

SENATE, No. 1156

STATE OF NEW JERSEY

INTRODUCED MAY 16, 1996

By Senator ADLER

1 AN ACT concerning penalties for ethics violations by local officials and
2 amending and supplementing P.L.1991, c.29.

3

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

6

7 1. Section 3 of P.L.1991, c.29 (C.40A:9-22.3) is amended to read
8 as follows:

9 3. As used in this act:

10 a. "Board" means the Local Finance Board in the Division of Local
11 Government Services in the Department of Community Affairs;

12 b. "Business organization" means any corporation, partnership,
13 firm, enterprise, franchise, association, trust, sole proprietorship, union
14 or other legal entity;

15 c. "Governing body" means, in the case of a municipality, the
16 commission, council, board or body, by whatever name it may be
17 known, having charge of the finances of the municipality, and, in the
18 case of a county, the board of chosen freeholders, or, in the case of a
19 county having adopted the provisions of the "Optional County Charter
20 Law," P.L.1972, c.154 (C.40:41A-1 et seq.), as defined in the form of
21 government adopted by the county under that act;

22 d. "Interest" means the ownership or control of more than 10% of
23 the profits, assets or stock of a business organization but shall not
24 include the control of assets in a nonprofit entity or labor union;

25 e. "Local government agency" means any agency, board, governing
26 body, including the chief executive officer, bureau, division, office,
27 commission or other instrumentality within a county or municipality,
28 and any independent local authority, including any entity created by
29 more than one county or municipality, which performs functions other
30 than of a purely advisory nature, but shall not include a school board;

31 f. "Local government employee" means any person, whether
32 compensated or not, whether part-time or full-time, employed by or
33 serving on a local government agency who is not a local government
34 officer, but shall not mean any employee of a school district. The term

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 also includes uncompensated special assistants and advisors to local
2 government officers, whether titled or not;

3 g. "Local government officer" means any person whether
4 compensated or not, whether part-time or full-time: (1) elected to any
5 office of a local government agency; (2) serving on a local
6 government agency which has the authority to enact ordinances,
7 approve development applications or grant zoning variances; (3) who
8 is a member of an independent municipal, county or regional authority;
9 or (4) who is a managerial executive or confidential employee of a
10 local government agency, as defined in section 3 of the "New Jersey
11 Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-3),
12 but shall not mean any employee of a school district or member of a
13 school board;

14 h. "Local government officer or employee" means a local
15 government officer or a local government employee;

16 i. "Member of immediate family" means the spouse or dependent
17 child of a local government officer or employee residing in the same
18 household.

19 (cf: P.L.1991, c.29, s.3)

20

21 2. Section 6 of P.L.1991, c.29 (C.40A:9-22.6) is amended to read
22 as follows:

23 6. a. Local government officers shall annually file a financial
24 disclosure statement. All financial disclosure statements filed pursuant
25 to this act shall include the following information which shall specify,
26 where applicable, the name and address of each source and the local
27 government officer's job title:

28 (1) Each source of income, earned or unearned, exceeding
29 ~~[\$2,000]~~ \$1,000 received by the local government officer or a member
30 of his immediate family during the preceding calendar year. Individual
31 client fees, customer receipts or commissions on transactions received
32 through a business organization need not be separately reported as
33 sources of income. If a publicly traded security is the source of
34 income, the security need not be reported unless the local government
35 officer or member of his immediate family has an interest in the
36 business organization;

37 (2) Each source of fees and honorariums having an aggregate
38 amount exceeding \$250 from any single source for personal
39 appearances, speeches or writings received by the local government
40 officer or a member of his immediate family during the preceding
41 calendar year;

42 (3) Each source of gifts, reimbursements or prepaid expenses
43 having an aggregate value exceeding ~~[\$400]~~ \$250 from any single
44 source, excluding relatives, received by the local government officer
45 or a member of his immediate family during the preceding calendar
46 year;

1 (4) The name and address of all business organizations in which the
2 local government officer or a member of his immediate family had an
3 interest during the preceding calendar year; and

4 (5) The address and brief description of all real property in the
5 State in which the local government officer or a member of his
6 immediate family held an interest during the preceding calendar year.

7 b. The Local Finance Board shall prescribe a financial disclosure
8 statement form for filing purposes; however, any local ethics board
9 may develop its own form, subject to approval by the Local Finance
10 Board. For counties and municipalities which have not established
11 ethics boards, the board shall transmit sufficient copies of the forms to
12 the municipal clerk in each municipality and the county clerk in each
13 county for filing in accordance with this act. The municipal clerk shall
14 make the forms available to the local government officers serving the
15 municipality. The county clerk shall make the forms available to the
16 local government officers serving the county.

17 For counties and municipalities which have established ethics
18 boards, the Local Finance Board shall transmit sufficient copies of the
19 forms to the ethics boards for filing in accordance with this act if the
20 local ethics board has not promulgated its own approved form. The
21 ethics boards shall make the forms available to the local government
22 officers within their jurisdiction.

23 For local government officers serving the municipality, the original
24 statement shall be filed with the municipal clerk in the municipality in
25 which the local government officer serves. For local government
26 officers serving the county, the original statement shall be filed with
27 the county clerk in the county in which the local government officer
28 serves. A copy of the statement shall be filed with the board. In
29 counties or municipalities which have established ethics boards a copy
30 of the statement shall also be filed with the ethics board having
31 jurisdiction over the local government officer. Local government
32 officers shall file the initial financial disclosure statement within 90
33 days following the effective date of this act. Thereafter, statements
34 shall be filed on or before April 30th each year.

35 c. All financial disclosure statements filed shall be public records.
36 (cf: P.L.1991, c.29, s.6)

37
38 3. Section 10 of P.L.1991, c.29 (C.40A:9-22.10) is amended to
39 read as follows:

40 10. a. An appointed local government officer or employee found
41 guilty by the Local Finance Board or a county or municipal ethics
42 board of the violation of any provision of this act or of any code of
43 ethics in effect pursuant to this act, shall be fined not less than \$100.00
44 nor more than ~~[\$500.00]~~ \$1500.00 for each separate offense, which
45 penalty may be collected in a summary proceeding pursuant to "the
46 penalty enforcement law" (N.J.S.2A:58-1 et seq.). The board or a

1 county or municipal ethics board shall report its findings to the office
2 or agency having the power of removal or discipline of the appointed
3 local government officer or employee and may recommend that further
4 disciplinary action be taken, including removal of that officer or
5 employee.

6 b. An elected local government officer or employee found guilty by
7 the Local Finance Board or a county or municipal ethics board of the
8 violation of any provision of this act or of any code of ethics in effect
9 pursuant to this act, shall be fined not less than \$100.00 nor more than
10 ~~[\$500.00]~~ \$1500.00 for each separate offense, which penalty may be
11 collected in a summary proceeding pursuant to "the penalty
12 enforcement law" (N.J.S.2A:58-1 et seq.).

13 c. In addition to a fine imposed pursuant to subsection b. of this
14 section the Local Finance Board may make a public recommendation
15 to the prosecutor of the county in which an elected local government
16 officer holds office and to the officer or agency having the power of
17 removal, for the prosecution and removal of that officer, appointed
18 local official or employee. Such recommendation from the Local
19 Finance Board shall be considered sufficient cause for removal
20 pursuant to section 11 of P.L.1991, c.29 (C.40A:9-22.11).
21 (cf: P.L.1991, c.29, s.10)

22

23 4. Section 11 of P.L.1991, c.29 (C.40A:9-22.11) is amended to
24 read as follows:

25 11. The finding by the Local Finance Board or a county or
26 municipal ethics board that an appointed local government officer or
27 employee is guilty of the violation of the provisions of this act,
28 including failure to timely file the annual financial disclosure form
29 required pursuant to section 6 of P.L.1991, c.29 (C.40A:9-22.6), or
30 of any code of ethics in effect pursuant to this act, shall be sufficient
31 cause for his removal, suspension, demotion or other disciplinary
32 action by the officer or agency having the power of removal or
33 discipline. When a person who is in the career service is charged with
34 violating the provisions of this act or any code of ethics in effect
35 pursuant to this act, the procedure leading to removal, suspension,
36 demotion or other disciplinary action shall be governed by any
37 applicable procedures of Title 11A of the New Jersey Statutes and the
38 rules promulgated pursuant thereto.

39 (cf: P.L.1991, c.29, s.11)

40

41 5. (New section) The Local Finance Board shall issue an annual
42 compliance and enforcement report to the Governor and Legislature
43 listing, by municipality, the number of:

44 employees required to file financial disclosure forms;

45 employees who actually filed the required financial disclosure
46 forms;

1 ethics complaints initiated by the Local Finance Board after an
2 investigation by a State department or agency;
3 ethics complaints received by the Local Finance Board;
4 ethics complaints decided;
5 ethics violations found;
6 fines imposed; and
7 advisory opinions issued.

8
9 6. This act shall take effect immediately.
10

11
12 STATEMENT
13

14 The purpose of this bill is to increase the penalties for violations of
15 the "Local Government Ethics Law," P.L.1991, c.29 (C.40A:9-22.1
16 et seq.) and to require the annual reporting of statistics related to that
17 law. The Department of Community Affairs has released information
18 indicating that a significant number of local officials and employees fail
19 to comply with the financial disclosure requirements of the ethics law.
20 The Department of Community Affairs has also indicated that it
21 believes that enhanced penalties, including the power of the Local
22 Finance Board to recommend the removal of an appointed local officer
23 or employee who fails to timely file the financial disclosure form, will
24 encourage better compliance with the law on the part of local officials.
25 The bill also expands the definition of "local government employee" to
26 include uncompensated special assistants and advisors to elected local
27 officials, whether titled or not, and decreases the threshold amounts
28 for income and gifts that trigger reporting requirements.
29

30
31 _____
32
33 Increases penalties under and scope of "Local Government Ethics
34 Law."