

SENATE, No. 673

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 5, 1996

By Senator ADLER

1 AN ACT concerning the Executive Commission on Ethical Standards
2 and amending P.L.1971, c.182.

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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, chapter 229, and as continued and established
11 pursuant to P.L.1971, c.182, is continued and established in **but not of**
12 the Department of Law and Public Safety and shall [constitute the
13 first commission under this act] be independent of any supervision or
14 control by the department or any board or office thereof.

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

34 Vacancies in the membership of the commission shall be filled in the

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 same manner as the original appointments were made but, in the case
2 of public members, for the unexpired term only. None of the public
3 members shall be State officers or employees or special State officers
4 or employees except by reason of their service on the commission.

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

8 (d) The Attorney General shall act as legal adviser and counsel to
9 the [said] commission. He shall upon request advise the commission
10 in the rendering of advisory opinions by the commission, in the
11 development of a uniform code of ethics, in the approval and review
12 of codes of ethics adopted by State agencies in the Executive Branch
13 [and], in the recommendation of revisions in codes of ethics or
14 legislation relating to the conduct of State officers [and] or
15 employees or special State officers or employees in the Executive
16 Branch, and in the performance of any of its other duties under this
17 act.

18 (e) The [said] commission [may], within the limits of funds
19 appropriated or otherwise made available to it for the purpose, may
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 (f) The [said] commission, in order to perform its duties pursuant
24 to the provisions of this act, shall have the power to conduct
25 investigations, hold hearings, compel the attendance of witnesses and
26 the production before it of such books and papers as it may deem
27 necessary, proper and relevant to the matter under investigation. The
28 members of the [said] commission and the persons appointed by the
29 commission for such purpose are hereby empowered to administer
30 oaths and examine witnesses under oath.

31 (g) The [said] commission is authorized to render advisory
32 opinions as to whether a given set of facts and circumstances would,
33 in its opinion, constitute a violation of the provisions of this act [or
34 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. These advisory opinions
37 shall be filed with the commission and shall be public records, but no
38 opinion so filed shall contain the name of the person or persons who
39 shall have requested the opinion. The commission is also authorized
40 to develop methods to assist any State officer or employee and any
41 special State officer or employee in understanding and complying with
42 the obligations of that officer or employee under this act.

43 (h) The [said] commission shall have jurisdiction to initiate,
44 receive, hear and review complaints regarding violations, by any State
45 officer or employee or special State officer or employee in the
46 Executive Branch, of the provisions of this act [or], of any code of

1 ethics promulgated pursuant to the provisions of this act or of any
2 executive order in which the Governor has granted the commission
3 jurisdiction. Any complaint regarding a violation of a code of ethics
4 or such executive order may be referred by the commission for
5 disposition in accordance with subsection 12(d) of this act.

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

8 [(i)](j) Any State officer or employee or special State officer or
9 employee in the Executive Branch found [guilty by the commission of
10 violating] by the commission to have violated any provision of this act
11 [or of], a code of ethics promulgated pursuant to the provisions of
12 this act or an executive order in which the Governor has granted the
13 commission jurisdiction of its provisions shall be fined not less than
14 \$100.00 nor more than [\$500.00] \$5,000, which penalty may be
15 collected in a summary proceeding pursuant to [the Penalty
16 Enforcement Law (N.J.S. 2A:58-1)] "the penalty enforcement law"
17 (N.J.S.2A:58-1 et seq.), and may be suspended from his office or
18 employment by order of the commission for a period of not in excess
19 of [1] one year. If the commission finds that the conduct of such
20 officer or employee constitutes a willful and continuous disregard of
21 the provisions of this act [or of], a code of ethics promulgated
22 pursuant to the provisions of this act or an executive order in which
23 the Governor has granted the commission jurisdiction of its provisions,
24 it may order such person removed from his office or employment and
25 may further bar such person from holding any public office or
26 employment in this State in any capacity whatsoever for a period of
27 not exceeding [5] five years from the date on which he was found
28 [guilty] to have violated any provision of this act, code or executive
29 order by the commission.

30 Notwithstanding the provisions of this subsection to the contrary,
31 any constitutional officer subject to this act, a code of ethics
32 promulgated pursuant to the provisions of this act or an executive
33 order in which the Governor has granted the commission jurisdiction
34 of its provisions may not be suspended or barred from office or
35 employment but shall be subject to impeachment as provided in Article
36 VII, Section III, paragraph 1 of the New Jersey Constitution.

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

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

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40 2. The term of each member of the Executive Commission on
41 Ethical Standards in office on the effective date of this act, P.L. ,
42 c. (C.) (now pending before the Legislature as this bill), shall
43 continue until and terminate upon the appointment by the Governor of
44 a replacement public member or Executive Branch member pursuant
45 to subsection (b) of section 10 of P.L.1971, c.182 (C.52:13D-21).
46 Any person serving as a member of the commission on the effective

1 date of this act may, if otherwise qualified, be appointed as a member
2 of the commission.

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4 3. This act shall take effect immediately.

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STATEMENT

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9 This bill reconstitutes the Executive Commission on Ethical
10 Standards in order to make a majority of its members public members.
11 At present, all seven commission members are State officers or
12 employees. Under this bill, four commission members would be
13 public members, no more than two of whom shall be of the same
14 political party. The other three members shall be appointed by the
15 Governor from among State officers or employees and special State
16 officers or employees serving in the Executive Branch and shall serve
17 during the term of office and at the pleasure of the Governor
18 appointing them. Except for those first appointed, public members
19 shall serve for terms of four years. The Governor shall designate one
20 public member to serve as chairman and one public member to serve
21 as vice-chairman. None of the public members shall be State officers
22 or employees or special State officers or employees except by reason
23 of their service on the commission.

24 The commission is authorized to initiate, receive, hear and review
25 complaints regarding violations of any executive order in which the
26 Governor has granted the commission jurisdiction and to render
27 advisory opinions as to whether there has been a violation of such
28 executive orders.

29 The bill increases from \$500 to \$5,000 the maximum fine for a
30 violation by a State officer or employee or special State officer or
31 employee in the Executive Branch of the ethics law, a code of ethics
32 promulgated pursuant to that law, or any executive order in which the
33 Governor has granted the commission jurisdiction.

34 The bill provides that a constitutional officer may not be suspended
35 or barred from office or employment but shall be subject to
36 impeachment as provided by the New Jersey Constitution.

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41 Reconstitutes the Executive Commission on Ethical Standards and
42 clarifies its enforcement powers.