

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 2017, 2015, 1630 and 673

STATE OF NEW JERSEY

ADOPTED MAY 15, 1997

Sponsored by Senators BUBBA, INVERSO, CODEY, ADLER,
BAER, CONNORS, SCHLUTER and MacINNES

1 AN ACT concerning the Executive Commission on Ethical Standards
2 and the Joint Legislative Committee on Ethical Standards and the
3 filing of financial disclosure statements and the disposition of
4 certain interests by certain State officers and employees and certain
5 special State officers and employees, and amending and
6 supplementing P.L.1971, c.182.

7

8 **BE IT ENACTED** by the Senate and General Assembly of the State
9 of New Jersey:

10

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

13 10. [(a)] a. The Executive Commission on Ethical Standards
14 created pursuant to P.L.1967, [chapter] c. 229 and continued and
15 established pursuant to P.L.1971, c.182 is continued and established
16 in but not of the Department of Law and Public Safety and shall
17 [constitute the first commission under this act] be independent of any
18 supervision or control by the department or any board or office
19 thereof.

20 [(b)] b. The commission shall be composed of [seven] nine
21 members: five Executive Branch members and four public members
22 appointed by the Governor. The Executive Branch members shall be
23 appointed from among State officers and employees serving in the
24 Executive Branch. [Each member] Executive Branch members shall
25 serve at the pleasure of the Governor during the term of office of the
26 Governor appointing [him and until his successor is appointed and
27 qualified] them. The public members shall be appointed by the
28 Governor with the advice and consent of the Senate, except that a
29 public member shall not be a legislative agent or lobbyist as those
30 terms are defined in section 3 of P.L.1971, c.183 (C.52:13C-20) or a
31 representative of an entity subject to significant regulation by 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 State. No more than two public members shall be affiliated with the
2 same political party. The Governor shall designate one member to
3 serve as chairman and one member to serve as vice-chairman of the
4 commission, both to serve at the pleasure of the Governor. The public
5 members of the commission shall serve for terms of four years and
6 until the appointment and qualification of their successors, but of the
7 first members appointed, one shall serve for a term of one year, one
8 for a term of two years, one for a term of three years, and one for a
9 term of four years. Upon taking the oath of office at the beginning of
10 a Governor's first term of office, the Secretary of State shall be an ex
11 officio member of the commission and shall serve until the
12 appointment of the first Executive Branch member by the Governor.
13 The Governor may appoint the Secretary of State to be a regular
14 Executive Branch member of the commission.

15 Vacancies in the membership of the commission shall be filled in
16 the same manner as the original appointments but, in the case of public
17 members, for the unexpired term only. None of the public members
18 shall be State officers or employees or special State officers or
19 employees, except by reason of their service on the commission.

20 [(c) Each member] c. Members of the [said] commission shall
21 serve without compensation, but public members shall be entitled to
22 be reimbursed for all actual and necessary expenses incurred in the
23 performance of [his] their duties.

24 [(d) d. The Attorney General shall act as legal adviser and counsel
25 to the [said] commission. He shall upon request advise the
26 commission in the rendering of advisory opinions by the commission,
27 in the approval and review of codes of ethics adopted by State
28 agencies in the Executive Branch [and], in the recommendation of
29 revisions in codes of ethics or legislation relating to the conduct of
30 State officers [and] or employees or special State officers or
31 employees in the Executive Branch, and in the performance of any of
32 its other duties under P.L.1971, c.182, as amended and supplemented.

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

38 [(f) f. The [said] commission, in order to perform its duties
39 pursuant to the provisions of this act, shall have the power to conduct
40 investigations, hold hearings, compel the attendance of witnesses and
41 the production before it of such books and papers as it may deem
42 necessary, proper and relevant to the matter under investigation. The
43 members of the [said] commission and the persons appointed by the
44 commission for such purpose are hereby empowered to administer
45 oaths and examine witnesses under oath.

1 [(g)] g. The [said] commission is authorized to render advisory
2 opinions as to whether a given set of facts and circumstances would,
3 in its opinion, constitute a violation of the provisions of this act [or
4 of], a code of ethics promulgated pursuant to the provisions of this
5 act, or an executive order in which the Governor has granted the
6 commission jurisdiction. Advisory opinions shall be filed with the
7 commission and shall be public records, but no opinion so filed shall
8 contain the name or other identifying information of the person or
9 persons who requested or who are the subject of the opinion. The
10 commission is also authorized to develop educational materials and
11 procedures to assist any State officer or employee or any special State
12 officer or employee in understanding and complying with the
13 obligations of that State officer or employee or special State officer or
14 employee under P.L.1971, c.182, as amended and supplemented.

15 [(h)] h. The [said] commission shall have jurisdiction to initiate,
16 receive, hear and review complaints regarding violations, by any State
17 officer or employee or special State officer or employee in the
18 Executive Branch, of the provisions of this act [or], of any code of
19 ethics promulgated pursuant to the provisions of this act, or of any
20 executive order in which the Governor has granted the commission
21 jurisdiction. Any complaint regarding a violation of a code of ethics
22 may be referred by the commission for disposition in accordance with
23 subsection d. of section 12[(d)] of this act (C.52:13D-23).

24 [(i)] i. The commission shall prepare and publish, prior to May 1
25 in each year, an annual report to the Governor and the Legislature
26 which describes its activities during the preceding year.

27 j. The commission shall conduct an ethics orientation program for
28 the following officers and employees within 30 days of commencement
29 of their duties: the head of a principal department, the assistant or
30 deputy heads of a principal department, including an assistant
31 commissioner or deputy commissioner, as well as any officer or
32 employee of a principal department having responsibilities for ethics
33 matters. Attendance by these officials and employees shall be
34 mandatory.

35 k. The commission shall require a State officer or employee or
36 special State officer or employee in the Executive Branch to provide
37 a written delegation of decision-making responsibility to another
38 appropriate officer or employee whenever the commission determines
39 that the potential exists for ethical violations in regard to certain
40 matters.

41 l. Any State officer or employee or special State officer or
42 employee in the Executive Branch found [guilty by the commission of
43 violating] by the commission to have violated any provision of this act
44 [or of], a code of ethics promulgated pursuant to the provisions of
45 this act, or an executive order in which the Governor has granted the

1 commission jurisdiction shall be fined not less than ~~[\$100.00]~~ \$500
2 nor more than ~~[\$500.00]~~ \$5,000, which penalty may be collected in a
3 summary proceeding pursuant to ~~[the Penalty Enforcement Law~~
4 ~~(N.J.S. 2A:58-1)]~~ "the penalty enforcement law," N.J.S.2A:58-1 et
5 seq., may be reprimanded and ordered to pay restitution where
6 appropriate, and may be suspended from ~~[his]~~ office or employment
7 by order of the commission for a period of not in excess of ~~[1]~~ one
8 year. If the commission finds that the conduct of such officer or
9 employee, given the nature and frequency of the conduct and the
10 functions and responsibilities of the officer or employee, evidences a
11 careless disregard of the provisions of P.L.1971, c.182, as amended
12 and supplemented, a code of ethics promulgated pursuant to the
13 provisions of that act, or an executive order in which the Governor has
14 granted the commission jurisdiction, it may order such person removed
15 from the person's office or employment and may further bar such
16 person from holding any public office or employment in this State in
17 any capacity whatsoever for a period not exceeding two years from the
18 date on which the person was found to have violated any provision of
19 P.L.1971, c.182, as amended and supplemented, a code of ethics
20 promulgated pursuant to the provisions of that act, or an executive
21 order in which the Governor has granted the commission jurisdiction.
22 If the commission finds that the conduct of such officer or employee
23 constitutes a willful and continuous disregard of the provisions of this
24 act ~~[or of]~~, a code of ethics promulgated pursuant to the provisions
25 of this act, or an executive order in which the Governor has granted
26 the commission jurisdiction, it may order such person removed from
27 ~~[his]~~ the person's office or employment and may further bar such
28 person from holding any public office or employment in this State in
29 any capacity whatsoever for a period of not exceeding ~~[5]~~ five years
30 from the date on which ~~[he]~~ the person was found ~~[guilty by the~~
31 ~~commission]~~ to have violated any provision of P.L.1971, c.182, as
32 amended and supplemented, a code of ethics promulgated pursuant to
33 the provisions of that act, or an executive order in which the Governor
34 has granted the commission jurisdiction.

35 m. The commission shall have the primary responsibility for
36 assuring the proper administration and implementation of P.L.1971,
37 c.182, as amended and supplemented, and shall have the power to
38 perform the acts necessary and convenient to administering and
39 implementing that act. The commission in its discretion may provide
40 for the extension of any filing period provided in that act. The
41 commission shall set appropriate conditions for an extension of time
42 during the period of the extension. The commission may from time to
43 time delegate matters within its jurisdiction to its chief administrative
44 officer. A delegation shall remain in effect until removed or modified
45 by the commission. Delegations involving advisory opinions rendered

1 pursuant to subsection g. of section 10 of P.L.1971, c.182 (C.52:13D-
2 21) shall only be made subject to commission review.
3 (cf: P.L.1971, c.182, s.10)

4

5 2. Section 11 of P.L.1971, c.182 (C.52:13D-22) is amended to
6 read as follows:

7 11. [(a)] a. The Joint Legislative Committee on Ethical Standards
8 created pursuant to the provisions of P.L.1967, [chapter] c.229, [as]
9 and continued and established pursuant to P.L.1971, c.182, is
10 continued and established in the Legislative Branch of State
11 Government with the addition of the public members as set forth in
12 this section.

13 [(b)] b. The joint committee shall be composed of 12 members as
14 follows: four members of the Senate appointed by the President
15 thereof, no more than two of whom shall be of the same political
16 party; four members of the General Assembly, appointed by the
17 Speaker thereof, no more than two of whom shall be of the same
18 political party; and four public members, one appointed by the
19 President of the Senate, one appointed by the Speaker of the General
20 Assembly, one appointed by the Minority Leader of the Senate and one
21 appointed by the Minority Leader of the General Assembly. No public
22 member shall be a lobbyist or legislative agent as defined by the
23 "Legislative Activities Disclosure Act of 1971," P.L.1971, c.183
24 (C.52:13C-18 et seq.), a full-time State employee or an officer or
25 director of any entity which is required to file a statement with the
26 Election Law Enforcement Commission, and no former lobbyist or
27 legislative agent shall be eligible to serve as a public member for one
28 year following the cessation of all activity by that person as a
29 legislative agent or lobbyist. The legislative members shall serve until
30 the end of the two-year legislative term during which the members are
31 appointed. The public members shall serve for terms of two years and
32 until the appointment and qualification of their successors. The terms
33 of the public members shall run from the second Tuesday in January
34 of an even-numbered year to the second Tuesday in January of the
35 next even-numbered year, regardless of the original date of
36 appointment. Notwithstanding the terms of the public members as
37 established in this section, the public members first appointed shall
38 serve from their initial appointments, all of which shall be made not
39 later than the 60th day following the effective date of this act, until the
40 second Tuesday in January of the next even-numbered year.
41 Vacancies in the membership of the joint committee shall be filled in
42 the same manner as the original appointments, but for the unexpired
43 term only. Public members of the joint committee shall serve without
44 compensation, but shall be entitled to be reimbursed for all actual and
45 necessary expenses incurred in the performance of their duties.

1 [(c)] c. The joint committee shall organize as soon as may be
2 practicable after the appointment of its members, by the selection of
3 a chairman and vice chairman from among its membership and the
4 appointment of a secretary, who need not be a member of the joint
5 committee.

6 [(d)] d. The Legislative Counsel in the Office of Legislative
7 Services shall act as legal adviser to the joint committee. He shall,
8 upon request, assist and advise the joint committee in the rendering of
9 advisory opinions by the joint committee, in the approval and review
10 of codes of ethics adopted by State agencies in the Legislative Branch,
11 and in the recommendation of revisions in codes of ethics or legislation
12 relating to the conduct of members of the Legislature or State officers
13 and employees in the Legislative Branch.

14 [(e)] e. The joint committee may, within the limits of funds
15 appropriated or otherwise available to it for the purpose, employ other
16 professional, technical, clerical or other assistants, excepting legal
17 counsel, and incur expenses as may be necessary to the performance
18 of its duties.

19 [(f)] f. The joint committee shall have all the powers granted
20 pursuant to chapter 13 of Title 52 of the Revised Statutes.

21 [(g)] g. The joint committee is authorized to render advisory
22 opinions as to whether a given set of facts and circumstances would,
23 in its opinion, constitute a violation of the provisions of this act, of a
24 code of ethics promulgated pursuant to the provisions of this act or of
25 any rule of either or both Houses which gives the joint committee
26 jurisdiction and the authority to investigate a matter.

27 [(h)] h. The joint committee shall have jurisdiction to initiate,
28 receive, hear and review complaints regarding violations of the
29 provisions of this act or of a code of ethics promulgated pursuant to
30 the provisions of this act. It shall further have such jurisdiction as to
31 enforcement of the rules of either or both Houses of the Legislature
32 governing the conduct of the members or employees thereof as those
33 rules may confer upon the joint committee. A complaint regarding a
34 violation of a code of ethics promulgated pursuant to the provisions
35 of this act may be referred by the joint committee for disposition in
36 accordance with subsection [12(d)] 12d. of this act.

37 [(i)] i. Any State officer or employee or special State officer or
38 employee in the Legislative Branch found guilty by the joint committee
39 of violating any provisions of this act, of a code of ethics promulgated
40 pursuant to the provisions of this act or of any rule of either or both
41 Houses which gives the joint committee jurisdiction and the authority
42 to investigate a matter shall be fined not less than \$500.00 nor more
43 than [~~\$1,500.00~~] \$5,000.00, which penalty may be collected in a
44 summary proceeding pursuant to "the penalty enforcement law"
45 (N.J.S.2A:58-1 et seq.), [and] may be reprimanded and ordered to pay

1 restitution where appropriate, and may be suspended from his office
2 or employment by order of the joint committee for a period not in
3 excess of [1] one year. If the joint committee finds that the conduct
4 of such officer or employee, given the nature and frequency of the
5 conduct and the functions and responsibilities of the officer or
6 employee, evidences a careless disregard of the provisions of
7 P.L.1971, c.182, as amended and supplemented or a code of ethics
8 promulgated pursuant to the provisions of that act, it may order such
9 person removed from the person's office or employment and may
10 further bar such person from holding any public office or employment
11 in this State in any capacity whatsoever for a period not exceeding two
12 years from the date on which the person was found to have violated
13 any provision of P.L.1971, c.182, as amended and supplemented or a
14 code of ethics promulgated pursuant to the provisions of that act. If
15 the joint committee finds that the conduct of such officer or employee
16 constitutes a willful and continuous disregard of the provisions of this
17 act, of a code of ethics promulgated pursuant to the provisions of this
18 act or of any rule of either or both Houses which gives the joint
19 committee jurisdiction and the authority to investigate a matter, it may
20 order such person removed from his office or employment and may
21 further bar such person from holding any public office or employment
22 in this State in any capacity whatsoever for a period of not exceeding
23 5 years from the date on which he was found guilty by the joint
24 committee.

25 [(j)]j. A member of the Legislature who shall be found guilty by
26 the joint committee of violating the provisions of this act, of a code of
27 ethics promulgated pursuant to the provisions of this act or of any rule
28 of either or both Houses which gives the joint committee jurisdiction
29 and the authority to investigate a matter shall be fined not less than
30 \$500.00 nor more than [\$1,500.00] ~~\$5,000.00~~, which penalty may be
31 collected in a summary proceeding pursuant to "the penalty
32 enforcement law" (N.J.S.2A:58-1 et seq.), and shall be subject to such
33 further action as may be determined by the House of which he is a
34 member. In such cases the joint committee shall report its findings to
35 the appropriate House and shall recommend to the House such further
36 action as the joint committee deems appropriate, but it shall be the
37 sole responsibility of the House to determine what further action,
38 if any, shall be taken against such member.

39 (cf: P.L.1991, c.505, s.1)

40

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

43 12. [(a)]a. The head of each State agency, or the principal officer
44 in charge of a division, board, bureau, commission or other
45 instrumentality within a department of State Government designated

1 by the head of such department for the purposes hereinafter set forth,
2 shall within six months from the date of enactment, promulgate a code
3 of ethics to govern and guide the conduct of the members of the
4 Legislature, the State officers and employees or the special State
5 officers and employees in the agency to which said code is applicable.
6 Such code shall conform to the general standards hereinafter set forth
7 in this section, but it shall be formulated with respect to the particular
8 needs and problems of the agency to which said code is to apply.
9 Notwithstanding any other provisions of this section, the New Jersey
10 members to any interstate agency to which New Jersey is a party and
11 the officers and employees of any State agency which fails to
12 promulgate a code of ethics shall be deemed to be subject to a code of
13 ethics the provisions of which shall be paragraphs (1) through (6) of
14 subsection [(e)] e. of this section.

15 [(b)] b. A code of ethics formulated pursuant to this section to
16 govern and guide the conduct of the State officers and employees or
17 the special State officers and employees in any State agency in the
18 Executive Branch, or any portion of such a code, shall not be effective
19 unless it has first been approved by the Executive Commission on
20 Ethical Standards. When a proposed code is submitted to the [said]
21 commission it shall be accompanied by an opinion of the Attorney
22 General as to its compliance with the provisions of this act and any
23 other applicable provision of law. Nothing contained herein shall
24 prevent officers of State agencies in the Executive Branch from
25 consulting with the Attorney General or with the Executive
26 Commission on Ethical Standards at any time in connection with the
27 preparation or revision of such codes of ethics.

28 [(c)] c. A code of ethics formulated pursuant to this section to
29 govern and guide the conduct of the members of the Legislature, State
30 officers and employees or special State officers and employees in any
31 State agency in the Legislative Branch, or any portion of such code,
32 shall not be effective unless it has first been approved by the
33 Legislature by concurrent resolution. When a proposed code is
34 submitted to the Legislature for approval it shall be accompanied by
35 an opinion of the chief counsel as to its compliance with the provisions
36 of this act and any other applicable provisions of law. Nothing
37 contained herein shall prevent officers of State agencies in the
38 Legislative Branch from consulting with the Chief Legislative Counsel
39 or the Joint Legislative Committee on Ethical Standards at any time in
40 connection with the preparation or revision of such codes of ethics.

41 [(d)] d. Violations of a code of ethics promulgated pursuant to
42 this section shall be cause for removal, suspension, demotion or other
43 disciplinary action by the State officer or agency having the power of
44 removal or discipline. When a person who is in the classified civil
45 service is charged with a violation of such a code of ethics, the

1 procedure leading to such removal or discipline shall be governed by
2 any applicable provisions of the Civil Service Law and the Rules of the
3 Department of [Civil Service] Personnel. No action for removal or
4 discipline shall be taken under this subsection except upon the referral
5 or with the approval of the Executive Commission on Ethical
6 Standards or the Joint Legislative Committee on Ethical Standards,
7 whichever is authorized to exercise jurisdiction with respect to the
8 complaint upon which such action for removal or discipline is to be
9 taken.

10 [(e)] e. A code of ethics for officers and employees of a State
11 agency shall conform to the following general standards:

12 (1) No State officer or employee or special State officer or
13 employee should have any interest, financial or otherwise, direct or
14 indirect, or engage in any business or transaction or professional
15 activity, which is in substantial conflict with the proper discharge of
16 his duties in the public interest.

17 (2) No State officer or employee or special State officer or
18 employee should engage in any particular business, profession, trade
19 or occupation which is subject to licensing or regulation by a specific
20 agency of State Government without promptly filing notice of such
21 activity with the Executive Commission on Ethical Standards, if he is
22 an officer or employee in the Executive Branch, or with the Joint
23 Legislative Committee on Ethical Standards, if he is an officer or
24 employee in the Legislative Branch. A State officer or employee or a
25 special State officer or employee who possesses a license issued by a
26 State agency which entitles the officer or employee to engage in a
27 particular business, profession, trade or occupation shall file notice of
28 that fact with the Executive Commission or the Joint Committee, as
29 appropriate.

30 (3) No State officer or employee or special State officer or
31 employee should use or attempt to use his official position, or direct,
32 authorize or knowingly permit another to use an official position, to
33 secure unwarranted privileges or advantages for [himself or others]
34 any person.

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

39 (5) No State officer or employee or special State officer or
40 employee should undertake any employment or service, whether
41 compensated or not, which might reasonably be expected to impair his
42 objectivity and independence of judgment in the exercise of his official
43 duties.

44 (6) No State officer or employee or special State officer or
45 employee should accept any gift, favor, service or other thing of value

1 under circumstances from which it might be reasonably inferred that
2 such gift, service or other thing of value was given or offered for the
3 purpose of influencing him in the discharge of his official duties.

4 (7) No State officer or employee or special State officer or
5 employee should knowingly act in any way that might reasonably be
6 expected to create an impression or suspicion among the public having
7 knowledge of his acts that he may be engaged in conduct violative of
8 his trust as a State officer or employee or special State officer or
9 employee.

10 (8) Rules of conduct adopted pursuant to these principles should
11 recognize that under our democratic form of government public
12 officials and employees should be drawn from all of our society, that
13 citizens who serve in government cannot and should not be expected
14 to be without any personal interest in the decisions and policies of
15 government; that citizens who are government officials and employees
16 have a right to private interests of a personal, financial and economic
17 nature; that standards of conduct should separate those conflicts of
18 interest which are unavoidable in a free society from those conflicts of
19 interest which are substantial and material, or which bring government
20 into disrepute.

21 [(f)] f. The code of ethics for members of the Legislature shall
22 conform to subsection [(e)] e. hereof as nearly as may be possible.
23 (cf: P.L.1987, c.432, s.6)

24

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

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

30 a. "State agency" means any of the principal departments in the
31 Executive Branch of the State Government, and any division, board,
32 bureau, office, commission or other instrumentality within or created
33 by such department, the Legislature of the State and any office, board,
34 bureau or commission within or created by the Legislative Branch,
35 and, to the extent consistent with law, any interstate agency to which
36 New Jersey is a party and any independent State authority,
37 commission, instrumentality or agency. A county or municipality shall
38 not be deemed an agency or instrumentality of the State.

39 b. "State officer or employee" means any person, other than a
40 special State officer or employee (1) holding an office or employment
41 in a State agency, excluding an interstate agency, other than a member
42 of the Legislature or (2) appointed as a New Jersey member to an
43 interstate agency.

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

- 1 d. "Head of a State agency" means (1) in the case of the Executive
2 Branch of government, except with respect to interstate agencies, the
3 department head or, if the agency is not assigned to a department, the
4 Governor, and (2) in the case of the Legislative Branch, the chief
5 presiding officer of each House of the Legislature.
- 6 e. "Special State officer or employee" means (1) any person
7 holding an office or employment in a State agency, excluding an
8 interstate agency, for which office or employment no compensation is
9 authorized or provided by law, or no compensation other than a sum
10 in reimbursement of expenses, whether payable per diem or per annum,
11 is authorized or provided by law; (2) any person, not a member of the
12 Legislature, holding a part-time elective or appointive office or
13 employment in a State agency, excluding an interstate agency, or (3)
14 any person appointed as a New Jersey member to an interstate agency
15 the duties of which membership are not full-time.
- 16 f. "Person" means any natural person, association [or],
17 corporation or other business organization.
- 18 g. "Interest" means (1) the ownership or control of more than 10%
19 of the profits or assets of a firm, association, or partnership, or more
20 than 10% of the stock in a corporation for profit other than a
21 professional service corporation organized under the "Professional
22 Service Corporation Act," P.L.1969, c.232 (C.14A:17-1 et seq.); or
23 (2) the ownership or control of more than 1% of the profits of a firm,
24 association, or partnership, or more than 1% of the stock in any
25 corporation, which is the holder of, or an applicant for, a casino
26 license or in any holding or intermediary company with respect
27 thereto, as defined by the "Casino Control Act," P.L.1977, c.110
28 (C.5:12-1 et seq.). The provisions of this act governing the conduct
29 of individuals are applicable to shareholders, associates or professional
30 employees of a professional service corporation regardless of the
31 extent or amount of their shareholder interest in such a corporation.
- 32 h. "Commission" means the Executive Commission on Ethical
33 Standards.
- 34 i. "Cause, proceeding, application or other matter" means a
35 specific cause, proceeding or matter and does not mean or include
36 determinations of general applicability or the preparation or review of
37 legislation which is no longer pending before the Legislature or the
38 Governor.
- 39 j. "Dependent child" means a child for whom the State officer or
40 employee or special State officer or employee or the spouse of the
41 State officer or employee or special State officer or employee claims
42 federal or State tax status as a dependent.
- 43 [i.] k. "Member of the immediate family" of any person means the
44 person's spouse, child, parent or sibling residing in the same
45 household.

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

5 m. "Filing employee" means any person holding any of the
6 following offices in the Executive Branch of State government,
7 together with any offices added to such list by executive order:

8 (1) the Governor;

9 (2) the head of each principal department where such head is a
10 single executive;

11 (3) the assistant or deputy heads of each principal department,
12 including all assistant and deputy commissioners of such department;

13 (4) the head and assistant heads of a division of each principal
14 department, or any person exercising substantially similar authority
15 for: (a) any board or commission which is organized as in but not of
16 a principal department, or (b) any independent authority;

17 (5) the executive or administrative head and assistant heads of: (a)
18 any board or commission which is organized as in but not of a
19 principal department or (b) any independent authority;

20 (6) the following members of the staff of the Office of the
21 Governor:

22 (a) Chief of Staff;

23 (b) Chief Counsel to the Governor;

24 (c) Chief, Office of Policy and Planning;

25 (d) Director of Communications;

26 (e) Executive Assistant to the Governor and any deputy and the
27 principal administrative assistant to any of the foregoing members of
28 the staff of the Office of the Governor;

29 (7) members of the State Board of Agriculture;

30 (8) members of the State Board of Education;

31 (9) members of the Board of Public Utilities;

32 (10) members of the State Parole Board; and

33 (11) presidents of the State colleges and universities.

34 "Filing employee" also means any person holding an office not
35 specified above, but which is functionally equivalent to any of those
36 offices. Functional equivalence shall be determined by the Chief
37 Counsel to the Governor, the head of each principal department, the
38 head of each agency, board or commission in but not of a principal
39 department or the head of each independent authority, as appropriate,
40 in consultation with the commission.

41 In addition to the filing employees listed above, the Governor, by
42 executive order, may designate which members of the staff of the
43 Office of the Governor are "filing employees" for the purpose of
44 P.L.1971, c.182, as amended and supplemented, except that the Chief
45 of Staff, the Chief, Office of Policy and Planning and the Director of

1 Communications shall be "filing employees" for the purposes of that
2 act unless those positions or their equivalents are abolished.

3 n. "Filing officer" means:

4 (1) the members of the following boards, commissions,
5 independent authorities and public corporations, or their successor
6 organizations together with any offices or bodies added to such list by
7 executive order:

8 (a) Agriculture Development Committee;

9 (b) Atlantic City Convention Center Authority;

10 (c) Capital City Redevelopment Corporation;

11 (d) Casino Reinvestment Development Authority;

12 (e) Commission on Higher Education;

13 (f) Council on Affordable Housing;

14 (g) Educational Facilities Authority;

15 (h) Election Law Enforcement Commission;

16 (i) Executive Commission on Ethical Standards;

17 (j) Hackensack Meadowlands Development Commission;

18 (k) Hazardous Waste Facilities Siting Commission;

19 (l) Health Care Administration Board;

20 (m) Health Care Facilities Financing Authority;

21 (n) Local Finance Board;

22 (o) Merit System Board;

23 (p) New Jersey Building Authority;

24 (q) New Jersey Commission on Science and Technology;

25 (r) New Jersey Economic Development Authority;

26 (s) New Jersey Highway Authority;

27 (t) New Jersey Historic Trust;

28 (u) New Jersey Housing and Mortgage Finance Agency;

29 (v) New Jersey Low-Level Radioactive Waste Disposal Facility

30 Siting Board;

31 (w) New Jersey Natural Lands Trust;

32 (x) New Jersey Public Broadcasting Authority;

33 (y) New Jersey Racing Commission;

34 (z) New Jersey Real Estate Commission;

35 (aa) New Jersey Redevelopment Authority;

36 (bb) New Jersey Sports and Exposition Authority;

37 (cc) New Jersey State Council on the Arts;

38 (dd) New Jersey Transit Corporation;

39 (ee) New Jersey Transportation Trust Fund Authority;

40 (ff) New Jersey Turnpike Authority;

41 (gg) New Jersey Urban Enterprise Zone Authority;

42 (hh) New Jersey Water Supply Authority;

43 (ii) North Jersey District Water Supply Commission;

44 (jj) Passaic Valley Sewerage Commissioners;

45 (kk) Pinelands Commission;

- 1 (ll) Public Employment Relations Commission;
2 (mm) School Ethics Commission;
3 (nn) Shell Fisheries Council;
4 (oo) South Jersey Food Distribution Authority;
5 (pp) South Jersey Transportation Authority;
6 (qq) State Athletic Control Board;
7 (rr) State Lottery Commission;
8 (ss) State Planning Commission;
9 (tt) Tidelands Resource Council;
10 (uu) Wastewater Treatment Trust; and
11 (vv) Wetlands Mitigation Council;
12 (2) individuals appointed as a New Jersey member to the following
13 interstate agencies:
14 (a) Atlantic States Marine Fisheries Commission;
15 (b) Clean Ocean and Shore Trust Committee;
16 (c) Delaware River and Bay Authority;
17 (d) Delaware River Basin Commission;
18 (e) Delaware River Joint Toll Bridge Commission;
19 (f) Delaware River Port Authority;
20 (g) Delaware Valley Regional Planning Commission;
21 (h) Interstate Sanitation Commission;
22 (i) Northeast Interstate Low Level Radioactive Waste Commission;
23 (j) Palisades Interstate Park Commission;
24 (k) Port Authority of New York and New Jersey;
25 (l) Port Authority Trans-Hudson Corporation;
26 (m) South Jersey Port Corporation; and
27 (n) Waterfront Commission of New York Harbor.
28 o. "Government instrumentality" means any federal entity, the
29 Legislative, Judicial and Executive Branches of State government,
30 including any office, department, division, bureau, board, commission,
31 council, authority or agency therein and any county, municipality,
32 school board, district, public authority, public agency or other political
33 subdivision or public body in the State.
34 p. "Income" means all income from whatever source derived.
35 q. "Relative" means a son, daughter, grandson, granddaughter,
36 father, mother, grandfather, grandmother, great-grandfather, great-
37 grandmother, brother, sister, nephew, niece, uncle or aunt. Relatives
38 by adoption, half-blood, marriage or remarriage shall be treated as
39 relatives of the whole kinship.
40 r. "Asset" means property of any kind, real or personal, tangible
41 or intangible.
42 s. "Interest in a closely held business entity" means any ownership
43 or control of any profits or assets of such business entity.
44 t. "Doing business" with any government instrumentality means
45 business or commercial transactions involving the sale, conveyance or

1 rental of any estate, goods or services, and does not include
2 compliance with regulatory procedures.

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

4

5 5. (New section) Every filing employee and filing officer, as such
6 terms are defined in subsections m. and n. of section 2 of P.L.1971,
7 c.182 (C.52:13D-13), shall file not later than May 15 in each calendar
8 year, a current sworn and duly notarized financial disclosure statement
9 with the commission. Each statement shall include the following
10 information:

11 a. the name and position of the filing employee or filing officer;

12 b. any occupation, trade, business or profession engaged in by the
13 filing employee or filing officer and the employee's or officer's spouse
14 and dependent children;

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

31 (b) a list of assets consisting of any direct or indirect interest,
32 whether vested or contingent, in any contract made or executed by a
33 government instrumentality; and

34 (c) a list of assets consisting of real estate interests, including the
35 location, size, general nature and acquisition date of any real property
36 in New Jersey in which any direct, indirect, vested or contingent
37 interest is held, together with the names of all individuals or entities
38 who share a direct or indirect interest therein and the name of any
39 government instrumentality that is a tenant of such property or that
40 has before it an application, complaint or proceeding directly affecting
41 such property.

42 (2) Assets of a filing employee and the employee's spouse shall be
43 listed according to the following value categories:

44 (a) greater than \$1,000, but not more than \$5,000;

45 (b) greater than \$5,000, but not more than \$10,000;

- 1 (c) greater than \$10,000, but not more than \$20,000;
- 2 (d) greater than \$20,000, but not more than \$40,000;
- 3 (e) greater than \$40,000, but not more than \$80,000;
- 4 (f) greater than \$80,000, but not more than \$120,000;
- 5 (g) greater than \$120,000, but not more than \$160,000;
- 6 (h) greater than \$160,000, but not more than \$200,000;
- 7 (i) greater than \$200,000, but not more than \$240,000;
- 8 (j) greater than \$240,000, but not more than \$280,000;
- 9 (k) greater than \$280,000, but not more than \$320,000;
- 10 (l) greater than \$320,000, but not more than \$360,000;
- 11 (m) greater than \$400,000.

12 The value of assets of a filing employee's dependent children or of
13 a filing officer and the officer's spouse and dependent children need
14 not be disclosed unless specifically requested by the Governor or the
15 commission;

16 d. A list of all liabilities of the filing employee or filing officer and
17 the employee's or officer's spouse and dependent children, valued, as
18 applicable, by category in the same manner as required by subsection
19 c. above, except liabilities which are:

- 20 (1) less than \$10,000 and owed to a relative, as defined in
21 subsection q. of section 2 of P.L.1971, c.182 (C.52:13D-13);
- 22 (2) less than \$1,000 and owed to any other person;
- 23 (3) loans secured to purchase a personal motor vehicle, household
24 furniture or appliances where the loan did not exceed the purchase
25 price of the item and the outstanding balance did not exceed \$10,000
26 as of the close of the preceding calendar year; and
- 27 (4) revolving charge accounts where the outstanding liability does
28 not exceed \$10,000 as of the close of the preceding calendar year;

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

34 f. a list of all sources of income of the filing employee or filing
35 officer and the employee's or officer's spouse and dependent children,
36 including all compensated employment of whatever nature, all
37 directorships or other fiduciary positions for which compensation has
38 or will be claimed, all capital gains including a description of the
39 individual sources of such gains, all contractual arrangements
40 producing or expected to produce income, and honoraria, lecture fees
41 and other miscellaneous sources of income including, but not limited
42 to interest, dividends, royalties and rents. Statements filed before July
43 1 of any year shall disclose sources of income for the preceding
44 calendar year. Statements filed after July 1 of any year shall provide
45 this information for the twelve-month period immediately preceding

1 the filing date. The amount of such income received shall be listed and
2 valued by category in the same manner as assets as set forth in
3 subsection c. of this section. The amount of income of a filing
4 employee's dependent children or of a filing officer and the officer's
5 spouse and dependent children need not be disclosed unless
6 specifically requested by the Governor or the commission. Sources of
7 income that are not required to be reported are:

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

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

12 (3) gifts with an aggregated cash or fair market value of less than
13 \$3,000 received during the preceding 12 months from a relative;

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

23 h. A list of entities that do business with any government
24 instrumentalities in which the filing employee or filing officer or the
25 employee's or officer's spouse has an interest, as defined in subsection
26 g. of section 2 of P.L.1971, c.182 (C.52:13D-13).

27
28 6. (New section) Each statement shall contain a certification by
29 the filing employee or filing officer that the employee or officer has
30 read the statement, that to the best of the employee's or officer's
31 knowledge and belief it is true, correct and complete and that the
32 employee or officer has not transferred and will not transfer any asset,
33 interest or property for the purpose of concealing it from disclosure
34 while retaining an equitable interest therein.

35
36 7. (New section) a. Within 120 days from the effective date of
37 this act, each filing employee and filing officer who has not already
38 done so shall file the original signed statement required herein with the
39 commission. The statement shall contain a certification in lieu of oath
40 and shall be notarized. In furtherance of its duties under the "New
41 Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et
42 seq.) and pursuant to this act, the commission shall review each
43 statement to determine its internal conformity with the provisions of
44 this act and other applicable provisions of the law. Upon accepting
45 such statement for filing, the commission shall file and maintain a copy

1 of it for public inspection and copying in accordance with the
2 procedures set forth in P.L.1963, c.73 (C.47:1A-1 et seq.).

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

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

9

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

14

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

19 b. After the effective date of P.L. , c. (C.)(now
20 pending before the Legislature as this bill), a State agency shall not
21 hire a filing employee, and no person shall be appointed as a filing
22 officer, who holds any interest in any closely held business entity doing
23 business with a government instrumentality except as provided in
24 subsections c. and d. below. An individual seeking employment in or
25 appointment to such a position shall not divest a covered asset in a
26 manner otherwise prohibited by this act for the purpose of satisfying
27 the provisions of this act. A filing employee or filing officer shall not
28 obtain any prohibited interest in a closely held business entity during
29 the filing employee's or filing officer's tenure.

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

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

1 e. A filing employee or filing officer may only maintain an interest
2 in a closely held business entity covered by this section while and until
3 the commission makes a final determination on the status of such
4 interest. A person seeking employment or appointment in a State
5 agency shall disclose to the commission the person's interest, and the
6 interest of the person's spouse, in any such business entity as soon as
7 practicable, and the commission shall render a determination no later
8 than 30 days after receiving such disclosure, or at its next regularly
9 scheduled meeting, whichever shall occur later.

10
11 10. (New section) The commission shall review all financial
12 disclosure statements as they may from time to time be submitted by
13 filing employees and filing officers to determine whether the covered
14 persons have obtained ownership or interest in any assets that give rise
15 to a present or potential conflict of interest, or a present or potential
16 appearance of a conflict of interest, within the meaning of this act.

17
18 11. (New section) Each filing employee or filing officer shall
19 amend the employee's or officer's financial disclosure statement within
20 30 days of gaining knowledge of: a. the acquisition by the employee
21 or officer or the spouse thereof of any interest in any closely held
22 business entity; or b. the commencement of any business activity
23 covered by the provisions of this act.

24
25 12. (New section) Any filing employee or filing officer subject to
26 this act who acquires an interest prohibited under this act by way of
27 inheritance, bequest or similar circumstances beyond the employee's
28 or officer's control shall follow the procedures for disclosure and
29 disposition set forth in sections 11 and 13 of this act. The commission
30 may adopt rules and regulations governing the disposition of such
31 interests pending compliance with the procedures for disclosure and
32 disposition set forth in this act. These rules and regulations may
33 provide a reasonable period of time for divestiture of an interest,
34 considering the nature of the filing employee's or filing officer's duties
35 and the nature and marketability of the interest.

36
37 13. (New section) All required divestiture shall be subject to the
38 following conditions:

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

41 and

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

- 1 14. (New section) Whenever the Executive Commission on
2 Ethical Standards permits a blind trust to be utilized by a filing
3 employee or filing officer, the trust shall contain the following
4 characteristics:
- 5 a. the trust shall not contain investments or assets in which the
6 holder's ownership right or interest is required to be recorded in a
7 public office or those assets whose permanency makes transfer by the
8 trustee improbable or impractical; these investments or assets would
9 include, but not be limited to, businesses, real estate, security interests
10 in personal property and mortgages;
- 11 b. the trust shall contain a clear statement of its purpose, namely,
12 to remove from the grantor control and knowledge of investment of
13 trust assets so that conflicts between the grantor's responsibilities and
14 duties as a filing officer or employee and the filing officer's or
15 employee's private business or financial interests will be eliminated;
- 16 c. the trust shall be irrevocable, and shall be terminated only upon
17 the death of the filing officer or employee or upon termination from
18 State office or employment, whichever shall first occur;
- 19 d. the trustee shall be directed not to disclose to the grantor any
20 information about any of the assets in the trust;
- 21 e. the trustee shall be required either to: prepare and file the
22 grantor's personal income tax returns, withholding from distribution of
23 the trust's net income amounts sufficient to pay the grantor's tax; and
24 further to participate in the audit of the grantor's returns during the
25 period of the trust with authority to compromise the grantor's tax
26 liability; or submit to the grantor, for income tax purposes, a
27 certification of income paid without identifying the assets producing
28 such income;
- 29 f. among its other powers, the trustee shall have authority to
30 determine whether any of the assets originally transferred to the
31 trustee are to be sold and, if so, when;
- 32 g. a provision shall be included in the trust agreement prohibiting
33 the trustee from investing the trust property in corporations or
34 businesses which it knows do a significant amount of business with the
35 State of New Jersey or from knowingly making any investment in a
36 corporation, business or venture over which the grantor has regulatory
37 or supervisory authority by virtue of the grantor's position as a filing
38 officer or employee;
- 39 h. the grantor shall retain no control over the trustee nor shall the
40 grantor be permitted to make any recommendations or suggestions as
41 to the trust property;

1 i. the trustee shall be a commercial trustee and not a natural
2 person;

3 j. the principal benefit to be retained by the grantor shall be the
4 right to receive income from the assets transferred to the trust;

5 k. the trust shall not become effective until submitted and
6 approved by the Executive Commission on Ethical Standards; and

7 l. the trust agreement shall provide that the trustee will give the
8 Executive Commission on Ethical Standards access to any records or
9 information related to the trust which is necessary for the performance
10 of the commission's duties.

11

12 15. (New section) A copy of the executed blind trust agreement
13 shall be filed with the Executive Commission on Ethical Standards and
14 with the head of the department in which the filing officer or employee
15 holds office or employment. Attached to such copy shall be a brief
16 statement outlining the business or financial interests from which the
17 filing officer or employee seeks removal and the actual or potential
18 conflicts of interest, or appearance of such conflicts, which are sought
19 to be avoided by use of the trust agreement.

20

21 16. (New section) It shall be a crime of the third degree for a
22 public servant to:

23 a. knowingly make, or cause or permit another public servant to
24 make, a false entry in, or false alteration of, any record, document or
25 thing belonging to, or received or kept by, the government for
26 information or record, or required by law to be kept by others for
27 information of the government;

28 b. make, present, offer for filing, or use any record, document or
29 thing, or cause or permit another public servant to do so, knowing it
30 to be false, and with purpose that it be taken as a genuine part of
31 information or records referred to in subsection a. of this section; or

32 c. purposely and unlawfully destroy, conceal, remove, mutilate, or
33 otherwise impair the verity or availability of any such record,
34 document or thing, or purposely and unlawfully cause or permit
35 another public servant to do so.

36

37 17. (New section) The first annual report submitted by the
38 Executive Commission on Ethical Standards to the Governor and the
39 Legislature, pursuant to subsection i. of section 10 of P.L.1971, c.182
40 (C.52:13D-21), shall include the commission's recommendations as to
41 whether legislation should be enacted which prohibits the spouse or
42 other family member of a State officer or employee or of a special
43 State officer or employee from holding employment in an industry over
44 which the officer or employee has regulatory responsibility.

1 18. This act shall take effect immediately, but any increased
2 penalty shall apply only to violations occurring on and after the
3 effective date.

4

5

6

7

8 Reconstitutes Executive Commission on Ethical Standards with public
9 members; requires certain public officers and employees to file
10 financial disclosure statements and dispose of certain prohibited
11 interests.