

SENATE, No. 2017

STATE OF NEW JERSEY

INTRODUCED MARCH 24, 1997

By Senators BUBBA and INVERSO

1 AN ACT concerning the filing of financial disclosure statements and
2 the disposition of certain interests by certain State officers and
3 employees and special State officers and employees and amending
4 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. Section 2 of P.L.1971, c.182 (C.52:13D-13) is amended to read
10 as follows:

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

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

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

28 c. "Member of the Legislature" means any person elected to serve
29 in the General Assembly or the Senate.

30 d. "Head of a State agency" means (1) in the case of the Executive
31 Branch of government, except with respect to interstate agencies, the
32 department head or, if the agency is not assigned to a department, the
33 Governor, and (2) in the case of the Legislative Branch, the chief
34 presiding officer of each House of the Legislature.

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

11 f. "Person" means any natural person, association [or], corporation
12 or other business organization.

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

27 h. "Commission" means the Executive Commission on Conflicts of
28 Interest.

29 i. "Cause, proceeding, application or other matter" means a specific
30 cause, proceeding or matter and does not mean or include
31 determinations of general applicability or the preparation or review of
32 legislation which is no longer pending before the Legislature or the
33 Governor.

34 j. "Dependent child" means a child for whom the State officer or
35 employee or special State officer or employee or the spouse of the
36 State officer or employee or special State officer or employee claims
37 federal or State tax status as a dependent.

38 [i.] k. "Member of the immediate family" of any person means the
39 person's spouse, child, parent or sibling residing in the same
40 household.

41 l. "Financial disclosure statement" means a disclosure form
42 required to be filed with the commission by certain persons pursuant
43 to P.L.1971, c.182 (C.52:13D-12 et seq.), as amended and
44 supplemented, or by executive order of the Governor.

45 m. "Filing employee" means any person holding any of the
46 following offices in the Executive Branch of State government,

1 together with any offices added to such list by executive order:
2 (1) the Governor;
3 (2) the head of each principal department where such head is a
4 single executive;
5 (3) the assistant or deputy heads of each principal department,
6 including all assistant and deputy commissioners of such department;
7 (4) the head and assistant heads of a division of each principal
8 department, or any person exercising substantially similar authority
9 for: (a) any board or commission which is organized as in but not of
10 a principal department or (b) any independent authority;
11 (5) the executive or administrative head and assistant heads of: (a)
12 any board or commission which is organized as in but not of a
13 principal department or (b) any independent authority;
14 (6) the following members of the staff of the Office of the
15 Governor:
16 (a) Chief of Staff;
17 (b) Chief Counsel to the Governor;
18 (c) Chief, Office of Policy and Planning;
19 (d) Director of Communications;
20 (e) Executive Assistant to the Governor and any deputy and the
21 principal administrative assistant to any of the foregoing members of
22 the staff of the Office of the Governor;
23 (7) members of the State Board of Agriculture;
24 (8) members of the State Board of Education;
25 (9) members of the Board of Public Utilities;
26 (10) members of the State Parole Board; and
27 (11) presidents of the State colleges and universities.
28 "Filing employee" also means any person holding an office not
29 specified above, but which is functionally equivalent to any of those
30 offices. Functional equivalence shall be determined by the Chief
31 Counsel to the Governor, the head of each principal department, the
32 head of each agency, board or commission in but not of a principal
33 department or the head of each independent authority, as appropriate,
34 in consultation with the commission.
35 In addition to the filing employees listed above, the Governor, by
36 executive order, may designate which members of the staff of the
37 Office of the Governor are "filing employees" for the purpose of
38 P.L.1971, c.182, as amended and supplemented, except that the Chief
39 of Staff, the Chief, Office of Policy and Planning and the Director of
40 Communications shall be "filing employees" for the purposes of that
41 act unless those positions or their equivalents are abolished.
42 n. "Filing officer" means:
43 (1) the members of the following boards, commissions,
44 independent authorities and public corporations, or their successor
45 organizations together with any offices or bodies added to such list by
46 executive order:

- 1 (a) Agriculture Development Committee;
- 2 (b) Atlantic City Convention Center Authority;
- 3 (c) Capital City Redevelopment Corporation;
- 4 (d) Casino Reinvestment Development Authority;
- 5 (e) Commission on Higher Education;
- 6 (f) Council on Affordable Housing;
- 7 (g) Educational Facilities Authority;
- 8 (h) Election Law Enforcement Commission;
- 9 (i) Executive Commission on Conflicts of Interest;
- 10 (j) Hackensack Meadowlands Development Commission;
- 11 (k) Hazardous Waste Facilities Siting Commission;
- 12 (l) Health Care Administration Board;
- 13 (m) Health Care Facilities Financing Authority;
- 14 (n) Local Finance Board;
- 15 (o) Merit System Board;
- 16 (p) New Jersey Building Authority;
- 17 (q) New Jersey Commission on Science and Technology;
- 18 (r) New Jersey Economic Development Authority;
- 19 (s) New Jersey Highway Authority;
- 20 (t) New Jersey Historic Trust;
- 21 (u) New Jersey Housing and Mortgage Finance Agency;
- 22 (v) New Jersey Low-Level Radioactive Waste Disposal Facility
- 23 Siting Board;
- 24 (w) New Jersey Natural Lands Trust;
- 25 (x) New Jersey Public Broadcasting Authority;
- 26 (y) New Jersey Racing Commission;
- 27 (z) New Jersey Real Estate Commission;
- 28 (aa) New Jersey Redevelopment Authority;
- 29 (bb) New Jersey Sports and Exposition Authority;
- 30 (cc) New Jersey State Council on the Arts;
- 31 (dd) New Jersey Transit Corporation;
- 32 (ee) New Jersey Transportation Trust Fund Authority;
- 33 (ff) New Jersey Turnpike Authority;
- 34 (gg) New Jersey Urban Enterprise Zone Authority;
- 35 (hh) New Jersey Water Supply Authority;
- 36 (ii) North Jersey District Water Supply Commission;
- 37 (jj) Passaic Valley Sewerage Commissioners;
- 38 (kk) Pinelands Commission;
- 39 (ll) Public Employment Relations Commission;
- 40 (mm) School Ethics Commission;
- 41 (nn) Shell Fisheries Council;
- 42 (oo) South Jersey Food Distribution Authority;
- 43 (pp) South Jersey Transportation Authority;
- 44 (qq) State Athletic Control Board;
- 45 (rr) State Lottery Commission;
- 46 (ss) State Planning Commission;

- 1 (tt) Tidelands Resource Council;
2 (uu) Wastewater Treatment Trust; and
3 (vv) Wetlands Mitigation Council;
4 (2) individuals appointed as a New Jersey member to the following
5 interstate agencies:
6 (a) Atlantic States Marine Fisheries Commission;
7 (b) Clean Ocean and Shore Trust Committee;
8 (c) Delaware River and Bay Authority;
9 (d) Delaware River Basin Commission;
10 (e) Delaware River Joint Toll Bridge Commission;
11 (f) Delaware River Port Authority;
12 (g) Delaware Valley Regional Planning Commission;
13 (h) Interstate Sanitation Commission;
14 (i) Northeast Interstate Low-Level Radioactive Waste Commission;
15 (j) Palisades Interstate Park Commission;
16 (k) Port Authority of New York and New Jersey;
17 (l) Port Authority Trans-Hudson Corporation;
18 (m) South Jersey Port Corporation; and
19 (n) Waterfront Commission of New York Harbor.
20 o. "Government instrumentality" means the Legislative, Judicial
21 and Executive Branches of State government, including any office,
22 department, division, bureau, board, commission, council, authority or
23 agency therein and any county, municipality, school board, district,
24 public authority, public agency or other political subdivision or public
25 body in the State.
26 p. "Income" means all income from whatever source derived.
27 q. "Relative" means a son, daughter, grandson, granddaughter,
28 father, mother, grandfather, grandmother, great-grandfather, great-
29 grandmother, brother, sister, nephew, niece, uncle or aunt. Relatives
30 by adoption, half-blood, marriage or remarriage shall be treated as
31 relatives of the whole kinship.
32 r. "Asset" means property of any kind, real or personal, tangible or
33 intangible, having a value greater than \$1,000.
34 s. "Interest in a closely held business entity" means any ownership
35 or control of any profits or assets of such business entity.
36 t. "Doing business" with any government instrumentality means
37 business or commercial transactions involving the sale, conveyance or
38 rental of any estate, goods or services, and does not include
39 compliance with regulatory procedures.
40 (cf: P.L.1987,c.432,s.2)
41
42 2. (New section) Every filing employee and filing officer, as such
43 terms are defined in subsections m. and n. of section 2 of P.L.1971,
44 c.182 (C.52:13D-13), shall file a current sworn and duly notarized
45 financial disclosure statement with the commission. Each statement
46 shall include the following information:

1 a. the name and position of the filing employee or filing officer;
2 b. any occupation, trade, business or profession engaged in by the
3 filing employee or filing officer and the employee's or officer's spouse
4 and dependent children;

5 c. (1) a list of all assets having a value of more than \$1,000, both
6 tangible and intangible, in which a direct or indirect interest is held by
7 the filing employee or filing officer or the employee's or officer's
8 spouse or dependent children, valued as of the statement date, except
9 that when the value cannot be determined as of that date, a separate
10 valuation date shall be specified for the particular asset. Where stocks
11 and bonds are involved, there shall be included the name of the
12 company, mutual fund, holding company or government agency issuing
13 them, except that whenever such interest exists through ownership in
14 a mutual fund or holding company, the individual stocks held by such
15 mutual fund or holding company need not be listed, and whenever such
16 interest exists through a beneficial interest in a trust, the stocks and
17 bonds held in such trust shall be listed only if the filing employee or
18 filing officer has knowledge or what stocks and bonds are so held.
19 Where more than 10 percent of the stock of a corporation is held, the
20 percentage of ownership shall be stated;

21 (2) a list of assets consisting of any direct or indirect interest,
22 whether vested or contingent, in any contract made or executed by a
23 government instrumentality;

24 (3) a list of assets consisting of real estate interests, including the
25 location, size, general nature and acquisition date of any real property
26 in New Jersey in which any direct, indirect, vested or contingent
27 interest is held, together with the names of all individuals or entities
28 who share a direct or indirect interest therein and the name of any
29 government instrumentality that is a tenant of such property or that
30 has before it an application, complaint or proceeding directly affecting
31 such property.

32 A filing employee required to file a financial disclosure form need
33 not include on any of the above lists of assets any of the holdings of a
34 qualified blind trust or a qualified diversified trust as defined in
35 regulations adopted by the commission, but a filing employee shall
36 report the category of the amount of income received by the employee
37 or officer or the employee's or officer's spouse from the trust as
38 provided in this section.

39 The commission shall have authority to adopt regulations defining
40 qualified blind trusts and qualified diversified trusts, establishing
41 standards and procedures for the certification of such trusts,
42 establishing standards for independent trustees, establishing
43 restrictions on fiduciaries and interested parties, establishing filing
44 requirements for qualified trusts, and providing for the revocation of
45 trust certificates and trustee approvals.

1 In promulgating and adopting such regulations the commission shall
2 be guided by and conform substantially to the standards and
3 prerequisites for qualified blind trusts and qualified diversified trusts
4 set forth in the Ethics in Government Act of 1978 (Pub.L.95-521, as
5 amended) and regulations adopted by the Office of Government Ethics
6 pursuant thereto.

7 Assets of a filing employee and the employee's spouse shall be listed
8 according to the following value categories:

- 9 (a) greater than \$1,000, but not more than \$5,000;
- 10 (b) greater than \$5,000, but not more than \$10,000;
- 11 (c) greater than \$10,000, but not more than \$20,000;
- 12 (d) greater than \$20,000, but not more than \$40,000;
- 13 (e) greater than \$40,000, but not more than \$80,000;
- 14 (f) greater than \$80,000, but not more than \$120,000;
- 15 (g) greater than \$120,000, but not more than \$160,000;
- 16 (h) greater than \$160,000, but not more than \$200,000;
- 17 (i) greater than \$200,000, but not more than \$240,000;
- 18 (j) greater than \$240,000, but not more than \$280,000;
- 19 (k) greater than \$280,000, but not more than \$320,000;
- 20 (l) greater than \$320,000, but not more than \$360,000;
- 21 (m) greater than \$400,000.

22 The value of assets of a filing employee's dependent children or of
23 a filing officer and the officer's spouse and dependent children need
24 not be disclosed unless specifically requested by the Governor or the
25 commission;

26 d. A list of all liabilities of the filing employee or filing officer and
27 the employee's or officer's spouse and dependent children, valued by
28 category in the same manner as required by subsection c. above,
29 except liabilities which are:

- 30 (1) less than \$10,000 and owed to a relative, as defined in
31 subsection q. of section 2 of P.L.1971, c.182 (C.52:13D-13);
- 32 (2) less than \$1,000 and owed to any other person;
- 33 (3) loans secured to purchase a personal motor vehicle, household
34 furniture or appliances where the loan did not exceed the purchase
35 price of the item and the outstanding balance did not exceed \$10,000
36 as of the close of the preceding calendar year; and
- 37 (4) revolving charge accounts where the outstanding liability does
38 not exceed \$10,000 as of the close of the preceding calendar year;

39 e. A list of all former liabilities of the filing employee or filing
40 officer and the employee's or officer's spouse and dependent children
41 which have been forgiven by the creditor within 12 months of the
42 statement date. For each such forgiven liability so listed, the name of
43 the creditor to whom such liability was owed shall be stated;

44 f. A list of all sources of income of the filing employee or filing
45 officer and the employee's or officer's spouse and dependent children.
46 Statements filed before July 1 of any year shall disclose sources of

1 income for the preceding calendar year. Statements filed after July 1
2 of any year shall provide this information for the 12-month period
3 immediately preceding the filing date or for such time period as may
4 be designated by the filer with the concurrence of the commission.
5 The amounts of such income received shall be listed and valued by
6 category in the same manner as assets as set forth in subsection c. The
7 amount of income of a filing employee's dependent children or of a
8 filing officer and the officer's spouse and dependent children need not
9 be disclosed unless specifically requested by the Governor or the
10 commission. Sources of income that are not required to be reported
11 are:

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

14 (2) non-cash gifts with an aggregated fair market value of less than
15 \$200 received during the preceding 12 months from a person; and

16 (3) gifts with an aggregated cash or fair market value of less than
17 \$3,000 received during the preceding 12 months from a relative;

18 g. A list of any offices, trusteeships, directorships or positions of
19 any nature, whether compensated or uncompensated, held by the filing
20 employee or filing officer or the employee's or officer's spouse or
21 dependent children and the name of firm, corporation, association,
22 partnership, business or other entity with which the position is held.
23 If any listed firm, corporation, association, partnership or business
24 does business with or is licensed, regulated or inspected by a State
25 agency or does business with a casino license holder or applicant, the
26 State agency, casino or applicant must be identified.

27 h. A list of entities that do business with any government
28 instrumentalities in which the filing officer has an interest, as defined
29 in subsection g. of section 2 of P.L.1971, c.182 (C.52:13D-13).

30

31 3. (New section) Each statement shall contain a certification by
32 the filing employee or filing officer that the employee or officer has
33 read the statement, that to the best of the employee's or officer's
34 knowledge and belief it is true, correct and complete and that the
35 employee or officer has not transferred and will not transfer any asset,
36 interest or property for the purpose of concealing it from disclosure
37 while retaining an equitable interest therein.

38

39 4. (New section) a. Within 120 days from the effective date of
40 this act, each filing employee and filing officer who has not already
41 done so shall file the original signed statement required herein with the
42 commission. The statement shall contain a certification in lieu of oath
43 and shall be notarized. In furtherance of its duties under the "New
44 Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et
45 seq.) and pursuant to this act, the commission shall review each
46 statement to determine its internal conformity with the provisions of

1 this act and other applicable provisions of the law. Upon accepting
2 such statement for filing, the commission shall file and maintain a copy
3 of it for public inspection and copying in accordance with the
4 procedures set forth in P.L.1963, c.73 (C.47:1A-1 et seq.).

5 b. Each prospective filing employee and filing officer shall, before
6 assuming the office to which the employee or officer has been
7 appointed, satisfy the filing requirements of this act.

8 c. Updated statements shall be filed on the May 15 next succeeding
9 the submission of the original statement and each May 15 thereafter.

10
11 5. (New section) The commission shall keep the approved
12 statements on file for so long as the person submitting such statements
13 is a filing employee or filing officer of this State, and for five years
14 thereafter.

15
16 6. (New section) a. A filing employee shall not be permitted to
17 maintain or retain any interest in any closely held business entity doing
18 business with a government instrumentality except as provided in
19 subsections c. and d. below.

20 b. After the effective date of this act, a State agency shall not hire
21 a filing employee who holds any interest in any closely held business
22 entity doing business with a government instrumentality except as
23 provided in subsections c. and d. below. An individual seeking
24 employment in such a position shall not divest a covered asset in a
25 manner otherwise prohibited by this act for the purpose of satisfying
26 the provisions of this act. A filing employee shall not obtain any
27 prohibited interest in a closely held business entity during the filing
28 employee's tenure.

29 c. The provisions of subsections a. and b. shall not apply to any
30 purchase, sale, contract, or agreement with a government
31 instrumentality, other than a State agency, which is made or awarded
32 after public notice and competitive bidding as provided by the "Local
33 Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), or
34 similar public bidding laws or regulations, provided that any such
35 purchase, sale, contract or agreement, including a change in orders and
36 amendments thereto, shall receive the prior approval of the
37 commission.

38 d. The provisions of this section may be waived in whole or in part
39 by the commission if, in the judgment of the commission, the filing
40 employee's interest in a closely held business entity doing business with
41 a government instrumentality will not interfere with the responsibilities
42 of the filing employee and will not give rise to a present or potential
43 conflict of interest or a present or potential appearance of a conflict of
44 interest.

45 e. A filing employee may only maintain an interest in a closely held
46 business entity covered by this section while and until the commission

1 makes a final determination on the status of such interest. A person
2 seeking employment or appointment in a State agency shall disclose to
3 the commission the person's interest, and the interest of the person's
4 spouse, in any such business entity as soon as practicable, and the
5 commission shall render a determination no later than 30 days after
6 receiving such disclosure, or at its next regularly scheduled meeting,
7 whichever shall occur later. An individual seeking employment or
8 appointment in a State agency shall not divest a covered asset in a
9 manner otherwise prohibited by this act for the purpose of satisfying
10 the provisions of this act.

11

12 7. (New section) The commission shall review all financial
13 disclosure statements as they may from time to time be submitted by
14 filing employees and filing officers to determine whether the covered
15 persons have obtained ownership or interest in any assets that give rise
16 to a present or potential conflict of interest, or a present or potential
17 appearance of a conflict of interest, within the meaning of this act.

18

19 8. (New section) Each filing employee or filing officer shall amend
20 the employee's or officer's financial disclosure statement within 30
21 days of gaining knowledge of: a. the acquisition by the employee or
22 officer or the spouse thereof of any interest in any closely held
23 business entity; or b. the commencement of any business activity
24 covered by the provisions of this act.

25

26 9. (New section) Any filing employee or filing officer subject to
27 this act who acquires an interest prohibited under this act by way of
28 inheritance, bequest or similar circumstances beyond the employee's
29 or officer's control shall follow the procedures for disclosure and
30 disposition set forth in section 8 and section 10 of this act. The
31 commission may adopt rules and regulations governing the disposition
32 of such interests pending compliance with the procedures for
33 disclosure and disposition set forth in this act. These rules and
34 regulations may provide a reasonable period of time for divestiture of
35 an interest, considering the nature of the filing employee's or filing
36 officer's duties and the nature and marketability of the interest.

37

38 10. (New section) All required divestiture shall be subject to the
39 following conditions:

40 a. ownership or control of the asset may not be transferred to a
41 member of the filing employee's or filing officer's immediate family;
42 and

43 b. the terms and conditions of any conveyance of ownership and
44 control of the asset shall not contain any provisions regarding the
45 return of the asset to the filing employee or filing officer subsequent
46 to the employee's or officer's State service.

1 11. This act shall take effect immediately.

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4

STATEMENT

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6 This bill requires that certain State officers and employees and
7 certain special State officers and employees file financial disclosure
8 statements and dispose of certain prohibited interests.

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13 Requires that certain State officers and employees and certain special
14 State officers and employees file financial disclosure statements and
15 dispose of certain prohibited interests.