporation or of the amount  
36 of the assets or profits of the firm, partnership or association owned  
37 or controlled.

38

39 11. (New section) a. Any code of ethics in effect on the effective  
40 date of this amendatory and supplementary act, P.L. , c. , shall  
41 continue in effect until the operative date of the uniform code of  
42 ethics, and on the operative date thereof the uniform code of ethics  
43 shall supersede any provisions of a code of ethics heretofore in effect  
44 that was formulated for a State agency with respect to its particular  
45 needs and problems, unless and until the State agency adopts a code  
46 of ethics to apply to the particular needs and problems of that agency

1 pursuant to the provisions of section 12 of P.L.1971, c.182  
2 (C.52:13D-23).

3 b. With respect to any request for an advisory opinion or any  
4 complaint pending on the operative date of the uniform code or  
5 initiated after the operative date of the uniform code and involving a  
6 set of facts which would constitute a violation if committed prior to  
7 that date:

8 (1) The procedural provisions of the uniform code shall govern,  
9 insofar as they are justly applicable and their application does not  
10 introduce confusion or delay;

11 (2) The commission, with the consent of the person against whom  
12 a complaint is filed, may impose fines or penalties under the provisions  
13 of the uniform code;

14 (3) The commission shall, if the violation is no longer a violation  
15 under the provisions of the uniform code, dismiss the complaint;

16 (4) A State agency shall, if the violation is no longer a violation  
17 under the provisions of the uniform code, cease any disciplinary action  
18 based on the violation.

19 c. In order to effect an orderly transition and ensure the continuous  
20 functioning of the commission, the term of each member of the  
21 Executive Commission on Ethical Standards in office on the effective  
22 date of this amendatory and supplementary act, P.L. , c. , shall  
23 continue until and terminate upon the appointment by the Governor of  
24 a replacement public member or Executive Branch member pursuant  
25 to subsection (b) of section 10 of P.L.1971, c.182 (C.52:13D-21).  
26 Any person serving as a member of the commission on the effective  
27 date of this act may, if otherwise qualified, be appointed as a member  
28 of the commission..

29

30 12. This act shall take effect immediately, except that the  
31 amendments in section 3 of subsections b. and c. of section 6 of  
32 P.L.1971, c.182 (C.52:13D-17) regarding post-employment  
33 restrictions shall be operative with respect to persons who, on the  
34 effective date of this act, are State officers or employees or special  
35 State officers or employees 180 days after the date of enactment.

36

37

38

#### STATEMENT

39

40 This bill would implement the most significant revision,  
41 strengthening, and expansion of the State's Conflicts of Interest Law  
42 since its inception. There are nine major provisions in the bill.

43 1. The bill would impose new post-employment restrictions on  
44 Executive Branch officers and employees.

45 Current law permanently bans a former State officer or employee  
46 or special State officer or employee from representing any party other

1 than the State in any specific matter in which the officer or employee  
2 was "substantially and directly involved" while in government. This  
3 ban applies to all officers and employees. It also applies to any firm  
4 that the officer or employee joins after leaving government and to the  
5 partners and employees of the firm. This restriction would be retained  
6 in the bill.

7 The bill would add a new two-year restriction on all State officers  
8 and employees and special State officers or employees to cover  
9 situations not covered by the existing restriction. A former officer or  
10 employee could not represent a party other than the State in any  
11 specific matter over which the person had "supervisory responsibility"  
12 at any time while in government. This restriction would be personal  
13 to the former officer or employee; it would not apply to the firm or its  
14 partners or employees.

15 Current law does not address the issue of the appearance of a  
16 conflict of interest in the post-employment context. The bill would  
17 impose a one-year restriction that would apply to every State officer  
18 or employee or special State officer or employee who must file a  
19 financial disclosure statement. Approximately 1,000 people must file  
20 statements pursuant to Executive Order Nos. 1 and 9 (Florio -- 1990).  
21 Another 1,000 must file pursuant to the Casino Control Act, P.L.1977,  
22 c.110 (C.5:12-1 et seq.). During the one-year period, the person  
23 could not communicate with or appear before the agency the person  
24 formerly served in.

25 2. The bill would close a loophole in the current Conflicts Law.

26 Professionals who are employed in professional service partnerships  
27 are treated differently than professionals who are employed in  
28 professional service corporations. The bill would resolve this  
29 discrepancy.

30 3. Greater financial disclosure would be required by legislators and  
31 senior legislative staff members.

32 Among all elected and top-level appointed officials at any level of  
33 government in New Jersey, members of the Legislature have the  
34 weakest financial disclosure requirement. The statement they file  
35 reveals much less than the form filed by Executive Branch officers  
36 under Executive Order No. 1 (Florio -- 1990) and the form filed by  
37 local government and school district officials under the Local  
38 Government Ethics Law, P.L.1991, c.29, (C.40A:9-22.1 et seq.) and  
39 the School Ethics Act, P.L.1991, c.393, (C.18A:12-21 et seq.)  
40 respectively. The bill would require disclosures identical to those  
41 required under Executive Order No. 1. This provision would apply to  
42 all legislators and to such senior legislative staff as determined by the  
43 Joint Legislative Committee on Ethical Standards.

44 4. Personal interest voting by legislators would be prohibited.

45 Current law allows a legislator to vote on a bill in which he or she  
46 has a personal interest so long as the legislator discloses the interest

1 and decides that the holding of the interest will not impair objectivity.  
2 This provision of the bill, which is identical to a bill currently pending  
3 sponsored by Senator Brown (Senate No. 67 of 1992), would bar a  
4 legislator from voting on a bill in which the legislator has a personal  
5 interest.

6 5. The bill would ban the receipt of honoraria by legislators and  
7 clarify the ability of State agencies to ban the receipt of honoraria by  
8 their officers and employees.

9 Legislators would be forbidden from accepting any honoraria. This  
10 is consistent with the recommendation of the bipartisan Ad Hoc  
11 Commission on Legislative Ethics and Campaign Finance Reform  
12 (AHC), which conducted numerous hearings and issued a series of  
13 recommendations in 1990. Also, the bill would ratify the current  
14 practice in some State agencies of banning honoraria except in very  
15 limited circumstances.

16 6. New restrictions would be imposed on State agency leases.

17 This provision of the bill is modeled on Assemblyman Russo's bill,  
18 Assembly No. 1072 of 1992, but would go further. That bill forbids  
19 agencies from entering leases where a legislator, his firm, or a trustee  
20 (even if the trust is a "blind trust") holds an interest in the property.  
21 Interest is defined as 10% or greater ownership.

22 Under this bill, the leasing ban would extend to property in which  
23 the legislator's spouse or other immediate family member has an  
24 interest. Also, "interest" would be defined more broadly, as it now is  
25 in the law banning State contracts with State officers or employees, to  
26 mean 1% or greater ownership. Also, current law relating to  
27 Executive Branch officers and employees would be tightened to ban  
28 leases of property owned by officers and employees subject to  
29 mandatory financial disclosure. In order to avoid potential  
30 constitutional issues, the proposal would hold harmless current leases  
31 and would not require divestiture by those who are elected or  
32 appointed after a lease has been executed.

33 7. The bill would reconstitute the Executive Commission on  
34 Ethical Standards to make a majority of the members public members.

35 Currently, all seven members are State officers or employees.  
36 Under the bill, four of the seven would be public members. The other  
37 three would be State officers or employees.

38 8. The enforcement powers of the Executive Commission would be  
39 clarified.

40 The commission would have explicit authority to enforce the  
41 provisions of executive orders that give the commission jurisdiction  
42 and to render advisory opinions about such orders. An example of this  
43 type of order is Executive Order No. 1, which requires numerous  
44 officials to file financial disclosure statements.

45 9. The bill would raise the maximum penalty for a violation of the  
46 ethics law, a code of ethics, or an executive order.

1 Under the bill, the maximum penalty would be raised from \$500 to  
2 \$5,000. The minimum monetary penalty of \$100 would remain.

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7 The "Comprehensive Ethics Reform Act of 1992"; clarifies and  
8 strengthens ethical standards applicable to State officers and  
9 employees, special State officers and employees and members of the  
10 Legislature.