

40A:9-22.1 to 40A:9-22.25

LEGISLATIVE HISTORY CHECKLIST
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("Legal Government Ethics Law")

NJSA: 40A:9-22.1 to 40A:9-22.25

LAWS OF: 1991 CHAPTER: 29

BILL NO: S2027

SPONSOR(S): Contillo

DATE INTRODUCED: Pre-filed

COMMITTEE: ASSEMBLY: State

SENATE: County & Municipal Government

AMENDED DURING PASSAGE: Yes Amendments during passage denoted by asterisks

DATE OF PASSAGE: ASSEMBLY: December 17, 1990

SENATE: May 17, 1990

DATE OF APPROVAL: February 20, 1991

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes (2)

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

REPORTS: Yes

HEARINGS: Yes

See newspaper clippings--attached:

"Florio signs ethics bill...", 2-21-92, Home News.

"Stricter standards for local officials," 2-21-91, Asbury Park Press.

"Local government ethics bill advances," 2-21-91, Trenton Times.

(over)

- 974.90 New Jersey. Legislature. Ad HOC Commission on Legislative Ethics
L514 and Campaign Finance.
1990a Findings and recommendations...October 22, 1990.
- 974.90 New Jersey. Legislature. Ad HOC Commission on Legislative Ethics
L514 and Campaign Finance.
1990 Commission meetings and public hearings...May 2, May 16,
June 6, June 20, July 11, July 25, August 8, August 24,
September 5, September 12, September 26, and October 3.

See also:

Buzak, Edward J., "A Guide to the Local Government Ethics Law," 128 N.J.L.J.
11 (5-2-91)

KBG:pp

P.L.1991, CHAPTER 29, approved February 20, 1991
1990 Senate No. 2027 (Second Reprint)

1 AN ACT concerning standards of ethical conduct for officers and
2 employees of local government² and² repealing section 1 of
3 P.L.1983, c.188 (C.40:23-6.51) ²(and making an appropriation
4 therefor)².

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

8 1. This act shall be known and may be cited as the "Local
9 Government Ethics Law."

10 2. The Legislature finds and declares that:

11 a. Public office and employment are a public trust;

12 b. The vitality and stability of representative democracy
13 depend upon the public's confidence in the integrity of its
14 elected and appointed representatives;

15 c. Whenever the public perceives a conflict between the
16 private interests and the public duties of a government officer or
17 employee, that confidence is imperiled;

18 d. Governments have the duty both to provide their citizens
19 with standards by which they may determine whether public
20 duties are being faithfully performed, and to apprise their
21 officers and employees of the behavior which is expected of them
22 while conducting their public duties; and

23 e. It is the purpose of this act to provide a method of assuring
24 that standards of ethical conduct and financial disclosure
25 requirements for local government officers and employees shall
26 be clear, consistent, uniform in their application, and enforceable
27 on a statewide basis, and to provide local officers or employees
28 with advice and information concerning possible conflicts of
29 interest which might arise in the conduct of their public duties.

30 3. As used in this act:

31 a. ²["Business organization" means any corporation,
32 partnership, firm, enterprise, franchise, association, trust, sole
33 proprietorship, union or other legal entity] "Board" means the
34 Local Finance Board in the Division of Local Government
35 Services in the Department of Community Affairs²;

36 b. ²["Commission" means the Local Government Ethics
37 Commission established by this act] "Business organization"
38 means any corporation, partnership, firm, enterprise, franchise.

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SCH committee amendments adopted April 26, 1990.

² Assembly ASG committee amendments adopted June 18, 1990.

1 association, trust, sole proprietorship, union or other legal entity²;

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

10 d. "Interest" means the ownership or control of more than 10%
11 of the profits, assets or stock of a business organization but shall
12 not include the control of assets in a non-profit entity or labor
13 union;

14 e. "Local government agency" means any agency, board,
15 governing body, including the chief executive officer, bureau,
16 division, office, commission or other instrumentality within a
17 county or municipality, and any independent local authority,
18 including any entity created by more than one county or
19 municipality, which performs functions other than of a purely
20 advisory nature, but shall not include a school board;

21 f. "Local government employee" means any person, whether
22 compensated or not, whether part-time or full-time, employed by
23 or serving on a local government agency who is not a local
24 government officer, but shall not mean any employee of a school
25 district;

26 g. "Local government officer" means any person whether
27 compensated or not, whether part-time or full-time: (1) elected
28 to any office of a local government agency; (2) serving on a local
29 government agency which ¹[is subject to the "Open Public
30 Meetings Act," P.L.1976, c.231 (C.10:4-6 et seq.)] has the
31 authority to enact ordinances, approve development applications
32 or grant zoning variances¹; ²[or] ³ who is a member of an
33 independent municipal, county or regional authority; or ⁴ who
34 is a managerial executive or confidential employee of a local
35 government agency, as defined in section 3 of the "New Jersey
36 Employer-Employee Relations Act," P.L.1941, c.100
37 (C.34:13A-3), but shall not mean any employee of a school
38 district or member of a school board;

39 h. "Local government officer or employee" means a local
40 government officer or a local government employee;

41 i. "Member of immediate family" means the spouse or
42 dependent child of a local government officer or employee
43 residing in the same household.

44 ²[4. a. There is established in the Executive Branch of the
45 State Government a commission consisting of six members who
46 shall be designated the Local Government Ethics Commission.
47 The members shall be appointed by the Governor with the advice
48 and consent of the Senate. At least one member shall be at the
49 time of appointment a county government officer or employee

1 and at least one member shall be a municipal government officer
2 or employee. No member of the commission shall serve on or
3 campaign for any office of a political party or political
4 committee during his term as member of the commission. The
5 members shall be chosen by virtue of their known and consistent
6 reputation for integrity and their experience in, and knowledge
7 of, local government affairs. No more than three of the members
8 of the commission shall be of the same political party. No more
9 than one member shall be from the same county.

10 b. The Governor shall designate one of the appointed members
11 to serve as chairman of the commission.

12 c. Each of the appointed members shall serve for a term of
13 five years, except that of the members initially appointed, two
14 shall be appointed for a term of five years, one for a term of four
15 years, and the remaining members shall be appointed for a term
16 of three years. Each member shall serve until his successor has
17 been appointed and qualified. Any vacancy occurring in the
18 membership of the commission shall be filled in the same manner
19 as the original appointment for the unexpired term.

20 d. Members of the commission shall serve without
21 compensation, but shall be reimbursed for necessary expenses
22 incurred in the performance of their duties under this act.

23 e. For the purposes of complying with Article V, Section IV,
24 paragraph 1 of the Constitution, the Local Government Ethics
25 Commission is allocated to the Department of Community
26 Affairs; but, notwithstanding that allocation, the commission
27 shall be independent of any supervision or control by the
28 department or by any board or officer thereof, it being the
29 intention of the Legislature that the assignment, direction,
30 discipline and supervision of all the employees of the commission,
31 and the implementation of the purposes, policy and provisions of
32 this act, shall be, insofar as possible, fully determined by the
33 commission, or by the officers and employees thereof to whom
34 the commission may delegate the powers of assignment,
35 direction, discipline and supervision.¹²

36 ¹⁵ The commission may appoint professional employees,
37 including independent counsel, and clerical staff as are necessary
38 to carry out the provisions of this act within the limits of funds
39 appropriated or otherwise made available to it by the Legislature
40 for those purposes. All clerical staff so-appointed shall be in the
41 career service of the civil service and shall be subject to the
42 provisions of Title 11A of the New Jersey Statutes.¹²

43 ¹⁶ ¹² The ² [commission] Local Finance Board in the
44 Division of Local Government Services in the Department of
45 Community Affairs² shall have jurisdiction to govern and guide
46 the conduct of local government officers or employees regarding
47 violations of the provisions of this act who are not otherwise
48 regulated by a county or municipal code of ethics promulgated by
49 a county or municipal ethics board in accordance with the

1 provisions of this act. Local government officers or employees
2 serving a local government agency created by more than one
3 county or municipality shall be under the jurisdiction of the
4 ²[commission] board². The ²[commission] board² in interpreting
5 and applying the provisions of this act shall recognize that under
6 the principles of democracy, public officers and employees
7 cannot and should not be expected to be without any personal
8 interest in the decisions and policies of government; that citizens
9 who are government officers and employees have a right to
10 private interests of a personal, financial and economic nature;
11 and that standards of conduct shall distinguish between those
12 conflicts of interest which are legitimate and unavoidable in a
13 free society and those conflicts of interest which are prejudicial
14 and material and are, therefore, corruptive of democracy and
15 free society.

16 ²[7.] ² Local government officers or employees under the
17 jurisdiction of the ²[commission] Local Finance Board² shall
18 comply with the following provisions:

19 a. No local government officer or employee or member of his
20 immediate family shall have an interest in a business organization
21 or engage in any business, transaction, or professional activity,
22 which is in substantial conflict with the proper discharge of his
23 duties in the public interest;

24 b. No independent local authority shall, for a period of one
25 year next subsequent to the termination of office of a member of
26 that authority:

27 (1) award any contract which is not publicly bid to a former
28 member of that authority;

29 (2) allow a former member of that authority to represent,
30 appear for or negotiate on behalf of any other party before that
31 authority; or

32 (3) employ for compensation, except pursuant to open
33 competitive examination in accordance with Title 11A of the
34 New Jersey Statutes and the rules and regulations promulgated
35 pursuant thereto, any former member of that authority.

36 The restrictions contained in this subsection shall also apply to
37 any business organization in which the former authority member
38 holds an interest.

39 c. No local government officer or employee shall use or
40 attempt to use his official position to secure unwarranted
41 privileges or advantages for himself or others;

42 d. No local government officer or employee shall act in his
43 official capacity in any matter where he, a member of his
44 immediate family, or a business organization in which he has an
45 interest, has a direct or indirect ¹[financial or] ¹ personal
46 involvement that might reasonably be expected to impair his
47 objectivity or independence ²[or] of ² judgment;

48 e. No local government officer or employee shall undertake
49 any employment or service, whether compensated or not, which

1 might reasonably be expected to prejudice his independence of
2 judgment in the exercise of his official duties;

3 f. No local government officer or employee, member of his
4 immediate family, or business organization in which he has an
5 interest, shall solicit or accept any gift, favor, loan, political
6 contribution, service, promise of future employment, or other
7 thing of value based upon an understanding that the gift, favor,
8 loan, contribution, service, promise, or other thing of value was
9 given or offered for the purpose of influencing him, directly or
10 indirectly, in the discharge of his official duties. This provision
11 shall not apply to the solicitation or acceptance of contributions
12 to the campaign of an announced candidate for elective public
13 office, if the local government officer has no knowledge or
14 reason to believe that the campaign contribution, if accepted,
15 was given with the intent to influence the local government
16 officer in the discharge of his official duties;

17 g. No local government officer or employee shall use, or allow
18 to be used, his public office or employment, or any information,
19 not generally available to the members of the public, which he
20 receives or acquires in the course of and by reason of his office
21 or employment, for the purpose of securing financial gain for
22 himself, any member of his immediate family, or any business
23 organization with which he is associated;

24 h. No local government officer or employee ¹or business
25 organization in which he has an interest¹ shall represent any
26 person or party other than the local government in connection
27 with any cause, proceeding, application or other matter pending
28 before ¹any agency in¹ the local government ¹[agency]¹ in which
29 he serves. This provision shall not be deemed to prohibit one
30 local government employee from representing another local
31 government employee where the local government agency is the
32 employer and the representation is within the context of official
33 labor union or similar representational responsibilities;

34 i. No local government officer shall be deemed in conflict with
35 these provisions if, by reason of his participation in the
36 enactment of any ordinance, resolution or other matter required
37 to be voted upon or which is subject to executive approval or
38 veto, no material or monetary gain accrues to him as a member
39 of any business, profession, occupation or group, to any greater
40 extent than any gain could reasonably be expected to accrue to
41 any other member of such business, profession, occupation or
42 group;

43 j. No elected local government officer shall be prohibited from
44 making an inquiry for information on behalf of a constituent, if
45 no fee, reward or other thing of value is promised to, given to or
46 accepted by the officer or a member of his immediate family,
47 whether directly or indirectly, in return therefor; and

48 k. Nothing shall prohibit any local government officer or
49 employee, or members of his immediate family, from

1 representing himself, or themselves, in negotiations or
2 proceedings concerning his, or their, own interests.

3 ²[§.] 6.² a. Local government officers shall annually file a
4 financial disclosure statement. All financial disclosure
5 statements filed pursuant to this act shall include the following
6 information which shall specify, where applicable, the name and
7 address of each source and the local government officer's job
8 title:

9 (1) Each source of income, earned or unearned, exceeding
10 \$2,000 received by the local government officer or a member of
11 his immediate family during the preceding calendar year ¹,
12 except where) Individual client fees, customer receipts or
13 commissions on transactions received through a business
14 organization need not be separately reported as sources of
15 income. If¹ a publicly traded security is the source of income,
16 the security need not be reported unless the local government
17 officer or member of his immediate family has an interest in the
18 business organization;

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

24 (3) Each source of gifts, reimbursements or prepaid expenses
25 having an aggregate value exceeding \$400 from any single source,
26 excluding relatives, received by the local government officer or a
27 member of his immediate family during the preceding calendar
28 year;

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

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

36 b. The ²[commission] Local Finance Board² shall prescribe a
37 financial disclosure statement form for filing purposes. For
38 counties and municipalities which have not established ethics
39 boards, the ²[commission] board² shall transmit sufficient copies
40 of the forms to the municipal clerk in each municipality and the
41 county clerk in each county for filing in accordance with this
42 act. The municipal clerk shall make the forms available to the
43 local government officers serving the municipality. The county
44 clerk shall make the forms available to the local government
45 officers serving the county.

46 For counties and municipalities which have established ethics
47 boards, the ²[commission] Local Finance Board² shall transmit
48 sufficient copies of the forms to the ²ethics² boards for filing in
49 accordance with this act. The ²ethics² boards shall make the

1 forms available to the local government officers within their
2 jurisdiction.

3 For local government officers serving the municipality, the
4 original statement shall be filed with the municipal clerk in the
5 municipality in which the local government officer serves. For
6 local government officers serving the county, the original
7 statement shall be filed with the county clerk in the county in
8 which the local government officer serves. A copy of the
9 statement shall be filed with the ²[commission] board². In
10 counties or municipalities which have established ethics boards a
11 copy of the statement shall also be filed with the ethics board
12 having jurisdiction over the local government officer. Local
13 government officers shall file the initial financial disclosure
14 statement within 90 days following the effective date of this
15 act. Thereafter, statements shall be filed on or before April 30th
16 each year.

17 c. All financial disclosure statements filed shall be public
18 records.

19 ²[9. The commission] 7. With respect to its responsibilities for
20 the implementation of the provisions of this act, the Local
21 Finance Board² shall have the following powers:

22 a. To initiate, receive, hear and review complaints and hold
23 hearings with regard to possible violations of this act;

24 b. To issue subpoenas for the production of documents and the
25 attendance of witnesses with respect to its investigation of any
26 complaint or to the holding of a hearing;

27 c. To hear and determine any appeal of a decision made by a
28 county or municipal ethics board;

29 d. To forward to the county prosecutor or the Attorney
30 General or other governmental body any information concerning
31 violations of this act which may become the subject of criminal
32 prosecution or which may warrant the institution of other legal
33 proceedings by the Attorney General;

34 e. To render advisory opinions as to whether a given set of
35 facts and circumstances would constitute a violation of this act;

36 f. To enforce the provisions of this act and to impose penalties
37 for the violation thereof as are authorized by this act; and

38 g. To adopt rules and regulations pursuant to the
39 "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et
40 seq.) and to do other things as are necessary to implement the
41 purposes of this act.

42 ²[10.] ^{8.} ²A local government officer or employee not
43 regulated by a county or municipal code of ethics may request
44 and obtain from the ²[commission] Local Finance Board² an
45 advisory opinion as to whether any proposed activity or conduct
46 would in its opinion constitute a violation of the provisions of this
47 act. Advisory opinions of the ²[commission] board² shall not be
48 made public, except when the ²[commission] board² by the vote
49 of two-thirds of all of its members directs that the opinion be

1 made public. Public advisory opinions shall not disclose the name
2 of the local government officer or employee unless the
3 ²[commission] board² in directing that the opinion be made public
4 so determines.

5 ²[11.] 9.2 The ²[commission] Local Finance Board², upon
6 receipt of a signed written complaint by any person alleging that
7 the conduct of any local government officer or employee, not
8 regulated by a county or municipal code of ethics, is in conflict
9 with the provisions of this act, shall acknowledge receipt of the
10 complaint within 30 days of receipt and initiate an investigation
11 concerning the facts and circumstances set forth in the
12 complaint. The ²[commission] board² shall make a determination
13 as to whether the complaint is within its jurisdiction or frivolous
14 or without any reasonable factual basis. If the ²[commission]
15 board² shall conclude that the complaint is outside its
16 jurisdiction, frivolous or without factual basis, it shall reduce
17 that conclusion to writing and shall transmit a copy thereof to
18 the complainant and to the local government officer or employee
19 against whom the complaint was filed. Otherwise the
20 ²[commission] board² shall notify the local government officer or
21 employee against whom the complaint was filed of the nature of
22 the complaint and the facts and circumstances set forth therein.
23 The officer or employee shall have the opportunity to present the
24 ²[commission] board² with any statement or information
25 concerning the complaint which he wishes. Thereafter, if the
26 ²[commission] board² determines that a reasonable doubt exists
27 as to whether the local government officer or employee is in
28 conflict with the provisions of this act, the ²[commission] board²
29 shall conduct a hearing in the manner prescribed by section ²[14]
30 ¹² of this act, concerning the possible violation and any other
31 facts and circumstances which may have come to the attention of
32 the ²[commission] board² with respect to the conduct of the local
33 government officer or employee. The ²[commission] board² shall
34 render a decision as to whether the conduct of the officer or
35 employee is in conflict with the provisions of this act. ¹This
36 decision shall be made by no less than two-thirds of all members
37 of the ²[commission] board².¹ If the ²[commission] board²
38 determines that the officer or employee is in conflict with the
39 provisions of this act, it may impose any penalties which it
40 believes appropriate within the limitations of this act. A final
41 decision of the ²[commission] board² may be appealed in the
42 same manner as any other final State agency decision.

43 ²[12.] 10.2 a. An appointed local government officer or
44 employee found guilty by the ²[commission] Local Finance Board²
45 or a county or municipal ethics board of the violation of any
46 provision of this act or of any code of ethics in effect pursuant to
47 this act, shall be fined not less than \$100.00 nor more than
48 \$500.00, which penalty may be collected in a summary proceeding
49 pursuant to ²[the "penalty enforcement law"] "the penalty

1 enforcement law" (N.J.S.2A:58-1 et seq.). The [commission]
2 board or a county or municipal ethics board shall report its
3 findings to the office or agency having the power of removal or
4 discipline of the appointed local government officer or employee
5 and may recommend that further disciplinary action be taken.
6 b. An elected local government officer or employee found
7 guilty by the [commission] Local Finance Board or a county or
8 municipal ethics board of the violation of any provision of this
9 act or of any code of ethics in effect pursuant to this act, shall
10 be fined not less than \$100.00 nor more than \$500.00, which
11 penalty may be collected in a summary proceeding pursuant to
12 [the "penalty enforcement law"] the penalty enforcement
13 law" (N.J.S.2A:58-1 et seq.).
14 [13.] 11.2 The finding by the [commission] Local Finance
15 Board or a county or municipal ethics board that an appointed
16 local government officer or employee is guilty of the violation of
17 the provisions of this act, or of any code of ethics in effect
18 pursuant to this act, shall be sufficient cause for his removal,
19 suspension, demotion or other disciplinary action by the officer or
20 agency having the power of removal or discipline. When a person
21 who is in the career service is [found] charged [to have
22 violated] with violating the provisions of this act or any code of
23 ethics in effect pursuant to this act, the procedure leading to
24 removal, suspension, demotion or other disciplinary action shall
25 be governed by any applicable procedures of Title 11A of the New
26 Jersey Statutes and the rules promulgated pursuant thereto.
27 [14.] 12.2 All hearings required pursuant to this act shall be
28 conducted in conformity with the rules and procedures, insofar as
29 they may be applicable, provided for hearings by a State agency
30 in contested cases under the "Administrative Procedure Act,"
31 P.L.1968, c.410 (C.52:14B-1 et seq.).
32 [15.] 13.2 a. Each county of the State governed under the
33 provisions of P.L.1972, c.154 (C.40:41A-1 et seq.) may, by
34 ordinance, and the remaining counties may, by resolution
35 establish a county ethics board consisting of six members who are
36 residents of the county, at least two of whom shall be public
37 members. The members of the [ethics] board shall be appointed
38 by the governing body of the county and no more than one of
39 whom shall be from the same municipality. The members shall be
40 chosen by virtue of their known and consistent reputation for
41 integrity and their knowledge of local government affairs. No
42 more than three members of the [ethics] board shall be of the
43 same political party.
44 b. The members of the county ethics board shall annually elect
45 a chairman from among the membership.
46 c. The members shall serve for a term of five years; except
47 that of the members initially appointed, two of the public
48 members shall be appointed to serve for a term of five years, one
49 member shall be appointed to serve for a term of four years, and

1 the remaining members shall be appointed to serve for a term of
2 three years. Each member shall serve until his successor has
3 been appointed and qualified. Any vacancy occurring in the
4 membership of the ²ethics² board shall be filled in the same
5 manner as the original appointment for the unexpired term.

6 ~~d.~~ Members of the ²ethics² board shall serve without
7 compensation but shall be reimbursed by the county for necessary
8 expenses incurred in the performance of their duties under this
9 act.

10 ²[16.] ^{14.}² a. The governing body of the county shall provide
11 the county ethics board with offices for the conduct of its
12 business and the preservation of its records, and shall supply
13 equipment and supplies as may be necessary.

14 b. All necessary expenses incurred by the county ethics board
15 and its members shall be paid, upon certification of the chairman
16 ²[of the board]², by the county treasurer within the limits of funds
17 appropriated by the county governing body by annual or
18 emergency appropriations for those purposes.

19 c. The county ethics board may appoint employees, including
20 independent counsel, and clerical staff as are necessary to carry
21 out the provisions of this act within the limits of funds
22 appropriated by the county governing body for those purposes.

23 ²[17.] ^{15.}² Within 90 days after the establishment of a county
24 ethics board, ²[the] ¹ethics² board shall promulgate, by
25 resolution, a county code of ethics for all local government
26 officers and employees serving the county. Local government
27 officers and employees serving a county independent authority
28 shall be deemed to be serving the county for purposes of this act.

29 The county code of ethics ²so² promulgated ²[by the board]²
30 shall be either identical to the provisions set forth in section ²[7]
31 ⁵² of this act or more restrictive, but shall not be less
32 restrictive. Within 15 days following the promulgation thereof,
33 the county code of ethics, and a notice of the date of the public
34 hearing to be held thereon, shall be published in at least one
35 newspaper circulating within the county and shall be distributed
36 to the county clerk and to the heads of the local government
37 agencies serving the county for circulation among the local
38 government officers and employees serving the county. The
39 county ethics board shall hold a public hearing on the county code
40 of ethics not less than 30 days following its promulgation at
41 which any local government officer or employee serving the
42 county and any other person wishing to be heard shall be
43 permitted to testify. As a result of the hearing, the ²ethics²
44 board may amend or supplement the county code of ethics as it
45 deems necessary. If the county code of ethics is not identical to
46 the provisions set forth in section ²[7]-⁵² of this act, the county
47 ethics board shall thereafter submit the county code of ethics to
48 the ²[Local Government Ethics Commission] Local Finance
49 Board² for approval. The ²[commission] board² shall approve or

1 disapprove a county code of ethics within 60 days following
2 receipt. If the ²[commission] board² fails to act within that
3 period, the county code of ethics shall be deemed approved. A
4 county code of ethics requiring ²[commission] board² approval
5 shall take effect for all local government officers and employees
6 serving the county 60 days after approval by the ²[commission]
7 board². A county code of ethics identical to the provisions set
8 forth in section ²[7] ⁵ of this act shall take effect 10 days after
9 the public hearing thereon. The ²county ethics² board shall
10 forward a copy of the county code of ethics to the county clerk
11 and shall make copies of the county code of ethics available to
12 local government officers and employees serving the county.

13 ²[18.] ^{16.}² A county ethics board shall have the following
14 powers:

15 a. To initiate, receive, hear and review complaints and hold
16 hearings with regard to possible violations of the county code of
17 ethics or financial disclosure requirements by local government
18 officers or employees serving the county;

19 b. To issue subpoenas for the production of documents and the
20 attendance of witnesses with respect to its investigation of any
21 complaint or to the holding of a hearing;

22 c. To forward to the county prosecutor or the Attorney
23 General or other governmental body any information concerning
24 violations of the county code of ethics or financial disclosure
25 requirements by local government officers or employees serving
26 the county which may become the subject of criminal prosecution
27 or which may warrant the institution of other legal proceedings
28 by the Attorney General;

29 d. To render advisory opinions to local government officers or
30 employees serving the county as to whether a given set of facts
31 and circumstances would constitute a violation of any provision
32 of the county code of ethics or financial disclosure requirements;

33 e. To enforce the provisions of the county code of ethics and
34 financial disclosure requirements with regard to local government
35 officers or employees serving the county and to impose penalties
36 for the violation thereof as are authorized by this act; and

37 f. To adopt rules and regulations and to do other things as are
38 necessary to implement the purposes of this act.

39 ²[19.] ^{17.}² A local government officer or employee serving the
40 county may request and obtain from the county ethics board an
41 advisory opinion as to whether any proposed activity or conduct
42 would in its opinion constitute a violation of the county code of
43 ethics or any financial disclosure requirements. Advisory
44 opinions of the ²county ethics² board shall not be made public,
45 except when the ²ethics² board by the vote of two-thirds of all
46 of its members directs that the opinion be made public. Public
47 advisory opinions shall not disclose the name of the local
48 government officer or employee unless the ²ethics² board in
49 directing that the opinion be made public so determines.

1 ²[20.] ¹⁸² The county ethics board, upon receipt of a signed
2 written complaint by any person alleging that the conduct of any
3 local government officer or employee serving the county is in
4 conflict with the county code of ethics or any financial disclosure
5 requirements shall acknowledge receipt of the complaint within
6 30 days of receipt and initiate an investigation concerning the
7 facts and circumstances set forth in the complaint. The ²ethics²
8 board shall make a determination as to whether the complaint is
9 within its jurisdiction or frivolous or without any reasonable
10 factual basis. If the ²ethics² board shall conclude that the
11 complaint is outside its jurisdiction, frivolous or without factual
12 basis, it shall reduce that conclusion to writing and shall transmit
13 a copy thereof to the complainant and to the local government
14 officer or employee against whom the complaint was filed.
15 Otherwise the ²ethics² board shall notify the local government
16 officer or employee against whom the complaint was filed of the
17 nature of the complaint and the facts and circumstances set forth
18 therein. The officer or employee shall have the opportunity to
19 present the ²ethics² board with any statement or information
20 concerning the complaint which he wishes. Thereafter, if the
21 ²ethics² board determines that a reasonable doubt exists as to
22 whether the local government officer or employee is in conflict
23 with the county code of ethics or any financial disclosure
24 requirements, ²(the board) ¹¹² shall conduct a hearing in the
25 manner prescribed by section ²[14] ¹²² of this act, concerning the
26 possible violation and any other facts and circumstances which
27 may have come to ²(the) ¹³² attention ²(of the board)² with
28 respect to the conduct of the local government officer or
29 employee. The ²ethics² board shall render a decision as to
30 whether the conduct of the officer or employee is in conflict with
31 the county code of ethics or any financial disclosure
32 requirements. ¹This decision shall be made by no less than
33 ^{two-thirds of all members of the} ²ethics² board.¹ If the ²ethics²
34 board determines that the officer or employee is in conflict with
35 the code or any financial disclosure requirements, it may impose
36 any penalties which it believes appropriate within the limitations
37 of this act. A final decision of the ²ethics² board may be
38 appealed to the ²[commission] Local Finance Board² within 30
39 days of the decision.

40 ²[21.] ¹⁹² a. Each municipality of the State may, by
41 ordinance, establish a municipal ethics board consisting of six
42 members who are residents of the municipality, at least two of
43 whom shall be public members. The members of the ²ethics²
44 board shall be appointed by the governing body of the
45 municipality. The members shall be chosen by virtue of their
46 known and consistent reputation for integrity and their knowledge
47 of local government affairs. No more than three members of the
48 ²ethics² board shall be of the same political party.

49 b. The members of the municipal ethics board shall annually

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1 elect a chairman from among the membership.
2 G. The members shall serve for a term of five years, except
3 that of the members initially appointed, two of the public
4 members shall be appointed to serve for a term of five years, one
5 member shall be appointed to serve for a term of four years, and
6 the remaining members shall be appointed to serve for a term of
7 three years. Each member shall serve until his successor has
8 been appointed and qualified. Any vacancy occurring in the
9 membership of the ²ethics² board shall be filled in the same
10 manner as the original appointment for the unexpired term.

11 d. Members of the ²ethics² board shall serve without
12 compensation but shall be reimbursed by the municipality for
13 necessary expenses incurred in the performance of their duties
14 under this act.

15 ²[22.] ^{20.}² a. The governing body of the municipality shall
16 provide the municipal ethics board with offices for the conduct of
17 its business and the preservation of its records, and shall supply
18 equipment and supplies as may be necessary.

19 b. All necessary expenses incurred by the municipal ethics
20 board and its members shall be paid, upon certification of the
21 chairman ²[of the board]², by the municipal treasurer within the
22 limits of funds appropriated by the municipal governing body by
23 annual or emergency appropriations for those purposes.

24 c. The municipal ethics board may appoint employees,
25 including independent counsel, and clerical staff as are necessary
26 to carry out the provisions of this act within the limits of funds
27 appropriated by the municipal governing body for those purposes.

28 ²[23.] ^{21.}² Within 90 days after the establishment of a
29 municipal ethics board, ²[the] ²ethics² board shall promulgate
30 by resolution a municipal code of ethics for all local government
31 officers and employees serving the municipality. Local
32 government officers and employees serving a municipal
33 independent authority shall be deemed to be serving the
34 municipality for purposes of this act.

35 The municipal code of ethics ²50² promulgated ²[by the board]²
36 shall be either identical to the provisions set forth in section ²[7]
37 ⁵² of this act or more restrictive, but shall not be less
38 restrictive. Within 15 days following the promulgation thereof,
39 the municipal code of ethics, and a notice of the date of the
40 public hearing to be held thereon, shall be published in at least
41 one newspaper circulating within the municipality and shall be
42 distributed to the municipal clerk and to the heads of the local
43 government agencies serving the municipality for circulation
44 among the local government officers and employees serving the
45 municipality. The municipal ethics board shall hold a public
46 hearing on the municipal code of ethics not less than 30 days
47 following its promulgation at which any local government officer
48 or employee serving the municipality and any other person
49 wishing to be heard shall be permitted to testify. As a result of

1 the hearing, the ²ethics² board may amend or supplement the
2 municipal code of ethics as it deems necessary. If the municipal
3 code of ethics is not identical to the provisions set forth in
4 section 2[7] §² of this act, the municipal ethics board shall
5 thereafter submit the municipal code of ethics to the ²[Local
6 Government Ethics Commission] Local Finance Board² for
7 approval. The ²[commission] board² shall approve or disapprove a
8 municipal code of ethics within 60 days following receipt. If the
9 ²[commission] board² fails to act within that period, the
10 municipal code of ethics shall be deemed approved. A municipal
11 code of ethics requiring ²[commission] board² approval shall take
12 effect for all local government officers and employees serving
13 the municipality 60 days after approval by the ²[commission]
14 board². A municipal code of ethics identical to the provisions set
15 forth in section 2[7] §² of this act shall take effect 10 days after
16 the public hearing held thereon. The ²municipal ethics² board
17 shall forward a copy of the municipal code of ethics to the
18 municipal clerk and shall make copies of the municipal code of
19 ethics available to local government officers and employees
20 serving the municipality.

21 ²[24.] 22² A municipal ethics board shall have the following
22 powers:

23 a. To initiate, receive, hear and review complaints and hold
24 hearings with regard to possible violations of the municipal code
25 of ethics or financial disclosure requirements by local
26 government officers or employees serving the municipality;

27 b. To issue subpoenas for the production of documents and the
28 attendance of witnesses with respect to its investigation of any
29 complaint or to the holding of a hearing;

30 c. To forward to the county prosecutor or the Attorney
31 General or other governmental body any information concerning
32 violations of the municipal code of ethics or financial disclosure
33 requirements by local government officers or employees serving
34 the municipality which may become the subject of criminal
35 prosecution or which may warrant the institution of other legal
36 proceedings by the Attorney General;

37 d. To render advisory opinions to local government officers or
38 employees serving the municipality as to whether a given set of
39 facts and circumstances would constitute a violation of any
40 provision of the municipal code of ethics or financial disclosure
41 requirements;

42 e. To enforce the provisions of the municipal code of ethics
43 and financial disclosure requirements with regard to local
44 government officers or employees serving the municipality and
45 to impose penalties for the violation thereof as are authorized by
46 this act; and

47 f. To adopt rules and regulations and to do other things as are
48 necessary to implement the purposes of this act.

49 ²[25.] 23² A local government officer or employee serving the

1 municipality may request and obtain from the municipal ethics
2 board an advisory opinion as to whether any proposed activity or
3 conduct would in its opinion constitute a violation of the
4 municipal code of ethics or any financial disclosure
5 requirements. Advisory opinions of the ²municipal ethics² board
6 shall not be made public, except when the ²ethics² board by the
7 vote of two-thirds of all of its members directs that the opinion
8 be made public. Public advisory opinions shall not disclose the
9 name of the local government officer or employee unless the
10 ²ethics² board in directing that the opinion be made public so
11 determines.

12 ²[26.] ^{24.}² The municipal ethics board, upon receipt of a
13 signed written complaint by any person alleging that the conduct
14 of any local government officer or employee serving the
15 municipality is in conflict with the municipal code of ethics or
16 financial disclosure requirements, shall acknowledge receipt of
17 the complaint within 30 days of receipt and initiate an
18 investigation concerning the facts and circumstances set forth in
19 the complaint. The ²ethics² board shall make a determination as
20 to whether the complaint is within its jurisdiction or frivolous or
21 without any reasonable factual basis. If the ²ethics² board shall
22 conclude that the complaint is outside its jurisdiction, frivolous
23 or without factual basis, it shall reduce that conclusion to writing
24 and shall transmit a copy thereof to the complainant and to the
25 local government officer or employee against whom the
26 complaint was filed. Otherwise the ²ethics² board shall notify
27 the local government officer or employee against whom the
28 complaint was filed of the nature of the complaint and the facts
29 and circumstances set forth therein. The officer or employee
30 shall have the opportunity to present the ²ethics² board with any
31 statement or information concerning the complaint which he
32 wishes. Thereafter, if the ²ethics² board determines that a
33 reasonable doubt exists as to whether the local government
34 officer or employee is in conflict with the municipal code of
35 ethics or any financial disclosure requirements, ²[the board] ^{it}²
36 shall conduct a hearing in the manner prescribed by section ²[14]
37 ¹²² of this act, concerning the possible violation and any other
38 facts and circumstances which may have come to ²[the] ^{its}²
39 attention ²[of the board]² with respect to the conduct of the
40 local government officer or employee. The ²ethics² board shall
41 render a decision as to whether the conduct of the officer or
42 employee is in conflict with the municipal code of ethics or any
43 financial disclosure requirements. ¹This decision shall be made
44 by no less than two-thirds of all members of the ²ethics² board.¹
45 If the ²ethics² board determines that the officer or employee
46 is in conflict with the code or any financial disclosure
47 requirements, it may impose any penalties which it believes
48 appropriate within the limitations of this act. A final decision of
49 the ²ethics² board may be appealed to the ²[commission] Local

1 Finance Board² within 30 days of the decision.
2 ²[27.] 25.² All statements, complaints, requests or other
3 written materials filed pursuant to this act, and any rulings,
4 opinions, judgments, transcripts or other official papers prepared
5 pursuant to this act shall be preserved for a period of at least
6 five years from the date of filing or preparation, as the case may
7 be.

8 ²[28. There is appropriated from the General Fund to the
9 Department of Community Affairs \$90,000 to effectuate the
10 purposes of this act.]²

11 ²[29.] 26.² Section 1 of P.L.1983, c.188 (C.40:23-6.51) is
12 repealed.

13 ²[30.] 27.² This act shall take effect on the 90th day following
14 enactment, except that any appointments authorized by this act
15 and any administrative preparations for carrying its provisions
16 into effect may be made prior to the effective date.
17

18 LOCAL GOVERNMENT

19
20
21 Creates the Local Government Ethics Law.

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel
PRE-FILED FOR INTRODUCTION IN THE 1980 SESSION

By Senator CONTILLO

1 AN ACT concerning standards of ethical conduct for officers and
2 employees of local government, repealing section 1 of
3 P.L.1983, c.188 (C.40:23-6.51) and making an appropriation
4 therefor.
5

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

8 1. This act shall be known and may be cited as the "Local
9 Government Ethics Law."

10 2. The Legislature finds and declares that:

11 a. Public office and employment are a public trust;

12 b. The vitality and stability of representative democracy
13 depend upon the public's confidence in the integrity of its
14 elected and appointed representatives;

15 c. Whenever the public perceives a conflict between the
16 private interests and the public duties of a government officer or
17 employee, that confidence is imperiled;

18 d. Governments have the duty both to provide their citizens
19 with standards by which they may determine whether public
20 duties are being faithfully performed, and to apprise their
21 officers and employees of the behavior which is expected of them
22 while conducting their public duties; and

23 e. It is the purpose of this act to provide a method of assuring
24 that standards of ethical conduct and financial disclosure
25 requirements for local government officers and employees shall
26 be clear, consistent, uniform in their application, and enforceable
27 on a statewide basis, and to provide local officers or employees
28 with advice and information concerning possible conflicts of
29 interest which might arise in the conduct of their public duties.

30 3. As used in this act:

31 a. "Business organization" means any corporation, partnership,
32 firm, enterprise, franchise, association, trust, sole proprietorship,
33 union or other legal entity;

34 b. "Commission" means the Local Government Ethics
35 Commission established by this act;

36 c. "Governing body" means, in the case of a municipality, the
37 commission, council, board or body, by whatever name it may be
38 known, having charge of the finances of the municipality, and, in
39 the case of a county, the board of chosen freeholders, or, in the
40 case of a county having adopted the provisions of the "Optional
41 County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), as

1 defined in the form of government adopted by the county under
2 that act;

3 d. "Interest" means the ownership or control of more than 10%
4 of the profits, assets or stock of a business organization but shall
5 ~~not include the control of assets in a non-profit entity or labor~~
6 union;

7 e. "Local government agency" means any agency, board,
8 governing body, including the chief executive officer, bureau,
9 division, office, commission or other instrumentality within a
10 county or municipality, and any independent local authority,
11 including any entity created by more than one county or
12 municipality, which performs functions other than of a purely
13 advisory nature, but shall not include a school board;

14 f. "Local government employee" means any person, whether
15 compensated or not, whether part-time or full-time, employed by
16 or serving on a local government agency who is not a local
17 government officer, but shall not mean any employee of a school
18 district;

19 g. "Local government officer" means any person whether
20 compensated or not, whether part-time or full-time: (1) elected
21 to any office of a local government agency; (2) serving on a local
22 government agency which is subject to the "Open Public Meetings
23 Act," P.L.1976, c.231 (C.10:4-6 et seq.); or (3) who is a
24 managerial executive or confidential employee of a local
25 government agency, as defined in section 3 of the "New Jersey
26 Employer-Employee Relations Act," P.L.1941, c.100
27 (C.34:13A-3), but shall not mean any employee of a school
28 district or member of a school board;

29 h. "Local government officer or employee" means a local
30 government officer or a local government employee;

31 i. "Member of immediate family" means the spouse or
32 dependent child of a local government officer or employee
33 residing in the same household.

34 4. a. There is established in the Executive Branch of the State
35 Government a commission consisting of six members who shall be
36 designated the Local Government Ethics Commission. The
37 members shall be appointed by the Governor with the advice and
38 consent of the Senate. At least one member shall be at the time
39 of appointment a county government officer or employee and at
40 least one member shall be a municipal government officer or
41 employee. No member of the commission shall serve on or
42 campaign for any office of a political party or political
43 committee during his term as member of the commission. The
44 members shall be chosen by virtue of their known and consistent
45 reputation for integrity and their experience in, and knowledge
46 of, local government affairs. No more than three of the members
47 of the commission shall be of the same political party. No more
48 than one member shall be from the same county.

1 b. The Governor shall designate one of the appointed members
2 to serve as chairman of the commission.

3 c. Each of the appointed members shall serve for a term of
4 five years, except that of the members initially appointed, two
5 shall be appointed for a term of five years, one for a term of four
6 years, and the remaining members shall be appointed for a term
7 of three years. Each member shall serve until his successor has
8 been appointed and qualified. Any vacancy occurring in the
9 membership of the commission shall be filled in the same manner
10 as the original appointment for the unexpired term.

11 d. Members of the commission shall serve without
12 compensation, but shall be reimbursed for necessary expenses
13 incurred in the performance of their duties under this act.

14 a. For the purposes of complying with Article V, Section IV,
15 paragraph 1 of the Constitution, the Local Government Ethics

16 Commission is allocated to the Department of Community
17 Affairs; but, notwithstanding that allocation, the commission
18 shall be independent of any supervision or control by the
19 department or by any board or officer thereof, it being the
20 intention of the Legislature that the assignment, direction,
21 discipline and supervision of all the employees of the commission,
22 and the implementation of the purposes, policy and provisions of
23 this act, shall be, insofar as possible, fully determined by the
24 commission, or by the officers and employees thereof to whom
25 the commission may delegate the powers of assignment,
26 direction, discipline and supervision.

27 5. The commission may appoint professional employees,
28 including independent counsel, and clerical staff as are necessary
29 to carry out the provisions of this act within the limits of funds
30 appropriated or otherwise made available to it by the Legislature
31 for those purposes. All clerical staff so appointed shall be in the
32 career service of the civil service and shall be subject to the
33 provisions of Title 11A of the New Jersey Statutes.

34 6. The commission shall have jurisdiction to govern and guide
35 the conduct of local government officers or employees regarding
36 violations of the provisions of this act who are not otherwise
37 regulated by a county or municipal code of ethics promulgated by
38 a county or municipal ethics board in accordance with the
39 provisions of this act. Local government officers or employees
40 serving a local government agency created by more than one
41 county or municipality shall be under the jurisdiction of the
42 commission. The commission in interpreting and applying the
43 provisions of this act shall recognize that under the principles of
44 democracy, public officers and employees cannot and should not
45 be expected to be without any personal interest in the decisions
46 and policies of government; that citizens who are government
47 officers and employees have a right to private interests of a
48 personal, financial and economic nature; and that standards of

1 conduct shall distinguish between those conflicts of interest
2 which are legitimate and unavoidable in a free society and those
3 conflicts of interest which are prejudicial and material and are,
4 therefore, corruptive of democracy and free society.

5 7. Local government officers or employees under the
6 jurisdiction of the commission shall comply with the following
7 provisions:

8 a. No local government officer or employee or member of his
9 immediate family shall have an interest in a business organization
10 or engage in any business, transaction, or professional activity,
11 which is in substantial conflict with the proper discharge of his
12 duties in the public interest;

13 b. No independent local authority shall, for a period of one
14 year next subsequent to the termination of office of a member of
15 that authority:

16 (1) award any contract which is not publicly bid to a former
17 member of that authority;

18 (2) allow a former member of that authority to represent,
19 appear for or negotiate on behalf of any other party before that
20 authority; or

21 (3) employ for compensation, except pursuant to open
22 competitive examination in accordance with Title 11A of the
23 New Jersey Statutes and the rules and regulations promulgated
24 pursuant thereto, any former member of that authority.

25 The restrictions contained in this subsection shall also apply to
26 any business organization in which the former authority member
27 holds an interest.

28 c. No local government officer or employee shall use or
29 attempt to use his official position to secure unwarranted
30 privileges or advantages for himself or others;

31 d. No local government officer or employee shall act in his
32 official capacity in any matter where he, a member of his
33 immediate family, or a business organization in which he has an
34 interest, has a direct or indirect personal involvement that might
35 reasonably be expected to impair his objectivity or independence
36 or judgment;

37 e. No local government officer or employee shall undertake
38 any employment or service, whether compensated or not, which
39 might reasonably be expected to prejudice his independence of
40 judgment in the exercise of his official duties;

41 f. No local government officer or employee, member of his
42 immediate family, or business organization in which he has an
43 interest, shall solicit or accept any gift, favor, loan, political
44 contribution, service, promise of future employment, or other
45 thing of value based upon an understanding that the gift, favor,
46 loan, contribution, service, promise, or other thing of value was
47 given or offered for the purpose of influencing him, directly or

1 indirectly, in the discharge of his official duties. This provision
2 shall not apply to the solicitation or acceptance of contributions
3 to the campaign of an announced candidate for elective public
4 office, if the local government officer has no knowledge or
5 reason to believe that the campaign contribution, if accepted,
6 was given with the intent to influence the local government
7 officer in the discharge of his official duties;

8 g. No local government officer or employee shall use, or allow
9 to be used, his public office or employment, or any information,
10 not generally available to the members of the public, which he
11 receives or acquires in the course of and by reason of his office
12 or employment, for the purpose of securing financial gain for
13 himself, any member of his immediate family, or any business
14 organization with which he is associated;

15 h. No local government officer or employee shall represent
16 any person or party other than the local government in
17 connection with any cause, proceeding, application or other
18 matter pending before the local government agency in which he
19 serves. This provision shall not be deemed to prohibit one local
20 government employee from representing another local
21 government employee where the local government agency is the
22 employer and the representation is within the context of official
23 labor union or similar representational responsibilities;

24 i. No local government officer shall be deemed in conflict with
25 these provisions if, by reason of his participation in the
26 enactment of any ordinance, resolution or other matter required
27 to be voted upon or which is subject to executive approval or
28 veto, no material or monetary gain accrues to him as a member
29 of any business, profession, occupation or group, to any greater
30 extent than any gain could reasonably be expected to accrue to
31 any other member of such business, profession, occupation or
32 group;

33 j. No elected local government officer shall be prohibited from
34 making an inquiry for information on behalf of a constituent, if
35 no fee, reward or other thing of value is promised, given to or
36 accepted by the officer or a member of his immediate family,
37 whether directly or indirectly, in return therefor; and

38 k. Nothing shall prohibit any local government officer or
39 employee, or members of his immediate family, from
40 representing himself, or themselves, in negotiations or
41 proceedings concerning his, or their, own interests.

42 8. a. Local government officers shall annually file a financial
43 disclosure statement. All financial disclosure statements filed
44 pursuant to this act shall include the following information which
45 shall specify, where applicable, the name and address of each
46 spouse and the local government officer's job title:

47 (1) Each source of income, earned or unearned, exceeding
48 \$2,000 received by the local government officer or a member of

1 his immediate family during the preceding calendar year, except
2 where a publicly traded security is the source of income, the
3 security need not be reported unless the local government officer
4 or member of his immediate family has an interest in the business
5 organization;

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

11 (3) Each source of gifts, reimbursements or prepaid expenses
12 having an aggregate value exceeding \$400 from any single source,
13 excluding relatives, received by the local government officer or a
14 member of his immediate family during the preceding calendar
15 year;

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

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

23 b. The commission shall prescribe a financial disclosure
24 statement form for filing purposes. For counties and
25 municipalities which have not established ethics boards, the
26 commission shall transmit sufficient copies of the forms to the
27 municipal clerk in each municipality and the county clerk in each
28 county for filing in accordance with this act. The municipal clerk
29 shall make the forms available to the local government officers
30 serving the municipality. The county clerk shall make the forms
31 available to the local government officers serving the county.

32 For counties and municipalities which have established ethics
33 boards, the commission shall transmit sufficient copies of the
34 forms to the boards for filing in accordance with this act. The
35 boards shall make the forms available to the local government
36 officers within their jurisdiction.

37 For local government officers serving the municipality, the
38 original statement shall be filed with the municipal clerk in the
39 municipality in which the local government officer serves. For
40 local government officers serving the county, the original
41 statement shall be filed with the county clerk in the county in
42 which the local government officer serves. A copy of the
43 statement shall be filed with the commission. In counties or
44 municipalities which have established ethics boards a copy of the
45 statement shall also be filed with the ethics board having
46 jurisdiction over the local government officer. Local government
47 officers shall file the initial financial disclosure statement within
48 90 days following the effective date of this act. Thereafter,

1 statements shall be filed on or before April 30th each year.
2 c. All financial disclosure statements filed shall be public
3 records.
4 9. The commission shall have the following powers:
5 a. To initiate, receive, hear and review complaints and hold
6 hearings with regard to possible violations of this act;
7 b. To issue subpoenas for the production of documents and the
8 attendance of witnesses with respect to its investigation of any
9 complaint or to the holding of a hearing;
10 c. To hear and determine any appeal of a decision made by a
11 county or municipal ethics board;
12 d. To forward to the county prosecutor or the Attorney
13 General or other governmental body any information concerning
14 violations of this act which may become the subject of criminal
15 prosecution or which may warrant the institution of other legal
16 proceedings by the Attorney General;
17 e. To render advisory opinions as to whether a given set of
18 facts and circumstances would constitute a violation of this act;
19 f. To enforce the provisions of this act and to impose penalties
20 for the violation thereof as are authorized by this act; and
21 g. To adopt rules and regulations pursuant to the
22 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
23 seq.) and to do other things as are necessary to implement the
24 purposes of this act.
25 10. A local government officer or employee not regulated by a
26 county or municipal code of ethics may request and obtain from
27 the commission an advisory opinion as to whether any proposed
28 activity or conduct would in its opinion constitute a violation of
29 the provisions of this act. Advisory opinions of the commission
30 shall not be made public, except when the commission by the vote
31 of two-thirds of all of its members directs that the opinion be
32 made public. Public advisory opinions shall not disclose the name
33 of the local government officer or employee unless the
34 commission in directing that the opinion be made public so
35 determines.
36 11. The commission, upon receipt of a signed written
37 complaint by any person alleging that the conduct of any local
38 government officer or employee, not regulated by a county or
39 municipal code of ethics, is in conflict with the provisions of this
40 act, shall acknowledge receipt of the complaint within 30 days of
41 receipt and initiate an investigation concerning the facts and
42 circumstances set forth in the complaint. The commission shall
43 make a determination as to whether the complaint is within its
44 jurisdiction or frivolous or without any reasonable factual basis.
45 If the commission shall conclude that the complaint is outside its
46 jurisdiction, frivolous or without factual basis, it shall reduce
47 that conclusion to writing and shall transmit a copy thereof to
48 the complainant and to the local government officer or employee

1 against whom the complaint was filed. Otherwise the commission
2 shall notify the local government officer or employee against
3 whom the complaint was filed of the nature of the complaint and
4 the facts and circumstances set forth therein. The officer or
5 employee shall have the opportunity to present the commission
6 with any statement or information concerning the complaint
7 which he wishes. Thereafter, if the commission determines that
8 a reasonable doubt exists as to whether the local government
9 officer or employee is in conflict with the provisions of this act,
10 the commission shall conduct a hearing in the manner prescribed
11 by section 14 of this act, concerning the possible violation and
12 any other facts and circumstances which may have come to the
13 attention of the commission with respect to the conduct of the
14 local government officer or employee. The commission shall
15 render a decision as to whether the conduct of the officer or
16 employee is in conflict with the provisions of this act. If the
17 commission determines that the officer or employee is in conflict
18 with the provisions of this act, it may impose any penalties which
19 it believes appropriate within the limitations of this act. A final
20 decision of the commission may be appealed in the same manner
21 as any other final State agency decision.

22 12. a. An appointed local government officer or employee
23 found guilty by the commission or a county or municipal ethics
24 board of the violation of any provision of this act or of any code
25 of ethics in effect pursuant to this act, shall be fined not less
26 than \$100.00 nor more than \$500.00, which penalty may be
27 collected in a summary proceeding pursuant to the "penalty
28 enforcement law" (N.J.S.2A:58-1). The commission or a county
29 or municipal ethics board shall report its findings to the office or
30 agency having the power of removal or discipline of the appointed
31 local government officer or employee and may recommend that
32 further disciplinary action be taken.

33 b. An elected local government officer or employee found
34 guilty by the commission or a county or municipal ethics board of
35 the violation of any provision of this act or of any code of ethics
36 in effect pursuant to this act, shall be fined not less than \$100.00
37 nor more than \$500.00, which penalty may be collected in a
38 summary proceeding pursuant to the "penalty enforcement law"
39 (N.J.S.2A:58-1).

40 13. The finding by the commission or a county or municipal
41 ethics board that an appointed local government officer or
42 employee is guilty of the violation of the provisions of this act, or
43 of any code of ethics in effect pursuant to this act, shall be
44 sufficient cause for his removal, suspension, demotion or other
45 disciplinary action by the officer or agency having the power of
46 removal or discipline. When a person who is in the career service
47 is found to have violated the provisions of this act or any code of
48 ethics in effect pursuant to this act, the procedure leading to

1 removal, suspension, demotion or other disciplinary action shall
2 be governed by any applicable procedures of Title 11A of the New
3 Jersey Statutes and the rules promulgated pursuant thereto.

4 14. All hearings required pursuant to this act shall be
5 conducted in conformity with the rules and procedures, insofar as
6 they may be applicable, provided for hearings by a State agency
7 in contested cases under the "Administrative Procedure Act,"
8 P.L.1968, c.410 (C.52:14B-1 et seq.).

9 15. a. Each county of the State governed under the provisions
10 of P.L.1972, c.154 (C.40:41A-1 et seq.) may, by ordinance; and
11 the remaining counties may, by resolution establish a county
12 ethics board consisting of six members who are residents of the
13 county, at least two of whom shall be public members. The
14 members of the board shall be appointed by the governing body of
15 the county and no more than one of whom shall be from the same
16 municipality. The members shall be chosen by virtue of their
17 known and consistent reputation for integrity and their knowledge
18 of local government affairs. No more than three members of the
19 board shall be of the same political party.

20 b. The members of the county ethics board shall annually elect
21 a chairman from among the membership.

22 c. The members shall serve for a term of five years; except
23 that of the members initially appointed, two of the public
24 members shall be appointed to serve for a term of five years, one
25 member shall be appointed to serve for a term of four years, and
26 the remaining members shall be appointed to serve for a term of
27 three years. Each member shall serve until his successor has
28 been appointed and qualified. Any vacancy occurring in the
29 membership of the board shall be filled in the same manner as the
30 original appointment for the unexpired term.

31 d. Members of the board shall serve without compensation but
32 shall be reimbursed by the county for necessary expenses incurred
33 in the performance of their duties under this act.

34 16. a. The governing body of the county shall provide the
35 county ethics board with offices for the conduct of its business
36 and the preservation of its records, and shall supply equipment
37 and supplies as may be necessary.

38 b. All necessary expenses incurred by the county ethics board
39 and its members shall be paid, upon certification of the chairman
40 of the board, by the county treasurer within the limits of funds
41 appropriated by the county governing body by annual or
42 emergency appropriations for those purposes.

43 c. The county ethics board may appoint employees, including
44 independent counsel, and clerical staff as are necessary to carry
45 out the provisions of this act within the limits of funds
46 appropriated by the county governing body for those purposes.

47 17. Within 90 days after the establishment of a county ethics
48 board, the board shall promulgate, by resolution, a county code of

1 ethics for all local government officers and employees serving
2 the county. Local government officers and employees serving a
3 county independent authority shall be deemed to be serving the
4 county for purposes of this act.

5 The county code of ethics promulgated by the board shall be
6 either identical to the provisions set forth in section 7 of this act
7 or more restrictive, but shall not be less restrictive. Within 15
8 days following the promulgation thereof, the county code of
9 ethics, and a notice of the date of the public hearing to be held
10 thereon, shall be published in at least one newspaper circulating
11 within the county and shall be distributed to the county clerk and
12 to the heads of the local government agencies serving the county
13 for circulation among the local government officers and
14 employees serving the county. The county ethics board shall hold
15 a public hearing on the county code of ethics not less than 30
16 days following its promulgation at which any local government
17 officer or employee serving the county and any other person
18 wishing to be heard shall be permitted to testify. As a result of
19 the hearing, the board may amend or supplement the county code
20 of ethics as it deems necessary. If the county code of ethics is
21 not identical to the provisions set forth in section 7 of this act,
22 the county ethics board shall thereafter submit the county code
23 of ethics to the Local Government Ethics Commission for
24 approval. The commission shall approve or disapprove a county
25 code of ethics within 80 days following receipt. If the
26 commission fails to act within that period, the county code of
27 ethics shall be deemed approved. A county code of ethics
28 requiring commission approval shall take effect for all local
29 government officers and employees serving the county 60 days
30 after approval by the commission. A county code of ethics
31 identical to the provisions set forth in section 7 of this act shall
32 take effect 10 days after the public hearing thereon. The board
33 shall forward a copy of the county code of ethics to the county
34 clerk and shall make copies of the county code of ethics available
35 to local government officers and employees serving the county.

36 18. A county ethics board shall have the following powers:

- 37 a. To initiate, receive, hear and review complaints and hold
38 hearings with regard to possible violations of the county code of
39 ethics or financial disclosure requirements by local government
40 officers or employees serving the county;
- 41 b. To issue subpoenas for the production of documents and the
42 attendance of witnesses with respect to its investigation of any
43 complaint or to the holding of a hearing;
- 44 c. To forward to the county prosecutor or the Attorney
45 General or other governmental body any information concerning
46 violations of the county code of ethics or financial disclosure
47 requirements by local government officers or employees serving
48 the county which may become the subject of criminal prosecution.

1 or which may warrant the institution of other legal proceedings
2 by the Attorney General;

3 d. To render advisory opinions to local government officers or
4 employees serving the county as to whether a given set of facts
5 and circumstances would constitute a violation of any provision
6 of the county code of ethics or financial disclosure requirements;

7 e. To enforce the provisions of the county code of ethics and
8 financial disclosure requirements with regard to local government
9 officers or employees serving the county and to impose penalties
10 for the violation thereof as are authorized by this act; and

11 f. To adopt rules and regulations and to do other things as are
12 necessary to implement the purposes of this act.

13 19. A local government officer or employee serving the county
14 may request and obtain from the county ethics board an advisory
15 opinion as to whether any proposed activity or conduct would in
16 its opinion constitute a violation of the county code of ethics or
17 any financial disclosure requirements. Advisory opinions of the
18 board shall not be made public, except when the board by the
19 vote of two-thirds of all of its members directs that the opinion
20 be made public. Public advisory opinions shall not disclose the
21 name of the local government officer or employee unless the
22 board in directing that the opinion be made public so determines.

23 20. The county ethics board, upon receipt of a signed written
24 complaint by any person alleging that the conduct of any local
25 government officer or employee serving the county is in conflict
26 with the county code of ethics or any financial disclosure
27 requirements shall acknowledge receipt of the complaint within
28 30 days of receipt and initiate an investigation concerning the
29 facts and circumstances set forth in the complaint. The board
30 shall make a determination as to whether the complaint is within
31 its jurisdiction or frivolous or without any reasonable factual
32 basis. If the board shall conclude that the complaint is outside its
33 jurisdiction, frivolous or without factual basis, it shall reduce
34 that conclusion to writing and shall transmit a copy thereof to
35 the complainant and to the local government officer or employee
36 against whom the complaint was filed. Otherwise the board shall
37 notify the local government officer or employee against whom
38 the complaint was filed of the nature of the complaint and the
39 facts and circumstances set forth therein. The officer or
40 employee shall have the opportunity to present the board with
41 any statement or information concerning the complaint which he
42 wishes. Thereafter, if the board determines that a reasonable
43 doubt exists as to whether the local government officer or
44 employee is in conflict with the county code of ethics or any
45 financial disclosure requirements, the board shall conduct a
46 hearing in the manner prescribed by section 14 of this act,
47 concerning the possible violation and any other facts and
48 circumstances which may have come to the attention of the

1 board with respect to the conduct of the local government officer
2 or employee. The board shall render a decision as to whether the
3 conduct of the officer or employee is in conflict with the county
4 code of ethics or any financial disclosure requirements. If the
5 board determines that the officer or employee is in conflict with
6 the code or any financial disclosure requirements, it may impose
7 any penalties which it believes appropriate within the limitations
8 of this act. A final decision of the board may be appealed to the
9 commission within 30 days of the decision.

10 21. a. Each municipality of the State may, by ordinance,
11 establish a municipal ethics board consisting of six members who
12 are residents of the municipality, at least two of whom shall be
13 public members. The members of the board shall be appointed by
14 the governing body of the municipality. The members shall be
15 chosen by virtue of their known and consistent reputation for
16 integrity and their knowledge of local government affairs. No
17 more than three members of the board shall be of the same
18 political party.

19 b. The members of the municipal ethics board shall annually
20 elect a chairman from among the membership.

21 c. The members shall serve for a term of five years; except
22 that of the members initially appointed, two of the public
23 members shall be appointed to serve for a term of five years, one
24 member shall be appointed to serve for a term of four years, and
25 the remaining members shall be appointed to serve for a term of
26 three years. Each member shall serve until his successor has
27 been appointed and qualified. Any vacancy occurring in the
28 membership of the board shall be filled in the same manner as the
29 original appointment for the unexpired term.

30 d. Members of the board shall serve without compensation but
31 shall be reimbursed by the municipality for necessary expenses
32 incurred in the performance of their duties under this act.

33 22. a. The governing body of the municipality shall provide
34 the municipal ethics board with offices for the conduct of its
35 business and the preservation of its records, and shall supply
36 equipment and supplies as may be necessary.

37 b. All necessary expenses incurred by the municipal ethics
38 board and its members shall be paid, upon certification of the
39 chairman of the board, by the municipal treasurer within the
40 limits of funds appropriated by the municipal governing body by
41 annual or emergency appropriations for those purposes.

42 c. The municipal ethics board may appoint employees,
43 including independent counsel, and clerical staff as are necessary
44 to carry out the provisions of this act within the limits of funds
45 appropriated by the municipal governing body for those purposes.

46 23. Within 90 days after the establishment of a municipal
47 ethics board, the board shall promulgate by resolution a municipal

1 code of ethics for all local government officers and employees
2 serving the municipality. Local government officers and
3 employees serving a municipal independent authority shall be
4 deemed to be serving the municipality for purposes of this act.

5 The municipal code of ethics promulgated by the board shall be
6 either identical to the provisions set forth in section 7 of this act
7 or more restrictive, but shall not be less restrictive. Within 15
8 days following the promulgation thereof, the municipal code of
9 ethics, and a notice of the date of the public hearing to be held
10 thereon, shall be published in at least one newspaper circulating
11 within the municipality and shall be distributed to the municipal
12 clerk and to the heads of the local government agencies serving
13 the municipality for circulation among the local government
14 officers and employees serving the municipality. The municipal
15 ethics board shall hold a public hearing on the municipal code of
16 ethics not less than 30 days following its promulgation at which
17 any local government officer or employee serving the
18 municipality and any other person wishing to be heard shall be
19 permitted to testify. As a result of the hearing, the board may
20 amend or supplement the municipal code of ethics as it deems
21 necessary. If the municipal code of ethics is not identical to the
22 provisions set forth in section 7 of this act, the municipal ethics
23 board shall thereafter submit the municipal code of ethics to the
24 Local Government Ethics Commission for approval. The
25 commission shall approve or disapprove a municipal code of
26 ethics within 60 days following receipt. If the commission fails
27 to act within that period, the municipal code of ethics shall be
28 deemed approved. A municipal code of ethics requiring
29 commission approval shall take effect for all local government
30 officers and employees serving the municipality 60 days after
31 approval by the commission. A municipal code of ethics identical
32 to the provisions set forth in section 7 of this act shall take
33 effect 10 days after the public hearing held thereon. The board
34 shall forward a copy of the municipal code of ethics to the
35 municipal clerk and shall make copies of the municipal code of
36 ethics available to local government officers and employees
37 serving the municipality.

38 24. A municipal ethics board shall have the following powers:
39 a. To initiate, receive, hear and review complaints and hold
40 hearings with regard to possible violations of the municipal code
41 of ethics or financial disclosure requirements by local
42 government officers or employees serving the municipality;
43 b. To issue subpoenas for the production of documents and the
44 attendance of witnesses with respect to its investigation of any
45 complaint or to the holding of a hearing;
46 c. To forward to the county prosecutor or the Attorney
47 General or other governmental body any information concerning
48 violations of the municipal code of ethics or financial disclosure

1 requirements by local government officers or employees serving
2 the municipality which may become the subject of criminal
3 prosecution or which may warrant the institution of other legal
4 proceedings by the Attorney General;

5 d. To render advisory opinions to local government officers or
6 employees serving the municipality as to whether a given set of
7 facts and circumstances would constitute a violation of any
8 provision of the municipal code of ethics or financial disclosure
9 requirements;

10 e. To enforce the provisions of the municipal code of ethics
11 and financial disclosure requirements with regard to local
12 government officers or employees serving the municipality and
13 to impose penalties for the violation thereof as are authorized by
14 this act; and

15 f. To adopt rules and regulations and to do other things as are
16 necessary to implement the purposes of this act.

17 25. A local government officer or employee serving the
18 municipality may request and obtain from the municipal ethics
19 board an advisory opinion as to whether any proposed activity or
20 conduct would in its opinion constitute a violation of the
21 municipal code of ethics or any financial disclosure
22 requirements. Advisory opinions of the board shall not be made
23 public, except when the board by the vote of two-thirds of all of
24 its members directs that the opinion be made public. Public
25 advisory opinions shall not disclose the name of the local
26 government officer or employee unless the board in directing that
27 the opinion be made public so determines.

28 26. The municipal ethics board, upon receipt of a signed
29 written complaint by any person alleging that the conduct of any
30 local government officer or employee serving the municipality is
31 in conflict with the municipal code of ethics or financial
32 disclosure requirements, shall acknowledge receipt of the
33 complaint within 30 days of receipt and initiate an investigation
34 concerning the facts and circumstances set forth in the
35 complaint. The board shall make a determination as to whether
36 the complaint is within its jurisdiction or frivolous or without any
37 reasonable factual basis. If the board shall conclude that the
38 complaint is outside its jurisdiction, frivolous or without factual
39 basis, it shall reduce that conclusion to writing and shall transmit
40 a copy thereof to the complainant and to the local government
41 officer or employee against whom the complaint was filed.
42 Otherwise the board shall notify the local government officer or
43 employee against whom the complaint was filed of the nature of
44 the complaint and the facts and circumstances set forth therein.
45 The officer or employee shall have the opportunity to present the
46 board with any statement or information concerning the
47 complaint which he wishes. Thereafter, if the board determines
48 that a reasonable doubt exists as to whether the local government

1 officer or employee is in conflict with the municipal code of
2 ethics or any financial disclosure requirements, the board shall
3 conduct a hearing in the manner prescribed by section 14 of this
4 act, concerning the possible violation and any other facts and
5 circumstances which may have come to the attention of the
6 board with respect to the conduct of the local government officer
7 or employee. The board shall render a decision as to whether the
8 conduct of the officer or employee is in conflict with the
9 municipal code of ethics or any financial disclosure
10 requirements. If the board determines that the officer or
11 employee is in conflict with the code or any financial disclosure
12 requirements, it may impose any penalties which it believes
13 appropriate within the limitations of this act. A final decision of
14 the board may be appealed to the commission within 30 days of
15 the decision.

16 27. All statements, complaints, requests or other written
17 materials filed pursuant to this act, and any rulings, opinions,
18 judgments, transcripts or other official papers prepared pursuant
19 to this act shall be preserved for a period of at least five years
20 from the date of filing or preparation, as the case may be.

21 28. There is appropriated from the General Fund to the
22 Department of Community Affairs \$90,000 to effectuate the
23 purposes of this act.

24 29. Section 1 of P.L.1983, c.188 (C.40:23-8.51) is repealed.

25 ~~30. This act shall take effect on the 90th day following~~
26 ~~enactment, except that any appointments authorized by this act~~
27 ~~and any administrative preparations for carrying its provisions~~
28 ~~into effect may be made prior to the effective date.~~

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STATEMENT

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33

34 This bill establishes a Local Government Ethics Commission in
35 the Department of Community Affairs. The commission is
36 granted jurisdiction to govern and guide the conduct of local
37 government officers and employees regarding violations of the
38 provisions of this act who are not otherwise regulated by a county
39 or municipal code of ethics. The commission is further directed
40 to prescribe a financial disclosure statement form to be filed by
41 local government officers.

42 The commission would have the authority to initiate, receive,
43 hear and review complaints and hold hearings with regard to a
44 possible violation of the code of ethics including any financial
45 disclosure requirements. The commission would also have the
46 authority to render advisory opinions as to whether a given set of
47 facts would violate the provisions of the act or a county or
48 municipal code of ethics.

The commission would have the power to enforce the provisions

1 of the act and impose those penalties authorized thereunder.
2 Penalties include fines up to \$500 and for appointed local
3 government officers or employees, any further recommendations
4 for disciplinary action which the commission or a county or
5 municipal ethics board may recommend.

6 Final decisions of the commission would be appealable to the
7 Appellate Division of the Superior Court in the same manner as
8 any other final State agency decision.

9 Counties and municipalities would have the option of being
10 under the jurisdiction of the commission and having their officers
11 and employees subject to the commission's jurisdiction or
12 establishing their own ethics boards and codes of ethics on the
13 local level. Local codes of ethics would have to be approved by
14 the commission if they are not identical to the provisions of
15 section 7 of the bill. County and municipal ethics boards which
16 adopt their own codes of ethics would have the authority to hear
17 complaints and render advisory opinions with regard to local
18 officers and employees within their respective jurisdictions.

19 Local ethics boards could impose the same penalties as the
20 commission. Decisions of a county or municipal ethics board
21 would be appealable to the commission.

22 Nothing in the bill shall be construed to prohibit or thwart

23 authorized union activity.

24 The bill also repeals section 1 of P.L.1983, c.188 (C.40:23-6.51)
25 which authorizes counties which have adopted a code of ethics to
26 authorize and provide that the members of county authorities
27 shall be subject to the provisions of the county code of ethics.
28 Both county and municipal independent authorities are covered
29 under the provisions of this bill.

30

31

32 LOCAL GOVERNMENT

33

34 Creates the Local Government Ethics Law; appropriates \$90,000.

SENATE COUNTY AND MUNICIPAL
GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 2027

with Senate committee amendments

STATE OF NEW JERSEY

DATED: APRIL 26, 1990

The Senate County and Municipal Government Committee reports favorably Senate Bill No. 2027 with committee amendments.

Senate Bill No. 2027, as amended by the committee, establishes a Local Government Ethics Commission in the Department of Community Affairs. The commission is granted jurisdiction to govern and guide the conduct of local government officers and employees regarding violations of the provisions of this act who are not otherwise regulated by a county or municipal code of ethics. The commission is further directed to prescribe a financial disclosure statement form to be filed by local government officers.

As amended this bill restricts the definition of "local government officer" to mean any person: 1) elected to any local government agency office; 2) serving on a local government agency which has the authority to enact ordinances, approve development applications or grant zoning variances; or 3) serves as a managerial executive or confidential employee of a local government agency. Employees of a school district and school board members are specifically excluded from the definition.

The amended bill clarifies that no local government officer or employee shall act in his official capacity with respect to any matter in which he has a direct or indirect financial or personal interest.

The amended bill prohibits a local government officer or employee, including any business organizations in which the officer or employee has an interest, from representing any person or party, other than the local government, in connection with any case, proceeding, application, or other matter pending before the local government agency in which he serves.

The amended bill revises the type of income information that is to be included in the annual financial disclosure statement by specifically excluding the separate reporting of individual client fees, customer receipts and commissions on transactions received through a business organization.

The amended bill also specifies that decisions by the commission or a local ethics board, regarding whether the conduct of an officer or employee is in conflict with this act, shall be made by no less than a two-thirds vote of all of the members of the commission or local ethics board.

The bill provides that the commission would have the authority to initiate, receive, hear and review complaints and hold hearings with regard to a possible violation of the code of ethics including any financial disclosure requirements. The commission would also have the authority to render advisory opinions as to whether a given set of facts would violate the provisions of the act or a county or municipal code of ethics.

The commission would have the power to enforce the provisions of the act and impose those penalties authorized under the act. Penalties include fines up to \$500 and, for appointed local government officers or employees, any further recommendations for disciplinary action which the commission or a county or municipal ethics board may recommend.

Final decisions of the commission would be appealable to the Appellate Division of the Superior Court in the same manner as any other final State agency decision.

Counties and municipalities would have the option of being under the jurisdiction of the commission and having their officers and employees subject to the commission's jurisdiction or establishing their own ethics boards and codes of ethics on the local level. Local codes of ethics would have to be approved by the commission if they are not identical to the provisions of section 7 of the bill. County and municipal ethics boards which adopt their own codes of ethics would have the authority to hear complaints and render advisory opinions with regard to local officers and employees within their respective jurisdictions. Local ethics boards could impose the same penalties as the commission. Decisions of a county or municipal ethics board would be appealable to the commission.

Nothing in the bill shall be construed to prohibit or thwart authorized union activity.

The bill also repeals section 1 of P.L.1983, c.188 (C.40:23-6.51) which authorizes counties which have adopted a code of ethics to authorize and provide that the members of county authorities shall be subject to the provisions of the county code of ethics. Both county and municipal independent authorities are covered under the provisions of this bill.

This bill was pre-filed for introduction in the 1990 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

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SENATE SCM COMMITTEE

AMENDMENTS

to

SENATE No. 2027
(Sponsored by Senator Contillo)

ADOPTED
APR 26 1990

REPLACE SECTION 3 TO READ:

3. As used in this act:
- a. "Business organization" means any corporation, partnership, firm, enterprise, franchise, association, trust, sole proprietorship, union or other legal entity;
 - b. "Commission" means the Local Government Ethics Commission established by this act;
 - c. "Governing body" means, in the case of a municipality, the commission, council, board or body, by whatever name it may be known, having charge of the finances of the municipality, and, in the case of a county, the board of chosen freeholders, or, in the case of a county having adopted the provisions of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), as defined in the form of government adopted by the county under that act;
 - d. "Interest" means the ownership or control of more than 10% of the profits, assets or stock of a business organization but shall not include the control of assets in a non-profit entity or labor union;
 - e. "Local government agency" means any agency, board, governing body, including the chief executive officer, bureau, division, office, commission or other instrumentality within a county or municipality, and any independent local authority, including any entity created by more than one county or municipality, which performs functions other than of a purely advisory nature, but shall not include a school board;
 - f. "Local government employee" means any person, whether compensated or not, whether part-time or full-time, employed by or serving on a local government agency who is not a local government officer, but shall not mean any employee of a school district;
 - g. "Local government officer" means any person whether compensated or not, whether part-time or full-time: (1) elected to any office of a local government agency;

(2) serving on a local government agency which ¹[is subject to the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.)] has the authority to enact ordinances, approve development applications or grant zoning variances¹; or (3) who is a managerial executive or confidential employee of a local government agency, as defined in section 3 of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-3), but shall not mean any employee of a school district or member of a school board;

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

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

REPLACE SECTION 7 TO READ:

7. Local government officers or employees under the jurisdiction of the commission shall comply with the following provisions:

a. No local government officer or employee or member of his immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity, which is in substantial conflict with the proper discharge of his duties in the public interest;

b. No independent local authority shall, for a period of one year next subsequent to the termination of office of a member of that authority:

(1) award any contract which is not publicly bid to a former member of that authority;

(2) allow a former member of that authority to represent, appear for or negotiate on behalf of any other party before that authority; or

(3) employ for compensation, except pursuant to open competitive examination in accordance with Title 11A of the New Jersey Statutes and the rules and regulations promulgated pursuant thereto, any former member of that authority.

The restrictions contained in this subsection shall also apply to any business organization in which the former authority member holds an interest.

c. No local government officer or employee shall use or attempt to use his official position to secure unwarranted privileges or advantages for himself or others;

d. No local government officer or employee shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has an interest, has a direct or indirect ¹financial or¹ personal involvement that might reasonably be expected to impair his objectivity or independence or judgment;

e. No local government officer or employee shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his independence of judgment in the exercise of his official duties;

f. No local government officer or employee, member of his immediate family, or business organization in which he has an interest, shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing him, directly or indirectly, in the discharge of his official duties. This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office, if the local government officer has no knowledge or reason to believe that the campaign contribution, if accepted, was given with the intent to influence the local government officer in the discharge of his official duties;

g. No local government officer or employee shall use, or allow to be used, his public office or employment, or any information, not generally available to the members of the public, which he receives or acquires in the course of and by reason of his office or employment, for the purpose of securing financial gain for himself, any member of his immediate family, or any business organization with which he is associated;

h. No local government officer or employee ¹or business organization in which he has an interest¹ shall represent any person or party other than the local government in connection with any cause, proceeding, application or other matter pending before ¹any agency in¹ the local government ¹[agency]¹ in which he serves. This provision shall not be deemed to prohibit one local government employee from representing another local government employee where the local government agency is the employer and the representation is within the context of official labor union or similar representational responsibilities;

i. No local government officer shall be deemed in conflict with these provisions if, by reason of his participation in the enactment of any ordinance, resolution or other matter required to be voted upon or which is subject to executive approval or veto, no material or monetary gain accrues to him as a member of any business, profession, occupation or group, to any greater extent than any gain could reasonably be expected to accrue to any other member of such business, profession, occupation or group;

j. No elected local government officer shall be prohibited from making an inquiry for information on behalf of a constituent, if no fee, reward or other thing of value is promised to, given to or accepted by the officer or a member of his immediate family, whether directly or indirectly, in return therefor; and

k. Nothing shall prohibit any local government officer or employee, or members of his immediate family, from representing himself, or themselves, in negotiations or proceedings concerning his, or their, own interests.

REPLACE SECTION 8 TO READ:

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

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

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

(3) Each source of gifts, reimbursements or prepaid expenses having an aggregate value exceeding \$400 from any single source.

excluding relatives, received by the local government officer or a member of his immediate family during the preceding calendar year:

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

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

b. The commission shall prescribe a financial disclosure statement form for filing purposes. For counties and municipalities which have not established ethics boards, the commission shall transmit sufficient copies of the forms to the municipal clerk in each municipality and the county clerk in each county for filing in accordance with this act. The municipal clerk shall make the forms available to the local government officers serving the municipality. The county clerk shall make the forms available to the local government officers serving the county.

For counties and municipalities which have established ethics boards, the commission shall transmit sufficient copies of the forms to the boards for filing in accordance with this act. The boards shall make the forms available to the local government officers within their jurisdiction.

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

c. All financial disclosure statements filed shall be public records.

REPLACE SECTION 11 TO READ:

11. The commission, upon receipt of a signed written complaint by any person alleging that the conduct of any local government officer or employee, not regulated by a county or municipal code of ethics, is in conflict with the provisions of this act, shall acknowledge receipt of the complaint within 30 days of receipt and initiate an investigation concerning the facts and circumstances set forth in the complaint. The commission shall make a determination as to whether the complaint is within its jurisdiction or frivolous or without any reasonable factual basis. If the commission shall conclude that the complaint is outside its jurisdiction, frivolous or without factual basis, it shall reduce that conclusion to writing and shall transmit a copy thereof to the complainant and to the local government officer or employee against whom the complaint was filed. Otherwise the commission shall notify the local government officer or employee against whom the complaint was filed of the nature of the complaint and the facts and circumstances set forth therein. The officer or employee shall have the opportunity to present the commission with any statement or information concerning the complaint which he wishes. Thereafter, if the commission determines that a reasonable doubt exists as to whether the local government officer or employee is in conflict with the provisions of this act, the commission shall conduct a hearing in the manner prescribed by section 14 of this act, concerning the possible violation and any other facts and circumstances which may have come to the attention of the commission with respect to the conduct of the local government officer or employee. The commission shall render a decision as to whether the conduct of the officer or employee is in conflict with the provisions of this act. This decision shall be made by no less than two-thirds of all members of the commission. If the commission determines that the officer or employee is in conflict with the provisions of this act, it may impose any penalties which it believes appropriate within the limitations of this act. A final decision of the commission may be appealed in the same manner as any other final State agency decision.

REPLACE SECTION 13 TO READ:

13. The finding by the commission or a county or municipal ethics board that an appointed local government officer or employee is guilty of the violation of the provisions of this act, or of any code of ethics in

effect pursuant to this act, shall be sufficient cause for his removal, suspension, demotion or other disciplinary action by the officer or agency having the power of removal or discipline. When a person who is in the career service is ~~found~~ charged¹ to have violated the provisions of this act or any code of ethics in effect pursuant to this act, the procedure leading to removal, suspension, demotion or other disciplinary action shall be governed by any applicable procedures of Title 11A of the New Jersey Statutes and the rules promulgated pursuant thereto.

REPLACE SECTION 20 TO READ:

20. The county ethics board, upon receipt of a signed written complaint by any person alleging that the conduct of any local government officer or employee serving the county is in conflict with the county code of ethics or any financial disclosure requirements shall acknowledge receipt of the complaint within 30 days of receipt and initiate an investigation concerning the facts and circumstances set forth in the complaint. The board shall make a determination as to whether the complaint is within its jurisdiction or frivolous or without any reasonable factual basis. If the board shall conclude that the complaint is outside its jurisdiction, frivolous or without factual basis, it shall reduce that conclusion to writing and shall transmit a copy thereof to the complainant and to the local government officer or employee against whom the complaint was filed. Otherwise the board shall notify the local government officer or employee against whom the complaint was filed of the nature of the complaint and the facts and circumstances set forth therein. The officer or employee shall have the opportunity to present the board with any statement or information concerning the complaint which he wishes. Thereafter, if the board determines that a reasonable doubt exists as to whether the local government officer or employee is in conflict with the county code of ethics or any financial disclosure requirements, the board shall conduct a hearing in the manner prescribed by section 14 of this act, concerning the possible violation and any other facts and circumstances which may have come to the attention of the board with respect to the conduct of the local government officer or employee. The board shall render a decision as to whether the conduct of the officer or employee is in conflict with the county code of ethics or any financial disclosure requirements. ¹This decision shall be made by no less than two-thirds

of all members of the board.¹ If the board determines that the officer or employee is in conflict with the code or any financial disclosure requirements, it may impose any penalties which it believes appropriate within the limitations of this act. A final decision of the board may be appealed to the commission within 30 days of the decision.

REPLACE SECTION 26 TO READ:

26. The municipal ethics board, upon receipt of a signed written complaint by any person alleging that the conduct of any local government officer or employee serving the municipality is in conflict with the municipal code of ethics or financial disclosure requirements, shall acknowledge receipt of the complaint within 30 days of receipt and initiate an investigation concerning the facts and circumstances set forth in the complaint. The board shall make a determination as to whether the complaint is within its jurisdiction or frivolous or without any reasonable factual basis. ~~If the board shall conclude that the complaint is outside its jurisdiction, frivolous or without factual basis, it shall reduce that conclusion to writing and shall transmit a copy thereof to the complainant and to the local government officer or employee against whom the complaint was filed. Otherwise the board shall notify the local government officer or employee against whom the complaint was filed of the nature of the complaint and the facts and circumstances set forth therein. The officer or employee shall have the opportunity to present the board with any statement or information concerning the complaint which he wishes. Thereafter, if the board determines that a reasonable doubt exists as to whether the local government officer or employee is in conflict with the municipal code of ethics or any financial disclosure requirements, the board shall conduct a hearing in the manner prescribed by section 14 of this act, concerning the possible violation and any other facts and circumstances which may have come to the attention of the board with respect to the conduct of the local government officer or employee. The board shall render a decision as to whether the conduct of the officer or employee is in conflict with the municipal code of ethics or any financial disclosure requirements.~~ ¹This decision shall be made by no less than two-thirds of all members of the board.¹ If the board determines that the officer or employee is in conflict with the code

or any financial disclosure requirements, it may impose any penalties which it believes appropriate within the limitations of this act. A final decision of the board may be appealed to the commission within 30 days of the decision.

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Senator CONTILLO

1 AN ACT concerning standards of ethical conduct for officers and
2 employees of local government, repealing section 1 of
3 P.L.1983, c.188 (C.40:23-6.51) and making an appropriation
4 therefor.
5

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

8 1. This act shall be known and may be cited as the "Local
9 Government Ethics Law."

10 2. The Legislature finds and declares that:

11 a. Public office and employment are a public trust;

12 b. The vitality and stability of representative democracy
13 depend upon the public's confidence in the integrity of its
14 elected and appointed representatives;

15 c. Whenever the public perceives a conflict between the
16 private interests and the public duties of a government officer or
17 employee, that confidence is imperiled;

18 d. Governments have the duty both to provide their citizens
19 with standards by which they may determine whether public
20 duties are being faithfully performed; and to apprise their
21 officers and employees of the behavior which is expected of them
22 while conducting their public duties; and

23 e. It is the purpose of this act to provide a method of assuring
24 that standards of ethical conduct and financial disclosure
25 requirements for local government officers and employees shall
26 be clear, consistent, uniform in their application, and enforceable
27 on a statewide basis, and to provide local officers or employees
28 with advice and information concerning possible conflicts of
29 interest which might arise in the conduct of their public duties.

30 3. As used in this act:

31 a. "Business organization" means any corporation, partnership,
32 firm, enterprise, franchise, association, trust, sole proprietorship,
33 union or other legal entity;

34 b. "Commission" means the Local Government Ethics
35 Commission established by this act;

36 c. "Governing body" means, in the case of a municipality, the
37 commission, council, board or body, by whatever name it may be
38 known, having charge of the finances of the municipality, and, in

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.

Matter enclosed in superscript numerals has been adopted as follows:
Senate SCM committee amendments adopted April 26, 1990.

1 the case of a county, the board of chosen freeholders, or, in the
2 case of a county having adopted the provisions of the "Optional
3 County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), as
4 defined in the form of government adopted by the county under
5 that act;

6 d. "Interest" means the ownership or control of more than 10%
7 of the profits, assets or stock of a business organization but shall
8 not include the control of assets in a non-profit entity or labor
9 union;

10 e. "Local government agency" means any agency, board,
11 governing body, including the chief executive officer, bureau,
12 division, office, commission or other instrumentality within a
13 county or municipality, and any independent local authority,
14 including any entity created by more than one county or
15 municipality, which performs functions other than of a purely
16 advisory nature, but shall not include a school board;

17 f. "Local government employee" means any person, whether
18 compensated or not, whether part-time or full-time, employed by
19 or serving on a local government agency who is not a local
20 government officer, but shall not mean any employee of a school
21 district;

22 g. "Local government officer" means any person whether
23 compensated or not, whether part-time or full-time: (1) elected
24 to any office of a local government agency; (2) serving on a local
25 government agency which ¹[is subject to the "Open Public
26 Meetings Act," P.L.1975, c.231 (C.10:4-8 et seq.)] has the
27 authority to enact ordinances, approve development applications
28 or grant zoning variances¹; or (3) who is a managerial executive
29 or confidential employee of a local government agency, as
30 defined in section 3 of the "New Jersey Employer-Employee
31 Relations Act," P.L.1941, c.100 (C.34:13A-3), but shall not mean
32 any employee of a school district or member of a school board;

33 h. "Local government officer or employee" means a local
34 government officer or a local government employee;

35 i. "Member of immediate family" means the spouse or
36 dependent child of a local government officer or employee
37 residing in the same household.

38 4. a. There is established in the Executive Branch of the State
39 Government a commission consisting of six members who shall be
40 designated the Local Government Ethics Commission. The
41 members shall be appointed by the Governor with the advice and
42 consent of the Senate. At least one member shall be at the time
43 of appointment a county government officer or employee and at
44 least one member shall be a municipal government officer or
45 employee. No member of the commission shall serve on or
46 campaign for any office of a political party or political
47 committee during his term as member of the commission. The
48 members shall be chosen by virtue of their known and consistent

1 reputation for integrity and their experience in, and knowledge
2 of, local government affairs. No more than three of the members
3 of the commission shall be of the same political party. No more
4 than one member shall be from the same county.

5 b. The Governor shall designate one of the appointed members
6 to serve as chairman of the commission.

7 c. Each of the appointed members shall serve for a term of
8 five years, except that of the members initially appointed, two
9 shall be appointed for a term of five years, one for a term of four
10 years, and the remaining members shall be appointed for a term
11 of three years. Each member shall serve until his successor has
12 been appointed and qualified. Any vacancy occurring in the
13 membership of the commission shall be filled in the same manner
14 as the original appointment for the unexpired term.

15 d. Members of the commission shall serve without
16 compensation, but shall be reimbursed for necessary expenses
17 incurred in the performance of their duties under this act.

18 e. For the purposes of complying with Article V, Section IV,
19 paragraph 1 of the Constitution, the Local Government Ethics
20 Commission is allocated to the Department of Community
21 Affairs; but, notwithstanding that allocation, the commission
22 shall be independent of any supervision or control by the
23 department or by any board or officer thereof, it being the
24 intention of the Legislature that the assignment, direction,
25 discipline and supervision of all the employees of the commission,
26 and the implementation of the purposes, policy and provisions of
27 this act, shall be, insofar as possible, fully determined by the
28 commission, or by the officers and employees thereof to whom
29 the commission may delegate the powers of assignment,
30 direction, discipline and supervision.

31 f. The commission may appoint professional employees,
32 including independent counsel, and clerical staff as are necessary
33 to carry out the provisions of this act within the limits of funds
34 appropriated or otherwise made available to it by the Legislature
35 for those purposes. All clerical staff so appointed shall be in the
36 career service of the civil service and shall be subject to the
37 provisions of Title 11A of the New Jersey Statutes.

38 6. The commission shall have jurisdiction to govern and guide
39 the conduct of local government officers or employees regarding
40 violations of the provisions of this act who are not otherwise
41 regulated by a county or municipal code of ethics promulgated by
42 a county or municipal ethics board in accordance with the
43 provisions of this act. Local government officers or employees
44 serving a local government agency created by more than one
45 county or municipality shall be under the jurisdiction of the
46 commission. The commission in interpreting and applying the
47 provisions of this act shall recognize that under the principles of
48 democracy, public officers and employees cannot and should not

1 be expected to be without any personal interest in the decisions
2 and policies of government; that citizens who are government
3 officers and employees have a right to private interests of a
4 personal, financial and economic nature; and that standards of
5 conduct shall distinguish between those conflicts of interest
6 which are legitimate and unavoidable in a free society and those
7 conflicts of interest which are prejudicial and material and are,
8 therefore, corruptive of democracy and free society.

9 7. Local government officers or employees under the
10 jurisdiction of the commission shall comply with the following
11 provisions:

12 a. No local government officer or employee or member of his
13 immediate family shall have an interest in a business organization
14 or engage in any business, transaction, or professional activity,
15 which is in substantial conflict with the proper discharge of his
16 duties in the public interest;

17 b. No independent local authority shall, for a period of one
18 year next subsequent to the termination of office of a member of
19 that authority:

20 (1) award any contract which is not publicly bid to a former
21 member of that authority;

22 (2) allow a former member of that authority to represent,
23 appear for or negotiate on behalf of any other party before that
24 authority; or

25 (3) employ for compensation, except pursuant to open
26 competitive examination in accordance with Title 11A of the
27 New Jersey Statutes and the rules and regulations promulgated
28 pursuant thereto, any former member of that authority.

29 The restrictions contained in this subsection shall also apply to
30 any business organization in which the former authority member
31 holds an interest.

32 c. No local government officer or employee shall use or
33 attempt to use his official position to secure unwarranted
34 privileges or advantages for himself or others;

35 d. No local government officer or employee shall act in his
36 official capacity in any matter where he, a member of his
37 immediate family, or a business organization in which he has an
38 interest, has a direct or indirect ¹financial or ²personal
39 involvement that might reasonably be expected to impair his
40 objectivity or independence or judgment;

41 e. No local government officer or employee shall undertake
42 any employment or service, whether compensated or not, which
43 might reasonably be expected to prejudice his independence of
44 judgment in the exercise of his official duties;

45 f. No local government officer or employee, member of his
46 immediate family, or business organization in which he has an
47 interest, shall solicit or accept any gift, favor, loan, political
48 contribution, service, promise of future employment, or other

1 thing of value based upon an understanding that the gift, favor,
2 loan, contribution, service, promise, or other thing of value was
3 given or offered for the purpose of influencing him, directly or
4 indirectly, in the discharge of his official duties. This provision
5 shall not apply to the solicitation or acceptance of contributions
6 to the campaign of an announced candidate for elective public
7 office, if the local government officer has no knowledge or
8 reason to believe that the campaign contribution, if accepted,
9 was given with the intent to influence the local government
10 officer in the discharge of his official duties;

11 g. No local government officer or employee shall use, or allow
12 to be used, his public office or employment, or any information,
13 not generally available to the members of the public, which he
14 receives or acquires in the course of and by reason of his office
15 or employment, for the purpose of securing financial gain for
16 himself, any member of his immediate family, or any business
17 organization with which he is associated;

18 h. No local government officer or employee for business
19 organization in which he has an interest¹ shall represent any
20 person or party other than the local government in connection
21 with any cause, proceeding, application or other matter pending
22 before any agency in¹ the local government [agency]¹ in which
23 he serves. This provision shall not be deemed to prohibit one
24 local government employee from representing another local
25 government employee where the local government agency is the
26 employer and the representation is within the context of official
27 labor union or similar representational responsibilities;

28 i. No local government officer shall be deemed in conflict with
29 these provisions if, by reason of his participation in the
30 enactment of any ordinance, resolution or other matter required
31 to be voted upon or which is subject to executive approval or
32 veto, no material or monetary gain accrues to him as a member
33 of any business, profession, occupation or group, to any greater
34 extent than any gain could reasonably be expected to accrue to
35 any other member of such business, profession, occupation or
36 group;

37 j. No elected local government officer shall be prohibited from
38 making an inquiry for information on behalf of a constituent, if
39 no fee, reward or other thing of value is promised to, given to or
40 accepted by the officer or a member of his immediate family,
41 whether directly or indirectly, in return therefor; and

42 k. Nothing shall prohibit any local government officer or
43 employee, or members of his immediate family, from
44 representing himself, or themselves, in negotiations or
45 proceedings concerning his, or their, own interests.

46 8. a. Local government officers shall annually file a financial
47 disclosure statement. All financial disclosure statements filed
48 pursuant to this act shall include the following information which

1 shall specify, where applicable, the name and address of each
2 source and the local government officer's job title:

3 (1) Each source of income, earned or unearned, exceeding
4 \$2,000 received by the local government officer or a member of
5 his immediate family during the preceding calendar year ¹,
6 except where Individual client fees, customer receipts or
7 commissions on transactions received through a business
8 organization need not be separately reported as sources of
9 income. If¹ a publicly traded security is the source of income,
10 the security need not be reported unless the local government
11 officer or member of his immediate family has an interest in the
12 business organization;

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

18 (3) Each source of gifts, reimbursements or prepaid expenses
19 having an aggregate value exceeding \$400 from any single source,
20 excluding relatives, received by the local government officer or a
21 member of his immediate family during the preceding calendar
22 year;

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

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

30 b. The commission shall prescribe a financial disclosure
31 statement form for filing purposes. For counties and
32 municipalities which have not established ethics boards, the
33 commission shall transmit sufficient copies of the forms to the
34 municipal clerk in each municipality and the county clerk in each
35 county for filing in accordance with this act. The municipal clerk
36 shall make the forms available to the local government officers
37 serving the municipality. The county clerk shall make the forms
38 available to the local government officers serving the county.

39 For counties and municipalities which have established ethics
40 boards, the commission shall transmit sufficient copies of the
41 forms to the boards for filing in accordance with this act. The
42 boards shall make the forms available to the local government
43 officers within their jurisdiction.

44 For local government officers serving the municipality, the
45 original statement shall be filed with the municipal clerk in the
46 municipality in which the local government officer serves. For
47 local government officers serving the county, the original
48 statement shall be filed with the county clerk in the county in

1 which the local government officer serves. A copy of the
2 statement shall be filed with the commission. In counties or
3 municipalities which have established ethics boards a copy of the
4 statement shall also be filed with the ethics board having
5 jurisdiction over the local government officer. Local government
6 officers shall file the initial financial disclosure statement within
7 90 days following the effective date of this act. Thereafter,
8 statements shall be filed on or before April 30th each year.

9 c. All financial disclosure statements filed shall be public
10 records.

11 9. The commission shall have the following powers:

12 a. To initiate, receive, hear and review complaints and hold
13 hearings with regard to possible violations of this act;

14 b. To issue subpoenas for the production of documents and the
15 attendance of witnesses with respect to its investigation of any
16 complaint or to the holding of a hearing;

17 c. To hear and determine any appeal of a decision made by a
18 county or municipal ethics board;

19 d. To forward to the county prosecutor or the Attorney
20 General or other governmental body any information concerning
21 violations of this act which may become the subject of criminal
22 prosecution or which may warrant the institution of other legal
23 proceedings by the Attorney General;

24 e. To render advisory opinions as to whether a given set of
25 facts and circumstances would constitute a violation of this act;

26 f. To enforce the provisions of this act and to impose penalties
27 for the violation thereof as are authorized by this act; and

28 g. To adopt rules and regulations pursuant to the
29 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
30 seq.) and to do other things as are necessary to implement the
31 purposes of this act.

32 10. A local government officer or employee not regulated by a
33 county or municipal code of ethics may request and obtain from
34 the commission an advisory opinion as to whether any proposed
35 activity or conduct would in its opinion constitute a violation of
36 the provisions of this act. Advisory opinions of the commission
37 shall not be made public, except when the commission by the vote
38 of two-thirds of all of its members directs that the opinion be
39 made public. Public advisory opinions shall not disclose the name
40 of the local government officer or employee unless the
41 commission in directing that the opinion be made public so
42 determines.

43 11. The commission, upon receipt of a signed written
44 complaint by any person alleging that the conduct of any local
45 government officer or employee, not regulated by a county or
46 municipal code of ethics, is in conflict with the provisions of this
47 act, shall acknowledge receipt of the complaint within 30 days of
48 receipt and initiate an investigation concerning the facts and

1 circumstances set forth in the complaint. The commission shall
2 make a determination as to whether the complaint is within its
3 jurisdiction or frivolous or without any reasonable factual basis.
4 If the commission shall conclude that the complaint is outside its
5 jurisdiction, frivolous or without factual basis, it shall reduce
6 that conclusion to writing and shall transmit a copy thereof to
7 the complainant and to the local government officer or employee
8 against whom the complaint was filed. Otherwise the commission
9 shall notify the local government officer or employee against
10 whom the complaint was filed of the nature of the complaint and
11 the facts and circumstances set forth therein. The officer or
12 employee shall have the opportunity to present the commission
13 with any statement or information concerning the complaint
14 which he wishes. Thereafter, if the commission determines that
15 a reasonable doubt exists as to whether the local government
16 officer or employee is in conflict with the provisions of this act,
17 the commission shall conduct a hearing in the manner prescribed
18 by section 14 of this act, concerning the possible violation and
19 any other facts and circumstances which may have come to the
20 attention of the commission with respect to the conduct of the
21 local government officer or employee. The commission shall
22 render a decision as to whether the conduct of the officer or
23 employee is in conflict with the provisions of this act. This
24 decision shall be made by no less than two-thirds of all members
25 of the commission.¹ If the commission determines that the
26 officer or employee is in conflict with the provisions of this act,
27 it may impose any penalties which it believes appropriate within
28 the limitations of this act. A final decision of the commission
29 may be appealed in the same manner as any other final State
30 agency decision.

31 12. a. An appointed local government officer or employee
32 found guilty by the commission or a county or municipal ethics
33 board of the violation of any provision of this act or of any code
34 of ethics in effect pursuant to this act, shall be fined not less
35 than \$100.00 nor more than \$500.00, which penalty may be
36 collected in a summary proceeding pursuant to the "penalty
37 enforcement law" (N.J.S.2A:58-1). The commission or a county
38 or municipal ethics board shall report its findings to the office or
39 agency having the power of removal or discipline of the appointed
40 local government officer or employee and may recommend that
41 further disciplinary action be taken.

42 b. An elected local government officer or employee found
43 guilty by the commission or a county or municipal ethics board of
44 the violation of any provision of this act or of any code of ethics
45 in effect pursuant to this act, shall be fined not less than \$100.00
46 nor more than \$500.00, which penalty may be collected in a
47 summary proceeding pursuant to the "penalty enforcement law"
48 (N.J.S.2A:58-1).

1 13. The finding by the commission or a county or municipal
2 ethics board that an appointed local government officer or
3 employee is guilty of the violation of the provisions of this act, or
4 of any code of ethics in effect pursuant to this act, shall be
5 sufficient cause for his removal, suspension, demotion or other
6 disciplinary action by the officer or agency having the power of
7 removal or discipline. When a person who is in the career service
8 is ¹[found] charged¹ to have violated the provisions of this act or
9 any code of ethics in effect pursuant to this act, the procedure
10 leading to removal, suspension, demotion or other disciplinary
11 action shall be governed by any applicable procedures of Title
12 11A of the New Jersey Statutes and the rules promulgated
13 pursuant thereto.

14 14. All hearings required pursuant to this act shall be
15 conducted in conformity with the rules and procedures, insofar as
16 they may be applicable, provided for hearings by a State agency
17 in contested cases under the "Administrative Procedure Act,"
18 P.L.1988, c.410 (C.52:14B-1 et seq.).

19 15. a. Each county of the State governed under the provisions
20 of P.L.1972, c.154 (C.40:41A-1 et seq.) may, by ordinance, and
21 the remaining counties may, by resolution establish a county
22 ethics board consisting of six members who are residents of the
23 county, at least two of whom shall be public members. The
24 members of the board shall be appointed by the governing body of
25 the county and no more than one of whom shall be from the same
26 municipality. The members shall be chosen by virtue of their
27 known and consistent reputation for integrity and their knowledge
28 of local government affairs. No more than three members of the
29 board shall be of the same political party.

30 b. The members of the county ethics board shall annually elect
31 a chairman from among the membership.

32 c. The members shall serve for a term of five years; except
33 that of the members initially appointed, two of the public
34 members shall be appointed to serve for a term of five years, one
35 member shall be appointed to serve for a term of four years, and
36 the remaining members shall be appointed to serve for a term of
37 three years. Each member shall serve until his successor has
38 been appointed and qualified. Any vacancy occurring in the
39 membership of the board shall be filled in the same manner as the
40 original appointment for the unexpired term.

41 d. Members of the board shall serve without compensation but
42 shall be reimbursed by the county for necessary expenses incurred
43 in the performance of their duties under this act.

44 18. a. The governing body of the county shall provide the
45 county ethics board with offices for the conduct of its business
46 and the preservation of its records, and shall supply equipment
47 and supplies as may be necessary.

48 b. All necessary expenses incurred by the county ethics board

1 and its members shall be paid, upon certification of the chairman
2 of the board, by the county treasurer within the limits of funds
3 appropriated by the county governing body by annual or
4 emergency appropriations for those purposes.

5 c. The county ethics board may appoint employees, including
6 independent counsel, and clerical staff as are necessary to carry
7 out the provisions of this act within the limits of funds
8 appropriated by the county governing body for those purposes.

9 17. Within 90 days after the establishment of a county ethics
10 board, the board shall promulgate, by resolution, a county code of
11 ethics for all local government officers and employees serving
12 the county. Local government officers and employees serving a
13 county independent authority shall be deemed to be serving the
14 county for purposes of this act.

15 The county code of ethics promulgated by the board shall be
16 either identical to the provisions set forth in section 7 of this act
17 or more restrictive, but shall not be less restrictive. Within 15
18 days following the promulgation thereof, the county code of
19 ethics, and a notice of the date of the public hearing to be held
20 thereon, shall be published in at least one newspaper circulating
21 within the county and shall be distributed to the county clerk and
22 to the heads of the local government agencies serving the county
23 for circulation among the local government officers and
24 employees serving the county. The county ethics board shall hold
25 a public hearing on the county code of ethics not less than 30
26 days following its promulgation at which any local government
27 officer or employee serving the county and any other person
28 wishing to be heard shall be permitted to testify. As a result of
29 the hearing, the board may amend or supplement the county code
30 of ethics as it deems necessary. If the county code of ethics is
31 not identical to the provisions set forth in section 7 of this act,
32 the county ethics board shall thereafter submit the county code
33 of ethics to the Local Government Ethics Commission for
34 approval. The commission shall approve or disapprove a county
35 code of ethics within 60 days following receipt. If the
36 commission fails to act within that period, the county code of
37 ethics shall be deemed approved. A county code of ethics
38 requiring commission approval shall take effect for all local
39 government officers and employees serving the county 60 days
40 after approval by the commission. A county code of ethics
41 identical to the provisions set forth in section 7 of this act shall
42 take effect 10 days after the public hearing thereon. The board
43 shall forward a copy of the county code of ethics to the county
44 clerk and shall make copies of the county code of ethics available
45 to local government officers and employees serving the county.

46 18. A county ethics board shall have the following powers:

47 a. To initiate, receive, hear and review complaints and hold
48 hearings with regard to possible violations of the county code of

1 ~~ethics or financial disclosure requirements by local government~~
2 ~~officers or employees serving the county;~~

3 b. To issue subpoenas for the production of documents and the
4 attendance of witnesses with respect to its investigation of any
5 complaint or to the holding of a hearing;

6 c. To forward to the county prosecutor or the Attorney
7 General or other governmental body any information concerning
8 violations of the county code of ethics or financial disclosure
9 requirements by local government officers or employees serving
10 the county which may become the subject of criminal prosecution
11 or which may warrant the institution of other legal proceedings
12 by the Attorney General;

13 d. To render advisory opinions to local government officers or
14 employees serving the county as to whether a given set of facts
15 and circumstances would constitute a violation of any provision
16 of the county code of ethics or financial disclosure requirements;

17 e. To enforce the provisions of the county code of ethics and
18 financial disclosure requirements with regard to local government
19 officers or employees serving the county and to impose penalties
20 for the violation thereof as are authorized by this act; and

21 f. To adopt rules and regulations and to do other things as are
22 necessary to implement the purposes of this act.

23 19. A local government officer or employee serving the county
24 may request and obtain from the county ethics board an advisory
25 opinion as to whether any proposed activity or conduct would in
26 its opinion constitute a violation of the county code of ethics or
27 any financial disclosure requirements. Advisory opinions of the
28 board shall not be made public, except when the board by the
29 vote of two-thirds of all of its members directs that the opinion
30 be made public. Public advisory opinions shall not disclose the
31 name of the local government officer or employee unless the
32 board in directing that the opinion be made public so determines.

33 20. The county ethics board, upon receipt of a signed written
34 complaint by any person alleging that the conduct of any local
35 government officer or employee serving the county is in conflict
36 with the county code of ethics or any financial disclosure
37 requirements shall acknowledge receipt of the complaint within
38 30 days of receipt and initiate an investigation concerning the
39 facts and circumstances set forth in the complaint. The board
40 shall make a determination as to whether the complaint is within
41 its jurisdiction or frivolous or without any reasonable factual
42 basis. If the board shall conclude that the complaint is outside its
43 jurisdiction, frivolous or without factual basis, it shall reduce
44 that conclusion to writing and shall transmit a copy thereof to
45 the complainant and to the local government officer or employee
46 against whom the complaint was filed. Otherwise the board shall
47 notify the local government officer or employee against whom
48 the complaint was filed of the nature of the complaint and the

1 facts and circumstances set forth therein. The officer or
2 employee shall have the opportunity to present the board with
3 any statement or information concerning the complaint which he
4 wishes. Thereafter, if the board determines that a reasonable
5 doubt exists as to whether the local government officer or
6 employee is in conflict with the county code of ethics or any
7 financial disclosure requirements, the board shall conduct a
8 hearing in the manner prescribed by section 14 of this act,
9 concerning the possible violation and any other facts and
10 circumstances which may have come to the attention of the
11 board with respect to the conduct of the local government officer
12 or employee. The board shall render a decision as to whether the
13 conduct of the officer or employee is in conflict with the county
14 code of ethics or any financial disclosure requirements. This
15 decision shall be made by no less than two-thirds of all members
16 of the board.¹ If the board determines that the officer or
17 employee is in conflict with the code or any financial disclosure
18 requirements, it may impose any penalties which it believes
19 appropriate within the limitations of this act. A final decision of
20 the board may be appealed to the commission within 30 days of
21 the decision.

22 21. a. Each municipality of the State may, by ordinance,
23 establish a municipal ethics board consisting of six members who
24 are residents of the municipality, at least two of whom shall be
25 public members. The members of the board shall be appointed by
26 the governing body of the municipality. The members shall be
27 chosen by virtue of their known and consistent reputation for
28 integrity and their knowledge of local government affairs. No
29 more than three members of the board shall be of the same
30 political party.

31 b. The members of the municipal ethics board shall annually
32 elect a chairman from among the membership.

33 c. The members shall serve for a term of five years; except
34 that of the members initially appointed, two of the public
35 members shall be appointed to serve for a term of five years, one
36 member shall be appointed to serve for a term of four years, and
37 the remaining members shall be appointed to serve for a term of
38 three years. Each member shall serve until his successor has
39 been appointed and qualified. Any vacancy occurring in the
40 membership of the board shall be filled in the same manner as the
41 original appointment for the unexpired term.

42 d. Members of the board shall serve without compensation but
43 shall be reimbursed by the municipality for necessary expenses
44 incurred in the performance of their duties under this act.

45 22. a. The governing body of the municipality shall provide
46 the municipal ethics board with offices for the conduct of its
47 business and the preservation of its records, and shall supply
48 equipment and supplies as may be necessary.

1 b. All necessary expenses incurred by the municipal ethics
2 board and its members shall be paid, upon certification of the
3 chairman of the board, by the municipal treasurer within the
4 limits of funds appropriated by the municipal governing body by
5 annual or emergency appropriations for those purposes.

6 c. The municipal ethics board may appoint employees,
7 including independent counsel, and clerical staff as are necessary
8 to carry out the provisions of this act within the limits of funds
9 appropriated by the municipal governing body for those purposes.

10 23. Within 90 days after the establishment of a municipal
11 ethics board, the board shall promulgate by resolution a municipal
12 code of ethics for all local government officers and employees
13 serving the municipality. Local government officers and
14 employees serving a municipal independent authority shall be
15 deemed to be serving the municipality for purposes of this act.

16 The municipal code of ethics promulgated by the board shall be
17 either identical to the provisions set forth in section 7 of this act
18 or more restrictive, but shall not be less restrictive. Within 15
19 days following the promulgation thereof, the municipal code of
20 ethics, and a notice of the date of the public hearing to be held
21 thereon, shall be published in at least one newspaper circulating
22 within the municipality and shall be distributed to the municipal
23 clerk, and to the heads of the local government agencies serving
24 the municipality for circulation among the local government
25 officers and employees serving the municipality. The municipal
26 ethics board shall hold a public hearing on the municipal code of
27 ethics not less than 30 days following its promulgation at which
28 any local government officer or employee serving the
29 municipality and any other person wishing to be heard shall be
30 permitted to testify. As a result of the hearing, the board may
31 amend or supplement the municipal code of ethics as it deems
32 necessary. If the municipal code of ethics is not identical to the
33 provisions set forth in section 7 of this act, the municipal ethics
34 board shall thereafter submit the municipal code of ethics to the
35 Local Government Ethics Commission for approval. The
36 commission shall approve or disapprove a municipal code of
37 ethics within 60 days following receipt. If the commission fails
38 to act within that period, the municipal code of ethics shall be
39 deemed approved. A municipal code of ethics requiring
40 commission approval shall take effect for all local government
41 officers and employees serving the municipality 60 days after
42 approval by the commission. A municipal code of ethics identical
43 to the provisions set forth in section 7 of this act shall take
44 effect 10 days after the public hearing held thereon. The board
45 shall forward a copy of the municipal code of ethics to the
46 municipal clerk and shall make copies of the municipal code of
47 ethics available to local government officers and employees
48 serving the municipality.

1 ~~24. A municipal ethics board shall have the following powers.~~
2 a. To initiate, receive, hear and review complaints and hold
3 hearings with regard to possible violations of the municipal code
4 of ~~ethics or financial disclosure requirements~~ by local
5 government officers or employees serving the municipality;
6 b. To issue subpoenas for the production of documents and the
7 attendance of witnesses with respect to its investigation of any
8 complaint or to the holding of a hearing;
9 c. To forward to the county prosecutor or the Attorney
10 General or other governmental body any information concerning
11 violations of the municipal code of ethics or financial disclosure
12 requirements by local government officers or employees serving
13 the municipality which may become the subject of criminal
14 prosecution or which may warrant the institution of other legal
15 proceedings by the Attorney General;
16 d. To render advisory opinions to local government officers or
17 employees serving the municipality as to whether a given set of
18 facts and circumstances would constitute a violation of any
19 provision of the municipal code of ethics or financial disclosure
20 requirements;
21 e. To enforce the provisions of the municipal code of ethics
22 and financial disclosure requirements with regard to local
23 government officers or employees serving the municipality and
24 to impose penalties for the violation thereof as are authorized by
25 this act; and
26 f. To adopt rules and regulations and to do other things as are
27 necessary to implement the purposes of this act.
28 25. A local government officer or employee serving the
29 municipality may request and obtain from the municipal ethics
30 board an advisory opinion as to whether any proposed activity or
31 conduct would in its opinion constitute a violation of the
32 municipal code of ethics or any financial disclosure
33 requirements. Advisory opinions of the board shall not be made
34 public, except when the board by the vote of two-thirds of all of
35 its members directs that the opinion be made public. Public
36 advisory opinions shall not disclose the name of the local
37 government officer or employee unless the board in directing that
38 the opinion be made public so determines.
39 26. The municipal ethics board, upon receipt of a signed
40 written complaint by any person alleging that the conduct of any
41 local government officer or employee serving the municipality is
42 in conflict with the municipal code of ethics or financial
43 disclosure requirements, shall acknowledge receipt of the
44 complaint within 30 days of receipt and initiate an investigation
45 concerning the facts and circumstances set forth in the
46 complaint. The board shall make a determination as to whether
47 the complaint is within its jurisdiction or frivolous or without any
48 reasonable factual basis. If the board shall conclude that the

1 complaint is outside its jurisdiction, frivolous or without factual
2 basis, it shall reduce that conclusion to writing and shall transmit
3 a copy thereof to the complainant and to the local government
4 officer or employee against whom the complaint was filed.
5 Otherwise the board shall notify the local government officer or
6 employee against whom the complaint was filed of the nature of
7 the complaint and the facts and circumstances set forth therein.
8 The officer or employee shall have the opportunity to present the
9 board with any statement or information concerning the
10 complaint which he wishes. Thereafter, if the board determines
11 that a reasonable doubt exists as to whether the local government
12 officer or employee is in conflict with the municipal code of
13 ethics or any financial disclosure requirements, the board shall
14 conduct a hearing in the manner prescribed by section 14 of this
15 act, concerning the possible violation and any other facts and
16 circumstances which may have come to the attention of the
17 board with respect to the conduct of the local government officer
18 or employee. The board shall render a decision as to whether the
19 conduct of the officer or employee is in conflict with the
20 municipal code of ethics or any financial disclosure
21 requirements. This decision shall be made by no less than
22 two-thirds of all members of the board. If the board determines
23 that the officer or employee is in conflict with the code or any
24 financial disclosure requirements, it may impose any penalties
25 which it believes appropriate within the limitations of this act. A
26 final decision of the board may be appealed to the commission
27 within 30 days of the decision.

28 27. All statements, complaints, requests or other written
29 materials filed pursuant to this act, and any rulings, opinions,
30 judgments, transcripts or other official papers prepared pursuant
31 to this act shall be preserved for a period of at least five years
32 from the date of filing or preparation, as the case may be.

33 28. There is appropriated from the General Fund to the
34 Department of Community Affairs \$90,000 to effectuate the
35 purposes of this act.

36 29. Section 1 of P.L.1983, c.188 (C.40:23-6.51) is repealed.

37 30. This act shall take effect on the 90th day following
38 enactment, except that any appointments authorized by this act
39 and any administrative preparations for carrying its provisions
40 into effect may be made prior to the effective date.

41
42
43 LOCAL GOVERNMENT

44
45 Creates the Local Government Ethics Law; appropriates \$90,000.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 2027

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 18, 1990

The Assembly State Government Committee reports favorably and with committee amendments Senate Bill No. 2027 [1R].

This bill would enact a "Local Government Ethics Law." This law would establish a statutory code of ethics covering the officers and employees of most local governments and their agencies and instrumentalities. It would also require certain officers of such local public entities to file financial disclosure statements.

The statutory code of ethics, set forth under section 5 of the substitute, provides as follows:

1. No "local government officer or employee" (i.e., almost any officer or employee of a public agency or instrumentality below the State level except for school boards), and no member of the immediate family of the officer or employee, shall have an "interest" (i.e., ownership or control exceeding 10%) in a business which is in substantial conflict with the proper discharge of the duties of the officer or employee.

2. No independent local authority shall, for one year next subsequent to the termination of office of a member of that authority, a. award any no-bid contract to the former member, b. allow the former member to represent, appear for or negotiate on behalf of any other party before the authority, or c. employ the former member for pay, except pursuant to open competitive examination in accordance with Title 11A.

3. No local government officer or employee shall use or attempt to use his official position to secure unwarranted privileges or advantages for himself or others.

4. No local government officer or employee shall act in an official capacity in any matter where the officer or employee, a member of his or her immediate family, or a business organization in which he or she has an interest, has a direct or indirect financial or personal involvement that might reasonably be expected to impair his objectivity or independence of judgment.

5. No local government officer or employee shall undertake any paid or unpaid employment or service which might reasonably be expected to prejudice the independence of that officer or employee's judgment in the exercise of his or her official duties.

6. No local government officer or employee, member of the immediate family of an officer or employee, or business organization in which the officer or employee has an interest shall solicit or accept any benefit based upon an understanding that the receipt of

that benefit shall influence the discharge of any official duties. An exception is made for the solicitation or acceptance of a campaign contribution to the campaign of a candidate for elective public office if the local government officer has no knowledge or reason to believe that the contribution was given with the intent to influence the discharge of any official duties.

7. No local government officer or employee shall use or allow to be used his or her public office or employment, or any information not generally available to the members of the public, received or acquired in the course of and by reason of the office or employment, for the purpose of securing financial gain for himself or herself, any member of his or her immediate family, or any business organization with which he or she is associated.

8. Finally, no local government officer or employee or business organization in which he or she has an interest shall represent any person or party other than the local government in connection with any cause, proceeding, application or other matter pending before any agency in the local government in which the officer or employee serves. An exception is allowed for the representation of one employee by another where the representation is within the context of official labor union or similar representational responsibilities.

The obligation to file a personal resource summary would be imposed upon the following local government officers: persons elected to any office of a local government agency; persons serving on a local government agency which has the authority to enact ordinances, approve development applications or grant zoning variances; members of any independent municipal, county or regional authority; and anyone who is a managerial executive or confidential employee of a local government agency.

Financial disclosure statements would have to identify the local government officer's job title and include, where applicable, the name and address of each income source. The following financial information would be subject to disclosure:

1. Each source of income, earned or unearned, exceeding \$2,000 received by the local government officer or a member of his or her immediate family during the preceding calendar year. Individual client fees, customer receipts or commissions on transactions received through a business organization need not be separately reported as sources of income. If a publicly traded security is the source of income, the security need not be reported unless the local government officer or member of his immediate family has an interest in the business organization;

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

3. Each source of gifts, reimbursements or prepaid expenses having an aggregate value exceeding \$400 from any single source, excluding relatives, received by the local government officer or a member of his or her immediate family during the preceding calendar year;

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

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

The bill confers general responsibility for implementing its provisions upon the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs. Counties and municipalities would, however, have the option of establishing their own ethics boards and codes of ethics on the local level. Local codes of ethics would have to be approved by the Local Finance Board if they are not identical to the basic code prescribed by the bill; the provisions of these local codes of ethics would have to be at least as restrictive as the basic code.

The Local Finance Board, or a county or municipal ethics board as the case may be, would have the authority to hear complaints and render advisory opinions with regard to local officers and employees over whom they have jurisdiction. Local ethics boards could impose the same penalties as the Local Finance Board; penalties include fines up to \$500 and, for appointed local government officers or employees, any further recommendations for disciplinary action which the Local Finance Board or county or municipal ethics board may recommend. The bill also specifies that decisions by the Local Finance Board or a local ethics board regarding whether the conduct of an officer or employee is in conflict with the "Local Government Ethics Law" shall be made by no less than a two-thirds vote of all of the members of the Board or local ethics board.

Decisions of a county or municipal ethics board would be appealable to the Local Finance Board. Final decisions of the Local Finance Board would be appealable to the Appellate Division of the Superior Court in the same manner as any other final State agency decision.

COMMITTEE AMENDMENTS

The committee adopted amendments to this bill (1) to eliminate references to a "Local Government Ethics Commission," which the legislation would have created and given general responsibility for implementation of its provisions, and to assign that responsibility instead to the Local Finance Board; (2) to restore members of independent authorities to coverage under the legislation's financial disclosure provisions; and (3) to delete an appropriation of \$90,000.

ASSEMBLY STATE GOVERNMENT COMMITTEE

ADOPTED

AMENDMENTS

ADOPTED

JUN 18 1990

to

JUN 18 1990

SENATE, No. 2027 (LR)
(Sponsored by SENATOR CONTILLO)

REPLACE TITLE TO READ:

AN ACT concerning standards of ethical conduct for officers and employees of local government²[,] and² repealing section 1 of P.L.1983, c.188 (C.40:23-8.51) ²[and making an appropriation therefor]².

REPLACE SECTION 3 TO READ:

3. As used in this act:
- a. ²["Business organization" means any corporation, partnership, firm, enterprise, franchise, association, trust, sole proprietorship, union or other legal entity] "Board" means the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs²;
 - b. ²["Commission" means the Local Government Ethics Commission established by this act] "Business organization" means any corporation, partnership, firm, enterprise, franchise, association, trust, sole proprietorship, union or other legal entity²;
 - c. "Governing body" means, in the case of a municipality, the commission, council, board or body, by whatever name it may be known, having charge of the finances of the municipality, and, in the case of a county, the board of chosen freeholders, or, in the case of a county having adopted the provisions of the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), as defined in the form of government adopted by the county under that act;
 - d. "Interest" means the ownership or control of more than 10% of the profits, assets or stock of a business organization but shall not include the control of assets in a non-profit entity or labor union;
 - e. "Local government agency" means any agency, board, governing body, including the chief executive officer, bureau, division, office, commission or other instrumentality within a county or municipality, and any independent local authority, including any entity created by more than one county or municipality, which performs functions other than of a purely advisory nature, but shall not include a school board;
 - f. "Local government employee" means any person, whether compensated or not, whether part-time or full-time, employed by or serving on a local government agency who is not a local government officer, but shall not mean any employee of a school district;

g. "Local government officer" means any person whether compensated or not, whether part-time or full-time: (1) elected to any office of a local government agency; (2) serving on a local government agency which ~~is subject to the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.)~~ has the authority to enact ordinances, approve development applications or grant zoning variances¹; ²(or) ³ ²who is a member of an independent municipal, county or regional authority, or ¹(a) ²who is a managerial executive or confidential employee of a local government agency, as defined in section 3 of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-3), but shall not mean any employee of a school district or member of a school board;

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

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

OMIT SECTIONS 4 AND 5 IN THEIR ENTIRETY.

REPLACE SECTION 6 TO READ:

²[6.] ⁴ ²The ²[commission] Local Finance Board in the Division of Local Government Services in the Department of Community Affairs² shall have jurisdiction to govern and guide the conduct of local government officers or employees regarding violations of the provisions of this act who are not otherwise regulated by a county or municipal code of ethics promulgated by a county or municipal ethics board in accordance with the provisions of this act. Local government officers or employees serving a local government agency created by more than one county or municipality shall be under the jurisdiction of the ²[commission] board². The ²[commission] board² in interpreting and applying the provisions of this act shall recognize that under the principles of democracy, public officers and employees cannot and should not be expected to be without any personal interest in the decisions and policies of government; that citizens who are government officers and employees have a right to private interests of a personal, financial and economic nature; and that standards of conduct shall distinguish between those conflicts of interest which are legitimate and unavoidable in a free society and those conflicts of interest which are prejudicial and material and are, therefore, corruptive of democracy and free society.

REPLACE SECTION 7 TO READ:

²[7.] ⁵ ²Local government officers or employees under the jurisdiction of the ²[commission] Local Finance Board² shall comply with the following provisions:

a. No local government officer or employee or member of his immediate family shall have an interest in a business organization

or engage in any business, transaction, or professional activity, which is in substantial conflict with the proper discharge of his duties in the public interest;

b. No independent local authority shall, for a period of one year next subsequent to the termination of office of a member of that authority:

(1) award any contract which is not publicly bid to a former member of that authority;

(2) allow a former member of that authority to represent, appear for or negotiate on behalf of any other party before that authority; or

(3) employ for compensation, except pursuant to open competitive examination in accordance with Title 11A of the New Jersey Statutes and the rules and regulations promulgated pursuant thereto, any former member of that authority.

The restrictions contained in this subsection shall also apply to any business organization in which the former authority member holds an interest.

c. No local government officer or employee shall use or attempt to use his official position to secure unwarranted privileges or advantages for himself or others;

d. No local government officer or employee shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has an interest, has a direct or indirect ¹financial or ¹personal involvement that might reasonably be expected to impair his objectivity or independence ²[or] of ² judgment;

e. No local government officer or employee shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his independence of judgment in the exercise of his official duties;

f. No local government officer or employee, member of his immediate family, or business organization in which he has an interest, shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing him, directly or indirectly, in the discharge of his official duties. This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office, if the local government officer has no knowledge or reason to believe that the campaign contribution, if accepted, was given with the intent to influence the local government officer in the discharge of his official duties;

g. No local government officer or employee shall use, or allow to be used, his public office or employment, or any information, not generally available to the members of the public, which he receives or acquires in the course of and by reason of his office

or employment, for the purpose of securing financial gain for himself, any member of his immediate family, or any business organization with which he is associated;

~~h. No local government officer or employee or business organization in which he has an interest¹ shall represent any person or party other than the local government in connection with any cause, proceeding, application or other matter pending before any agency in¹ the local government [agency]¹ in which he serves. This provision shall not be deemed to prohibit one local government employee from representing another local government employee where the local government agency is the employer and the representation is within the context of official labor union or similar representational responsibilities;~~

i. No local government officer shall be deemed in conflict with these provisions if, by reason of his participation in the enactment of any ordinance, resolution or other matter required to be voted upon or which is subject to executive approval or veto, no material or monetary gain accrues to him as a member of any business, profession, occupation or group, to any greater extent than any gain could reasonably be expected to accrue to any other member of such business, profession, occupation or group;

j. No elected local government officer shall be prohibited from making an inquiry for information on behalf of a constituent, if no fee, reward or other thing of value is promised, given to or accepted by the officer or a member of his immediate family, whether directly or indirectly, in return therefor; and

k. Nothing shall prohibit any local government officer or employee, or members of his immediate family, from representing himself, or themselves, in negotiations or proceedings concerning his, or their, own interests.

REPLACE SECTION 8 TO READ:

²[8.] § 2 a. Local government officers shall annually file a financial disclosure statement. All financial disclosure statements filed pursuant to this act shall include the following information which shall specify, where applicable, the name and address of each source and the local government officer's job title:

(1) Each source of income, earned or unearned, exceeding \$2,000 received by the local government officer or a member of his immediate family during the preceding calendar year ¹[, except where] individual client fees, customer receipts or commissions on transactions received through a business organization need not be separately reported as sources of income. If¹ a publicly traded security is the source of income, the security need not be reported unless the local government officer or member of his immediate family has an interest in the business organization;

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

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

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

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

b. The ²[commission] Local Finance Board² shall prescribe a financial disclosure statement form for filing purposes. For counties and municipalities which have not established ethics boards, the ²[commission] board² shall transmit sufficient copies of the forms to the municipal clerk in each municipality and the county clerk in each county for filing in accordance with this act. The municipal clerk shall make the forms available to the local government officers serving the municipality. The county clerk shall make the forms available to the local government officers serving the county.

For counties and municipalities which have established ethics boards, the ²[commission] Local Finance Board² shall transmit sufficient copies of the forms to the ²ethics² boards for filing in accordance with this act. The ²ethics² boards shall make the forms available to the local government officers within their jurisdiction.

For local government officers serving the municipality, the original statement shall be filed with the municipal clerk in the municipality in which the local government officer serves. For local government officers serving the county, the original statement shall be filed with the county clerk in the county in which the local government officer serves. A copy of the statement shall be filed with the ²[commission] board². In counties or municipalities which have established ethics boards a copy of the statement shall also be filed with the ethics board having jurisdiction over the local government officer. Local government officers shall file the initial financial disclosure statement within 90 days following the effective date of this act. Thereafter, statements shall be filed on or before April 30th each year.

c. All financial disclosure statements filed shall be public records.

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REPLACE SECTION 9 TO READ:

2[9.] 9.2 With respect to its responsibilities for the implementation of the provisions of this act, the Local Finance Board² shall have the following powers:

- a. To initiate, receive, hear and review complaints and hold hearings with regard to possible violations of this act;
- b. To issue subpoenas for the production of documents and the attendance of witnesses with respect to its investigation of any complaint or to the holding of a hearing;
- c. To hear and determine any appeal of a decision made by a county or municipal ethics board;
- d. To forward to the county prosecutor or the Attorney General or other governmental body any information concerning violations of this act which may become the subject of criminal prosecution or which may warrant the institution of other legal proceedings by the Attorney General;
- e. To render advisory opinions as to whether a given set of facts and circumstances would constitute a violation of this act;
- f. To enforce the provisions of this act and to impose penalties for the violation thereof as are authorized by this act; and
- g. To adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1988, c.410 (C.52:14B-1 et seq.) and to do other things as are necessary to implement the purposes of this act.

REPLACE SECTION 10 TO READ:

2[10.] 9.2 A local government officer or employee not regulated by a county or municipal code of ethics may request and obtain from the 2[commission] Local Finance Board² an advisory opinion as to whether any proposed activity or conduct would in its opinion constitute a violation of the provisions of this act. Advisory opinions of the 2[commission] board² shall not be made public, except when the 2[commission] board² by the vote of two-thirds of all of its members directs that the opinion be made public. Public advisory opinions shall not disclose the name of the local government officer or employee unless the 2[commission] board² in directing that the opinion be made public so determines.

REPLACE SECTION 11 TO READ:

2[11.] 9.2 The 2[commission] Local Finance Board², upon receipt of a signed written complaint by any person alleging that the conduct of any local government officer or employee, not regulated by a county or municipal code of ethics, is in conflict with the provisions of this act, shall acknowledge receipt of the complaint within 30 days of receipt and initiate an investigation concerning the facts and

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circumstances set forth in the complaint. The ²[commission] board² shall make a determination as to whether the complaint is within its jurisdiction or frivolous or without any reasonable-factual basis. If the ²[commission] board² shall conclude that the complaint is outside its jurisdiction, frivolous or without factual basis, it shall reduce that conclusion to writing and shall transmit a copy thereof to the complainant and to the local government officer or employee against whom the complaint was filed. Otherwise the ²[commission] board² shall notify the local government officer or employee against whom the complaint was filed of the nature of the complaint and the facts and circumstances set forth therein. The officer or employee shall have the opportunity to present the ²[commission] board² with any statement or information concerning the complaint which he wishes. Thereafter, if the ²[commission] board² determines that a reasonable doubt exists as to whether the local government officer or employee is in conflict with the provisions of this act, the ²[commission] board² shall conduct a hearing in the manner prescribed by section ²(14) 12² of this act, concerning the possible violation and any other facts and circumstances which may have come to the attention of the ²[commission] board² with respect to the conduct of the local government officer or employee. The ²[commission] board² shall render a decision as to whether the conduct of the officer or employee is in conflict with the provisions of this act. ¹This decision shall be made by no less than two-thirds of all members of the ²[commission] board².¹ If the ²[commission] board² determines that the officer or employee is in conflict with the provisions of this act, it may impose any penalties which it believes appropriate within the limitations of this act. A final decision of the ²[commission] board² may be appealed in the same manner as any other final State agency decision.

REPLACE SECTION 12 TO READ:

²(12.) 10² a. An appointed local government officer or employee found guilty by the ²[commission] Local Finance Board² or a county or municipal ethics board of the violation of any provision of this act or of any code of ethics in effect pursuant to this act, shall be fined not less than \$100.00 nor more than \$500.00, which penalty may be collected in a summary proceeding pursuant to ²[the "penalty enforcement law"] "the penalty enforcement law"² (N.J.S.2A:58-1 ²et seq.²). The ²[commission] board² or a county or municipal ethics board shall report its findings to the office or agency having the power of removal or discipline of the appointed local government officer or employee and may recommend that further disciplinary action be taken.

b. An elected local government officer or employee found guilty by the ²[commission] Local Finance Board² or a county or municipal ethics board of the violation of any provision of this act or of any code of ethics in effect pursuant to this act, shall be fined not less than \$100.00 nor more than \$500.00, which penalty may be collected in a summary proceeding pursuant to ²[the "penalty enforcement law"] "the penalty enforcement law"² (N.J.S.2A:58-1 ²et seq.²).

REPLACE SECTION 13 TO READ:

²[13.] ^{11.}² The finding by the ²[commission] Local Finance Board² or a county or municipal ethics board that an appointed local government officer or employee is guilty of the violation of the provisions of this act, or of any code of ethics in effect pursuant to this act, shall be sufficient cause for his removal, suspension, demotion or other disciplinary action by the officer or agency having the power of removal or discipline. When a person who is in the career service is ¹[found] charged¹ ²[to have violated] with violating² the provisions of this act or any code of ethics in effect pursuant to this act, the procedure leading to removal, suspension, demotion or other disciplinary action shall be governed by any applicable procedures of Title 11A of the New Jersey Statutes and the rules promulgated pursuant thereto.

RENUMBER SECTION 14 AS SECTION 12**REPLACE SECTION 15 TO READ:**

²[15.] ^{13.}² a. Each county of the State governed under the provisions of P.L.1972, c.154 (C.40:41A-1 et seq.) may, by ordinance, and the remaining counties may, by resolution establish a county ethics board consisting of six members who are residents of the county, at least two of whom shall be public members. The members of the ²ethics² board shall be appointed by the governing body of the county and no more than one of whom shall be from the same municipality. The members shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs. No more than three members of the ²ethics² board shall be of the same political party.

b. The members of the county ethics board shall annually elect a chairman from among the membership.

c. The members shall serve for a term of five years; except that of the members initially appointed, two of the public members shall be appointed to serve for a term of five years, one member shall be appointed to serve for a term of four years, and the remaining members shall be appointed to serve for a term of three years. Each member shall serve until his successor has been appointed and qualified. Any vacancy occurring in the membership of the ²ethics² board shall be filled in the same manner as the original appointment for the unexpired term.

d. Members of the ²ethics² board shall serve without compensation but shall be reimbursed by the county for necessary expenses incurred in the performance of their duties under this act.

REPLACE SECTION 16 TO READ:

²[16.] ^{14.}² a. The governing body of the county shall provide the county ethics board with offices for the conduct of its business and the preservation of its records, and shall supply equipment and supplies as may be necessary.

b. All necessary expenses incurred by the county ethics board

and its members shall be paid, upon certification of the chairman ²[of the board]², by the county treasurer within the limits of funds appropriated by the county governing body by annual or emergency appropriations for those purposes.

c. The county ethics board may appoint employees, including independent counsel, and clerical staff as are necessary to carry out the provisions of this act within the limits of funds appropriated by the county governing body for those purposes.

REPLACE SECTION 17 TO READ:

²[17.] ^{15.}² Within 90 days after the establishment of a county ethics board, ²[the] ethics² board shall promulgate, by resolution, a county code of ethics for all local government officers and employees serving the county. Local government officers and employees serving a county independent authority shall be deemed to be serving the county for purposes of this act.

The county code of ethics ²so² promulgated ²[by the board]² shall be either identical to the provisions set forth in section ²[7] ⁵² of this act or more restrictive, but shall not be less restrictive. Within 15 days following the promulgation thereof, the county code of ethics, and a notice of the date of the public hearing to be held thereon, shall be published in at least one newspaper circulating within the county and shall be distributed to the county clerk and to the heads of the local government agencies serving the county for circulation among the local government officers and employees serving the county. The county ethics board shall hold a public hearing on the county code of ethics not less than 30 days following its promulgation at which any local government officer or employee serving the county and any other person wishing to be heard shall be permitted to testify. As a result of the hearing, the ethics² board may amend or supplement the county code of ethics as it deems necessary. If the county code of ethics is not identical to the provisions set forth in section ²[7] ⁵² of this act, the county ethics board shall thereafter submit the county code of ethics to the ²[Local Government Ethics Commission] Local Finance Board² for approval. The ²[commission] board² shall approve or disapprove a county code of ethics within 60 days following receipt. If the ²[commission] board² fails to act within that period, the county code of ethics shall be deemed approved. A county code of ethics requiring ²[commission] board² approval shall take effect for all local government officers and employees serving the county 60 days after approval by the ²[commission] board². A county code of ethics identical to the provisions set forth in section ²[7] ⁵² of this act shall take effect 10 days after the public hearing thereon. The county ethics² board shall forward a copy of the county code of ethics to the county clerk and shall make copies of the county code of ethics available to local government officers and employees serving the county.

RENUMBER SECTION 18 AS SECTION 16

REPLACE SECTION 19 TO READ:

²(19.) ^{17.}² A local government officer or employee serving the county may request and obtain from the county ethics board an advisory opinion as to whether any proposed activity or conduct would in its opinion constitute a violation of the county code of ethics or any financial disclosure requirements. Advisory opinions of the ²county ethics² board shall not be made public, except when the ²ethics² board by the vote of two-thirds of all of its members directs that the opinion be made public. Public advisory opinions shall not disclose the name of the local government officer or employee unless the ²ethics² board, in directing that the opinion be made public so determines.

REPLACE SECTION 20 TO READ:

²(20.) ^{18.}² The county ethics board, upon receipt of a signed written complaint by any person alleging that the conduct of any local government officer or employee serving the county is in conflict with the county code of ethics or any financial disclosure requirements shall acknowledge receipt of the complaint within 30 days of receipt and initiate an investigation concerning the facts and circumstances set forth in the complaint. The ²ethics² board shall make a determination as to whether the complaint is within its jurisdiction or frivolous or without any reasonable factual basis. If the ²ethics² board shall conclude that the complaint is outside its jurisdiction, frivolous or without factual basis, it shall reduce that conclusion to writing and shall transmit a copy thereof to the complainant and to the local government officer or employee against whom the complaint was filed. Otherwise the ²ethics² board shall notify the local government officer or employee against whom the complaint was filed of the nature of the complaint and the facts and circumstances set forth therein. The officer or employee shall have the opportunity to present the ²ethics² board with any statement or information concerning the complaint which he wishes. Thereafter, if the ²ethics² board determines that a reasonable doubt exists as to whether the local government officer or employee is in conflict with the county code of ethics or any financial disclosure requirements, ²[the board] ^{it}² shall conduct a hearing in the manner prescribed by section ²(14) ¹²² of this act, concerning the possible violation and any other facts and circumstances which may have come to ²[the] ^{its}² attention ²[of the board]² with respect to the conduct of the local government officer or employee. The ²ethics² board shall render a decision as to whether the conduct of the officer or employee is in conflict with the county code of ethics or any financial disclosure requirements. ¹This decision shall be made by no less than two-thirds of all members of the ²ethics² board.¹ If the ²ethics² board determines that the officer or employee is in conflict with the code or any financial disclosure requirements, it may impose any penalties which it believes appropriate within the limitations of this act.

A final decision of the ²ethics² board may be appealed to the ²[commission] Local Finance Board² within 30 days of the decision.

REPLACE SECTION 21 TO READ:

~~2[21.] 19.~~² a. Each municipality of the State may, by ordinance, establish a municipal ethics board consisting of six members who are residents of the municipality, at least two of whom shall be public members. The members of the ²ethics² board shall be appointed by the governing body of the municipality. The members shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs. No more than three members of the ²ethics² board shall be of the same political party.

b. The members of the municipal ethics board shall annually elect a chairman from among the membership.

c. The members shall serve for a term of five years; except that of the members initially appointed, two of the public members shall be appointed to serve for a term of five years, one member shall be appointed to serve for a term of four years, and the remaining members shall be appointed to serve for a term of three years. Each member shall serve until his successor has been appointed and qualified. Any vacancy occurring in the membership of the ²ethics² board shall be filled in the same manner as the original appointment for the unexpired term.

d. Members of the ²ethics² board shall serve without compensation but shall be reimbursed by the municipality for necessary expenses incurred in the performance of their duties under this act.

REPLACE SECTION 22 TO READ:

~~2[22.] 20.~~² a. The governing body of the municipality shall provide the municipal ethics board with offices for the conduct of its business and the preservation of its records, and shall supply equipment and supplies as may be necessary.

b. All necessary expenses incurred by the municipal ethics board and its members shall be paid, upon certification of the chairman ²[of the board]², by the municipal treasurer within the limits of funds appropriated by the municipal governing body by annual or emergency appropriations for those purposes.

c. The municipal ethics board may appoint employees, including independent counsel, and clerical staff as are necessary to carry out the provisions of this act within the limits of funds appropriated by the municipal governing body for those purposes.

REPLACE SECTION 21 TO READ:

²[23.] ²1. ² Within 90 days after the establishment of a municipal ethics board, ²[the] ²ethics² board shall promulgate by resolution a municipal code of ethics for all local government officers and employees serving the municipality. Local government officers and employees serving a municipal independent authority shall be deemed to be serving the municipality for purposes of this act.

The municipal code of ethics ²so² promulgated ²[by the board]² shall be either identical to the provisions set forth in section ²[7] ²of this act or more restrictive, but shall not be less restrictive. Within 15 days following the promulgation thereof, the municipal code of ethics, and a notice of the date of the public hearing to be held thereon, shall be published in at least one newspaper circulating within the municipality and shall be distributed to the municipal clerk and to the heads of the local government agencies serving the municipality for circulation among the local government officers and employees serving the municipality. The municipal ethics board shall hold a public hearing on the municipal code of ethics not less than 30 days following its promulgation at which any local government officer or employee serving the municipality and any other person wishing to be heard shall be permitted to testify. As a result of the hearing, the ²ethics² board may amend or supplement the municipal code of ethics as it deems necessary. If the municipal code of ethics is not identical to the provisions set forth in section ²[7] ²of this act, the municipal ethics board shall thereafter submit the municipal code of ethics to the ²[Local Government Ethics Commission] ²Local Finance Board² for approval. The ²[commission] ²board² shall approve or disapprove a municipal code of ethics within 60 days following receipt. If the ²[commission] ²board² fails to act within that period, the municipal code of ethics shall be deemed approved. A municipal code of ethics requiring ²[commission] ²board² approval shall take effect for all local government officers and employees serving the municipality 80 days after approval by the ²[commission] ²board². A municipal code of ethics identical to the provisions set forth in section ²[7] ²of this act shall take effect 10 days after the public hearing held thereon. The ²municipal ethics² board shall forward a copy of the municipal code of ethics to the municipal clerk and shall make copies of the municipal code of ethics available to local government officers and employees serving the municipality.

RENUMBER SECTION 24 AS SECTION 22REPLACE SECTION 25 TO READ:

²[25.] ^{23.}² A local government officer or employee serving the municipality may request and obtain from the municipal ethics board an advisory opinion as to whether any proposed activity or conduct would in its opinion constitute a violation of the municipal code of ethics or any financial disclosure requirements. Advisory opinions of the ²municipal ethics² board shall not be made public, except when the ²ethics² board by the vote of two-thirds of all of its members directs that the opinion be made public. Public advisory opinions shall not disclose the name of the local government officer or employee unless the ²ethics² board in directing that the opinion be made public so determines.

REPLACE SECTION 26 TO READ:

²[26.] ^{24.}² The municipal ethics board, upon receipt of a signed written complaint by any person alleging that the conduct of any local government officer or employee serving the municipality is in conflict with the municipal code of ethics or financial disclosure requirements, shall acknowledge receipt of the complaint within 30 days of receipt and initiate an investigation concerning the facts and circumstances set forth in the complaint. The ²ethics² board shall make a determination as to whether the complaint is within its jurisdiction or frivolous or without any reasonable factual basis. If the ²ethics² board shall conclude that the complaint is outside its jurisdiction, frivolous or without factual basis, it shall reduce that conclusion to writing and shall transmit a copy thereof to the complainant and to the local government officer or employee against whom the complaint was filed. Otherwise, the ²ethics² board shall notify the local government officer or employee against whom the complaint was filed of the nature of the complaint and the facts and circumstances set forth therein. The officer or employee shall have the opportunity to present the ²ethics² board with any statement or information concerning the complaint which he wishes. Thereafter, if the ²ethics² board determines that a reasonable doubt exists as to whether the local government officer or employee is in conflict with the municipal code of ethics or any financial disclosure requirements, ²[the board] ²[it] shall conduct a hearing in the manner prescribed by section ²[14] ¹²² of this act, concerning the possible violation and any other facts and circumstances which may have come to ²[the] ²[it]s² attention ²[of the board] ²with respect to the conduct of the local government officer or employee. The ²ethics² board shall render a decision as to whether the conduct of the officer or employee is in conflict with the municipal code of ethics or any financial disclosure requirements. ¹This decision shall be made by no less than two-thirds of all members of the ²ethics² board.¹

If the ²ethics² board determines that the officer or employee is in conflict with the code or any financial disclosure requirements, it may impose any penalties which it believes appropriate within the limitations of this act. A final decision of the ²ethics² board may be appealed to the ²[commission] Local Finance Board² within 30 days of the decision.

RENUMBER SECTION 27 AS SECTION 26

OMIT SECTION 28 IN ITS ENTIRETY

RENUMBER SECTIONS 29 AND 30 AS SECTIONS 26 AND 27

REPLACE SYNOPSIS TO READ:
Creates the Local Government Ethics Law.

[SECOND REPRINT]

SENATE, No. 2027

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Senator CONTILLO

1 AN ACT concerning standards of ethical conduct for officers and
2 employees of local government² and² repealing section 1 of
3 P.L.1983, c.188 (C.40:23-6.51) ²and making an appropriation
4 therefor².

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

8 1. This act shall be known and may be cited as the "Local
9 Government Ethics Law."

10 2. The Legislature finds and declares that:

11 a. Public office and employment are a public trust;

12 b. The vitality and stability of representative democracy
13 depend upon the public's confidence in the integrity of its
14 elected and appointed representatives;

15 c. Whenever the public perceives a conflict between the
16 private interests and the public duties of a government officer or
17 employee, that confidence is imperiled;

18 d. Governments have the duty both to provide their citizens
19 with standards by which they may determine whether public
20 duties are being faithfully performed, and to apprise their
21 officers and employees of the behavior which is expected of them
22 while conducting their public duties; and

23 e. It is the purpose of this act to provide a method of assuring
24 that standards of ethical conduct and financial disclosure
25 requirements for local government officers and employees shall
26 be clear, consistent, uniform in their application, and enforceable
27 on a statewide basis, and to provide local officers or employees
28 with advice and information concerning possible conflicts of
29 interest which might arise in the conduct of their public duties.

30 3. As used in this act:

31 a. ²"Business organization" means any corporation,
32 partnership, firm, enterprise, franchise, association, trust, sole
33 proprietorship, union or other legal entity; "Board" means the
34 Local Finance Board in the Division of Local Government
35 Services in the Department of Community Affairs²;

36 b. ²"Commission" means the Local Government Ethics
37 Commission established by this act; "Business organization"
38 means any corporation, partnership, firm, enterprise, franchise.

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SCM committee amendments adopted April 26, 1990.

² Assembly ASG committee amendments adopted June 18, 1990.

1 association, trust, sole proprietorship, union or other legal entity²;

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

10 d. "Interest" means the ownership or control of more than 10%
11 of the profits, assets or stock of a business organization but shall
12 not include the control of assets in a non-profit entity or labor
13 union;

14 e. "Local government agency" means ~~any agency, board,~~
15 ~~governing body, including the chief executive officer, bureau,~~
16 ~~division, office, commission or other instrumentality within a~~
17 ~~county or municipality, and any independent local authority,~~
18 ~~including any entity created by more than one county or~~
19 ~~municipality, which performs functions other than of a purely~~
20 ~~advisory nature, but shall not include a school board;~~

21 f. "Local government employee" means any person, whether
22 compensated or not, whether part-time or full-time, employed by
23 or serving on a local government agency who is not a local
24 government officer, but shall not mean any employee of a school
25 district;

26 g. "Local government officer" means any person whether
27 compensated or not, whether part-time or full-time: (1) elected
28 to any office of a local government agency; (2) serving on a local
29 government agency which ¹(is subject to the "Open Public
30 Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.)) has the
31 authority to enact ordinances, approve development applications
32 or grant zoning variances¹; ²(or) ³(3) ²who is a member of an
33 independent municipal, county or regional authority; or ⁴(4) ²who
34 is a managerial executive or confidential employee of a local
35 government agency, as defined in section 3 of the "New Jersey
36 Employer-Employee Relations Act," P.L.1941, c.100
37 (C.34:13A-3), but shall not mean any employee of a school
38 district or member of a school board;

39 h. "Local government officer or employee" means a local
40 government officer or a local government employee;

41 i. "Member of immediate family" means the spouse or
42 dependent child of a local government officer or employee
43 residing in the same household.

44 ²(4. a. There is established in the Executive Branch of the
45 State Government a commission consisting of six members who
46 shall be designated the Local Government Ethics Commission.
47 The members shall be appointed by the Governor with the advice
48 and consent of the Senate. At least one member shall be at the
49 time of appointment a county government officer or employee

1 and at least one member shall be a municipal government officer
2 or employee. No member of the commission shall serve on or
3 campaign for any office of a political party or political
4 committee during his term as member of the commission. The
5 members shall be chosen by virtue of their known and consistent
6 reputation for integrity and their experience in, and knowledge
7 of, local government affairs. No more than three of the members
8 of the commission shall be of the same political party. No more
9 than one member shall be from the same county.

10 b. The Governor shall designate one of the appointed members
11 to serve as chairman of the commission.

12 c. Each of the appointed members shall serve for a term of
13 five years, except that of the members initially appointed, two
14 shall be appointed for a term of five years, one for a term of four
15 years, and the remaining members shall be appointed for a term
16 of three years. Each member shall serve until his successor has
17 been appointed and qualified. Any vacancy occurring in the
18 membership of the commission shall be filled in the same manner
19 as the original appointment for the unexpired term.

20 d. Members of the commission shall serve without
21 compensation, but shall be reimbursed for necessary expenses
22 incurred in the performance of their duties under this act.

23 e. For the purposes of complying with Article V, Section 1V,
24 paragraph 1 of the Constitution, the Local Government Ethics
25 Commission is allocated to the Department of Community
26 Affairs; but, notwithstanding that allocation, the commission
27 shall be independent of any supervision or control by the
28 department or by any board or officer thereof, it being the
29 intention of the Legislature that the assignment, direction,
30 discipline and supervision of all the employees of the commission,
31 and the implementation of the purposes, policy and provisions of
32 this act, shall be, insofar as possible, fully determined by the
33 commission, or by the officers and employees thereof to whom
34 the commission may delegate the powers of assignment,
35 direction, discipline and supervision.²

36 ²[5. The commission may appoint professional employees,
37 including independent counsel, and clerical staff as are necessary
38 to carry out the provisions of this act within the limits of funds
39 appropriated or otherwise made available to it by the Legislature
40 for those purposes. All clerical staff so appointed shall be in the
41 career service of the civil service and shall be subject to the
42 provisions of Title 11A of the New Jersey Statutes.]²

43 ²[6.] ^{4,2} The ²[commission] Local Finance Board in the
44 Division of Local Government Services in the Department of
45 Community Affairs² shall have jurisdiction to govern and guide
46 the conduct of local government officers or employees regarding
47 violations of the provisions of this act who are not otherwise
48 regulated by a county or municipal code of ethics promulgated by
49 a county or municipal ethics board in accordance with the

1 provisions of this act. Local government officers or employees
2 serving a local government agency created by more than one
3 county or municipality shall be under the jurisdiction of the
4 ²[commission] board². The ²[commission] board² in interpreting
5 and applying the provisions of this act shall recognize that under
6 the principles of democracy, public officers and employees
7 cannot and should not be expected to be without any personal
8 interest in the decisions and policies of government; that citizens
9 who are government officers and employees have a right to
10 private interests of a personal, financial and economic nature;
11 and that standards of conduct shall distinguish between those
12 conflicts of interest which are legitimate and unavoidable in a
13 free society and those conflicts of interest which are prejudicial
14 and material and are, therefore, corruptive of democracy and
15 free society.

16 ²[7.] ^{5.2} Local government officers or employees under the
17 jurisdiction of the ²[commission] Local Finance Board² shall
18 comply with the following provisions:

19 a. No local government officer or employee or member of his
20 immediate family shall have an interest in a business organization
21 or engage in any business, transaction, or professional activity,
22 which is in substantial conflict with the proper discharge of his
23 duties in the public interest;

24 b. No independent local authority shall, for a period of one
25 year next subsequent to the termination of office of a member of
26 that authority:

27 (1) award any contract which is not publicly bid to a former
28 member of that authority;

29 (2) allow a former member of that authority to represent,
30 appear for or negotiate on behalf of any other party before that
31 authority; or

32 (3) employ for compensation, except pursuant to open
33 competitive examination in accordance with Title 11A of the
34 New Jersey Statutes and the rules and regulations promulgated
35 pursuant thereto, any former member of that authority.

36 The restrictions contained in this subsection shall also apply to
37 any business organization in which the former authority member
38 holds an interest.

39 c. No local government officer or employee shall use or
40 attempt to use his official position to secure unwarranted
41 privileges or advantages for himself or others;

42 d. No local government officer or employee shall act in his
43 official capacity in any matter where he, a member of his
44 immediate family, or a business organization in which he has an
45 interest, has a direct or indirect ¹financial or ¹personal
46 involvement that might reasonably be expected to impair his
47 objectivity or independence ²[or] ²judgment;

48 e. No local government officer or employee shall undertake
49 any employment or service, whether compensated or not, which

1 might reasonably be expected to prejudice his independence of
2 judgment in the exercise of his official duties:

3 f. No local government officer or employee, member of his
4 immediate family, or business organization in which he has an
5 interest, shall solicit or accept any gift, favor, loan, political
6 contribution, service, promise of future employment, or other
7 thing of value based upon an understanding that the gift, favor,
8 loan, contribution, service, promise, or other thing of value was
9 given or offered for the purpose of influencing him, directly or
10 indirectly, in the discharge of his official duties. This provision
11 shall not apply to the solicitation or acceptance of contributions
12 to the campaign of an announced candidate for elective public
13 office, if the local government officer has no knowledge or
14 reason to believe that the campaign contribution, if accepted,
15 was given with the intent to influence the local government
16 officer in the discharge of his official duties:

17 g. No local government officer or employee shall use, or allow
18 to be used, his public office or employment, or any information,
19 not generally available to the members of the public, which he
20 receives or acquires in the course of and by reason of his office
21 or employment, for the purpose of securing financial gain for
22 himself, any member of his immediate family, or any business
23 organization with which he is associated:

24 h. No local government officer or employee or business
25 organization in which he has an interest¹ shall represent any
26 person or party other than the local government in connection
27 with any cause, proceeding, application or other matter pending
28 before any agency in¹ the local government [agency]¹ in which
29 he serves. This provision shall not be deemed to prohibit one
30 local government employee from representing another local
31 government employee where the local government agency is the
32 employer and the representation is within the context of official
33 labor union or similar representational responsibilities:

34 i. No local government officer shall be deemed in conflict with
35 these provisions if, by reason of his participation in the
36 enactment of any ordinance, resolution or other matter required
37 to be voted upon or which is subject to executive approval or
38 veto, no material or monetary gain accrues to him as a member
39 of any business, profession, occupation or group, to any greater
40 extent than any gain could reasonably be expected to accrue to
41 any other member of such business, profession, occupation or
42 group:

43 j. No elected local government officer shall be prohibited from
44 making an inquiry for information on behalf of a constituent, if
45 no fee, reward or other thing of value is promised to, given to or
46 accepted by the officer or a member of his immediate family,
47 whether directly or indirectly, in return therefor; and

48 k. Nothing shall prohibit any local government officer or
49 employee, or members of his immediate family, from

1 representing himself, or themselves, in negotiations or
2 proceedings concerning his, or their, own interests.

3 ²[B.] 6.² a. Local government officers shall annually file a
4 financial disclosure statement. All financial disclosure
5 statements filed pursuant to this act shall include the following
6 information which shall specify, where applicable, the name and
7 address of each source and the local government officer's job
8 title:

9 (1) Each source of income, earned or unearned, exceeding
10 \$2,000 received by the local government officer or a member of
11 his immediate family during the preceding calendar year ¹l,
12 except where) individual client fees, customer receipts or
13 commissions on transactions received through a business
14 organization need not be separately reported as sources of
15 income. ¹l¹ a publicly traded security is the source of income,
16 the security need not be reported unless the local government
17 officer or member of his immediate family has an interest in the
18 business organization;

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

24 (3) Each source of gifts, reimbursements or prepaid expenses
25 having an aggregate value exceeding \$400 from any single source,
26 excluding relatives, received by the local government officer or a
27 member of his immediate family during the preceding calendar
28 year;

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

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

36 b. The ²[commission] Local Finance Board² shall prescribe a
37 financial disclosure statement form for filing purposes. For
38 counties and municipalities which have not established ethics
39 boards, the ²[commission] board² shall transmit sufficient copies
40 of the forms to the municipal clerk in each municipality and the
41 county clerk in each county for filing in accordance with this
42 act. The municipal clerk shall make the forms available to the
43 local government officers serving the municipality. The county
44 clerk shall make the forms available to the local government
45 officers serving the county.

46 For counties and municipalities which have established ethics
47 boards, the ²[commission] Local Finance Board² shall transmit
48 sufficient copies of the forms to the ²ethics² boards for filing in
49 accordance with this act. The ²ethics² boards shall make the

1 forms available to the local government officers within their
2 jurisdiction.

3 For local government officers serving the municipality, the
4 original statement shall be filed with the municipal clerk in the
5 municipality in which the local government officer serves. For
6 local government officers serving the county, the original
7 statement shall be filed with the county clerk in the county in
8 which the local government officer serves. A copy of the
9 statement shall be filed with the ²[commission] board². In
10 counties or municipalities which have established ethics boards a
11 copy of the statement shall also be filed with the ethics board
12 having jurisdiction over the local government officer. Local
13 government officers shall file the initial financial disclosure
14 statement within 90 days following the effective date of this
15 act. Thereafter, statements shall be filed on or before April 30th
16 each year.

17 c. All financial disclosure statements filed shall be public
18 records.

19 ²9. The commission ⁷. With respect to its responsibilities for
20 the implementation of the provisions of this act, the Local
21 Finance Board² shall have the following powers:

22 a. To initiate, receive, hear and review complaints and hold
23 hearings with regard to possible violations of this act;

24 b. To issue subpoenas for the production of documents and the
25 attendance of witnesses with respect to its investigation of any
26 complaint or to the holding of a hearing;

27 c. To hear and determine any appeal of a decision made by a
28 county or municipal ethics board;

29 d. To forward to the county prosecutor or the Attorney
30 General or other governmental body any information concerning
31 violations of this act which may become the subject of criminal
32 prosecution or which may warrant the institution of other legal
33 proceedings by the Attorney General;

34 e. To render advisory opinions as to whether a given set of
35 facts and circumstances would constitute a violation of this act;

36 f. To enforce the provisions of this act and to impose penalties
37 for the violation thereof as are authorized by this act; and

38 g. To adopt rules and regulations pursuant to the
39 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
40 seq.) and to do other things as are necessary to implement the
41 purposes of this act.

42 ²10. ^{g.2} A local government officer or employee not
43 regulated by a county or municipal code of ethics may request
44 and obtain from the ²[commission] Local Finance Board² an
45 advisory opinion as to whether any proposed activity or conduct
46 would in its opinion constitute a violation of the provisions of this
47 act. Advisory opinions of the ²[commission] board² shall not be
48 made public, except when the ²[commission] board² by the vote
49 of two-thirds of all of its members directs that the opinion be

1 made public. Public advisory opinions shall not disclose the name
2 of the local government officer or employee unless the
3 ²[commission] board² in directing that the opinion be made public
4 so determines.

5 ²[11.] 9.² The ²[commission] Local Finance Board², upon
6 receipt of a signed written complaint by any person alleging that
7 the conduct of any local government officer or employee, not
8 regulated by a county or municipal code of ethics, is in conflict
9 with the provisions of this act, shall acknowledge receipt of the
10 complaint within 30 days of receipt and initiate an investigation
11 concerning the facts and circumstances set forth in the
12 complaint. The ²[commission] board² shall make a determination
13 as to whether the complaint is within its jurisdiction or frivolous
14 or without any reasonable factual basis. If the ²[commission]
15 board² shall conclude that the complaint is outside its
16 jurisdiction, frivolous or without factual basis, it shall reduce
17 that conclusion to writing and shall transmit a copy thereof to
18 the complainant and to the local government officer or employee
19 against whom the complaint was filed. Otherwise the
20 ²[commission] board² shall notify the local government officer or
21 employee against whom the complaint was filed of the nature of
22 the complaint and the facts and circumstances set forth therein.
23 The officer or employee shall have the opportunity to present the
24 ²[commission] board² with any statement or information
25 concerning the complaint which he wishes. Thereafter, if the
26 ²[commission] board² determines that a reasonable doubt exists
27 as to whether the local government officer or employee is in
28 conflict with the provisions of this act, the ²[commission] board²
29 shall conduct a hearing in the manner prescribed by section ²[14]
30 12² of this act, concerning the possible violation and any other
31 facts and circumstances which may have come to the attention of
32 the ²[commission] board² with respect to the conduct of the local
33 government officer or employee. The ²[commission] board² shall
34 render a decision as to whether the conduct of the officer or
35 employee is in conflict with the provisions of this act. ¹This
36 decision shall be made by no less than two-thirds of all members
37 of the ²[commission] board².¹ If the ²[commission] board²
38 determines that the officer or employee is in conflict with the
39 provisions of this act, it may impose any penalties which it
40 believes appropriate within the limitations of this act. A final
41 decision of the ²[commission] board² may be appealed in the
42 same manner as any other final State agency decision.

43 ²[12.] 10.² a. An appointed local government officer or
44 employee found guilty by the ²[commission] Local Finance Board²
45 or a county or municipal ethics board of the violation of any
46 provision of this act or of any code of ethics in effect pursuant to
47 this act, shall be fined not less than \$100.00 nor more than
48 \$500.00, which penalty may be collected in a summary proceeding
49 pursuant to ²[the "penalty enforcement law"] "the penalty

1 enforcement law" (N.J.S.2A:58-1 et seq.). The (commission)
 2 board or a county or municipal ethics board shall report its
 3 findings to the office or agency having the power of removal or
 4 discipline of the appointed local government officer or employee
 5 and may recommend that further disciplinary action be taken.

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

14 (13.) 11.2 The finding by the (commission) Local Finance
 15 Board or a county or municipal ethics board that an appointed
 16 local government officer or employee is guilty of the violation of
 17 the provisions of this act, or of any code of ethics in effect
 18 pursuant to this act, shall be sufficient cause for his removal,
 19 suspension, demotion or other disciplinary action by the officer or
 20 agency having the power of removal or discipline. When a person
 21 who is in the career service is (found) charged (to have
 22 violated) with violating the provisions of this act or any code of
 23 ethics in effect pursuant to this act, the procedure leading to
 24 removal, suspension, demotion or other disciplinary action shall
 25 be governed by any applicable procedures of Title 11A of the New
 26 Jersey Statutes and the rules promulgated pursuant thereto.

27 (14.) 12.2 All hearings required pursuant to this act shall be
 28 conducted in conformity with the rules and procedures, insofar as
 29 they may be applicable, provided for hearings by a State agency
 30 in contested cases under the "Administrative Procedure Act,"
 31 P.L.1968, c.410 (C.52:14B-1 et seq.).

32 (16.) 13.2 a. Each county of the State governed under the
 33 provisions of P.L.1972, c.154 (C.40:41A-1 et seq.) may, by
 34 ordinance, and the remaining counties may, by resolution
 35 establish a county ethics board consisting of six members who are
 36 residents of the county, at least two of whom shall be public
 37 members. The members of the ethics board shall be appointed
 38 by the governing body of the county and no more than one of
 39 whom shall be from the same municipality. The members shall be
 40 chosen by virtue of their known and consistent reputation for
 41 integrity and their knowledge of local government affairs. No
 42 more than three members of the ethics board shall be of the
 43 same political party.

44 b. The members of the county ethics board shall annually elect
 45 a chairman from among the membership.

46 c. The members shall serve for a term of five years; except
 47 that of the members initially appointed, two of the public
 48 members shall be appointed to serve for a term of five years, one
 49 member shall be appointed to serve for a term of four years, and

1 the remaining members shall be appointed to serve for a term of
2 three years. Each member shall serve until his successor has
3 been appointed and qualified. Any vacancy occurring in the
4 membership of the ²ethics² board shall be filled in the same
5 manner as the original appointment for the unexpired term.

6 d. Members of the ²ethics² board shall serve without
7 compensation but shall be reimbursed by the county for necessary
8 expenses incurred in the performance of their duties under this
9 act.

10 ²[16.] ^{14.}² a. The governing body of the county shall provide
11 the county ethics board with offices for the conduct of its
12 business and the preservation of its records, and shall supply
13 equipment and supplies as may be necessary.

14 b. All necessary expenses incurred by the county ethics board
15 and its members shall be paid, upon certification of the chairman
16 ²[of the board]², by the county treasurer within the limits of
17 funds appropriated by the county governing body by annual or
18 emergency appropriations for those purposes.

19 c. The county ethics board may appoint employees, including
20 independent counsel, and clerical staff as are necessary to carry
21 out the provisions of this act within the limits of funds
22 appropriated by the county governing body for those purposes.

23 ²[17.] ^{15.}² Within 90 days after the establishment of a county
24 ethics board, ²[the] ^{that} ^{ethics}² board shall promulgate, by
25 resolution, a county code of ethics for all local government
26 officers and employees serving the county. Local government
27 officers and employees serving a county independent authority
28 shall be deemed to be serving the county for purposes of this act.

29 The county code of ethics ²so² promulgated ²[by the board]²
30 shall be either identical to the provisions set forth in section ²[7]
31 ⁵² of this act or more restrictive, but shall not be less
32 restrictive. Within 15 days following the promulgation thereof,
33 the county code of ethics, and a notice of the date of the public
34 hearing to be held thereon, shall be published in at least one
35 newspaper circulating within the county and shall be distributed
36 to the county clerk and to the heads of the local government
37 agencies serving the county for circulation among the local
38 government officers and employees serving the county. The
39 county ethics board shall hold a public hearing on the county code
40 of ethics not less than 30 days following its promulgation at
41 which any local government officer or employee serving the
42 county and any other person wishing to be heard shall be
43 permitted to testify. As a result of the hearing, the ²ethics²
44 board may amend or supplement the county code of ethics as it
45 deems necessary. If the county code of ethics is not identical to
46 the provisions set forth in section ²[7] ⁵² of this act, the county
47 ethics board shall thereafter submit the county code of ethics to
48 the ²[Local Government Ethics Commission] Local Finance
49 Board² for approval. The ²[commission] board² shall approve or

1 disapprove a county code of ethics within 60 days following
2 receipt. If the ²[commission] board² fails to act within that
3 period, the county code of ethics shall be deemed approved. A
4 county code of ethics requiring ²[commission] board² approval
5 shall take effect for all local government officers and employees
6 serving the county 60 days after approval by the ²[commission]
7 board². A county code of ethics identical to the provisions set
8 forth in section 2(7) §2 of this act shall take effect 10 days after
9 the public hearing thereon. The ²county ethics² board shall
10 forward a copy of the county code of ethics to the county clerk
11 and shall make copies of the county code of ethics available to
12 local government officers and employees serving the county.

13 ~~2(18.) 18.2~~ A county ethics board shall have the following
14 powers:

15 a. To initiate, receive, hear and review complaints and hold
16 hearings with regard to possible violations of the county code of
17 ethics or financial disclosure requirements by local government
18 officers or employees serving the county;

19 b. To issue subpoenas for the production of documents and the
20 attendance of witnesses with respect to its investigation of any
21 complaint or to the holding of a hearing;

22 c. To forward to the county prosecutor or the Attorney
23 General or other governmental body any information concerning
24 violations of the county code of ethics or financial disclosure
25 requirements by local government officers or employees serving
26 the county which may become the subject of criminal prosecution
27 or which may warrant the institution of other legal proceedings
28 by the Attorney General;

29 d. To render advisory opinions to local government officers or
30 employees serving the county as to whether a given set of facts
31 and circumstances would constitute a violation of any provision
32 of the county code of ethics or financial disclosure requirements;

33 e. To enforce the provisions of the county code of ethics and
34 financial disclosure requirements with regard to local government
35 officers or employees serving the county and to impose penalties
36 for the violation thereof as are authorized by this act; and

37 f. To adopt rules and regulations and to do other things as are
38 necessary to implement the purposes of this act.

39 ²(19.) 17.2 A local government officer or employee serving the
40 county may request and obtain from the county ethics board an
41 advisory opinion as to whether any proposed activity or conduct
42 would in its opinion constitute a violation of the county code of
43 ethics or any financial disclosure requirements. Advisory
44 opinions of the ²county ethics² board shall not be made public,
45 except when the ²ethics² board by the vote of two-thirds of all
46 of its members directs that the opinion be made public. Public
47 advisory opinions shall not disclose the name of the local
48 government officer or employee unless the ²ethics² board in
49 directing that the opinion be made public so determines.

1 2[20.] 18.2 The county ethics board, upon receipt of a signed
2 written complaint by any person alleging that the conduct of any
3 local government officer or employee serving the county is in
4 conflict with the county code of ethics or any financial disclosure
5 requirements shall acknowledge receipt of the complaint within
6 30 days of receipt and initiate an investigation concerning the
7 facts and circumstances set forth in the complaint. The 2ethics2
8 board shall make a determination as to whether the complaint is
9 within its jurisdiction or frivolous or without any reasonable
10 factual basis. If the 2ethics2 board shall conclude that the
11 complaint is outside its jurisdiction, frivolous or without factual
12 basis, it shall reduce that conclusion to writing and shall transmit
13 a copy thereof to the complainant and to the local government
14 officer or employee against whom the complaint was filed.
15 Otherwise the 2ethics2 board shall notify the local government
16 officer or employee against whom the complaint was filed of the
17 nature of the complaint and the facts and circumstances set forth
18 therein. The officer or employee shall have the opportunity to
19 present the 2ethics2 board with any statement or information
20 concerning the complaint which he wishes. Thereafter, if the
21 2ethics2 board determines that a reasonable doubt exists as to
22 whether the local government officer or employee is in conflict
23 with the county code of ethics or any financial disclosure
24 requirements, 2(the board) it2 shall conduct a hearing in the
25 manner prescribed by section 2(14) 122 of this act, concerning the
26 possible violation and any other facts and circumstances which
27 may have come to 2(the) its2 attention 2(of the board)2 with
28 respect to the conduct of the local government officer or
29 employee. The 2ethics2 board shall render a decision as to
30 whether the conduct of the officer or employee is in conflict with
31 the county code of ethics or any financial disclosure
32 requirements. 1Thus decision shall be made by no less than
33 two-thirds of all members of the 2ethics2 board.1 If the 2ethics2
34 board determines that the officer or employee is in conflict with
35 the code or any financial disclosure requirements, it may impose
36 any penalties which it believes appropriate within the limitations
37 of this act. A final decision of the 2ethics2 board may be
38 appealed to the 2[commission] Local Finance Board2 within 30
39 days of the decision.

40 2[21.] 19.2 a. Each municipality of the State may, by
41 ordinance, establish a municipal ethics board consisting of six
42 members who are residents of the municipality, at least two of
43 whom shall be public members. The members of the 2ethics2
44 board shall be appointed by the governing body of the
45 municipality. The members shall be chosen by virtue of their
46 known and consistent reputation for integrity and their knowledge
47 of local government affairs. No more than three members of the
48 2ethics2 board shall be of the same political party.

49 b. The members of the municipal ethics board shall annually

1 elect a chairman from among the membership.
2 c. The members shall serve for a term of five years; except
3 that of the members initially appointed, two of the public
4 members shall be appointed to serve for a term of five years, one
5 member shall be appointed to serve for a term of four years, and
6 the remaining members shall be appointed to serve for a term of
7 three years. Each member shall serve until his successor has
8 been appointed and qualified. Any vacancy occurring in the
9 membership of the ²ethics² board shall be filled in the same
10 manner as the original appointment for the unexpired term.
11 d. Members of the ²ethics² board shall serve without
12 compensation but shall be reimbursed by the municipality for
13 necessary expenses incurred in the performance of their duties
14 under this act.
15 ²[22.] ²20.² a. The governing body of the municipality shall
16 provide the municipal ethics board with offices for the conduct of
17 its business and the preservation of its records, and shall supply
18 equipment and supplies as may be necessary.
19 b. All necessary expenses incurred by the municipal ethics
20 board and its members shall be paid, upon certification of the
21 chairman ²[of the board]², by the municipal treasurer within the
22 limits of funds appropriated by the municipal governing body by
23 annual or emergency appropriations for those purposes.
24 c. The municipal ethics board may appoint employees,
25 including independent counsel, and clerical staff as are necessary
26 to carry out the provisions of this act within the limits of funds
27 appropriated by the municipal governing body for those purposes.
28 ²[23.] ²21.² Within 90 days after the establishment of a
29 municipal ethics board, ²[the that ethics² board shall promulgate
30 by resolution a municipal code of ethics for all local government
31 officers and employees serving the municipality. Local
32 government officers and employees serving a municipal
33 independent authority shall be deemed to be serving the
34 municipality for purposes of this act.
35 The municipal code of ethics ²50² promulgated ²[by the board]²
36 shall be either identical to the provisions set forth in section ²[7]
37 ²5² of this act or more restrictive, but shall not be less
38 restrictive. Within 15 days following the promulgation thereof,
39 the municipal code of ethics, and a notice of the date of the
40 public hearing to be held thereon, shall be published in at least
41 one newspaper circulating within the municipality and shall be
42 distributed to the municipal clerk and to the heads of the local
43 government agencies serving the municipality for circulation
44 among the local government officers and employees serving the
45 municipality. The municipal ethics board shall hold a public
46 hearing on the municipal code of ethics not less than 30 days
47 following its promulgation at which any local government officer
48 or employee serving the municipality and any other person
49 wishing to be heard shall be permitted to testify. As a result of

1 the hearing, the ²ethics² board may amend or supplement the
2 municipal code of ethics as it deems necessary. If the municipal
3 code of ethics is not identical to the provisions set forth in
4 section 2[7] 5² of this act, the municipal ethics board shall
5 thereafter submit the municipal code of ethics to the ²[Local
6 Government Ethics Commission] Local Finance Board² for
7 approval. The ²[commission] board² shall approve or disapprove a
8 municipal code of ethics within 60 days following receipt. If the
9 ²[commission] board² fails to act within that period, the
10 municipal code of ethics shall be deemed approved. A municipal
11 code of ethics requiring ²[commission] board² approval shall take
12 effect for all local government officers and employees serving
13 the municipality 60 days after approval by the ²[commission]
14 board². A municipal code of ethics identical to the provisions set
15 forth in section 2[7] 5² of this act shall take effect 10 days after
16 the public hearing held thereon. The ²municipal ethics² board
17 shall forward a copy of the municipal code of ethics to the
18 municipal clerk and shall make copies of the municipal code of
19 ethics available to local government officers and employees
20 serving the municipality.

21 ²[24.] 22.² A municipal ethics board shall have the following
22 powers:

23 a. To initiate, receive, hear and review complaints and hold
24 hearings with regard to possible violations of the municipal code
25 of ethics or financial disclosure requirements by local
26 government officers or employees serving the municipality;

27 b. To issue subpoenas for the production of documents and the
28 attendance of witnesses with respect to its investigation of any
29 complaint or to the holding of a hearing;

30 c. To forward to the county prosecutor or the Attorney
31 General or other governmental body any information concerning
32 violations of the municipal code of ethics or financial disclosure
33 requirements by local government officers or employees serving
34 the municipality which may become the subject of criminal
35 prosecution or which may warrant the institution of other legal
36 proceedings by the Attorney General;

37 d. To render advisory opinions to local government officers or
38 employees serving the municipality as to whether a given set of
39 facts and circumstances would constitute a violation of any
40 provision of the municipal code of ethics or financial disclosure
41 requirements;

42 e. To enforce the provisions of the municipal code of ethics
43 and financial disclosure requirements with regard to local
44 government officers or employees serving the municipality and
45 to impose penalties for the violation thereof as are authorized by
46 this act; and

47 f. To adopt rules and regulations and to do other things as are
48 necessary to implement the purposes of this act.

49 ²[25.] 23.² A local government officer or employee serving the

1 municipality may request and obtain from the municipal ethics
2 board an advisory opinion as to whether any proposed activity or
3 conduct would in its opinion constitute a violation of the
4 municipal code of ethics or any financial disclosure
5 requirements. Advisory opinions of the ²municipal ethics² board
6 shall not be made public, except when the ²ethics² board by the
7 vote of two-thirds of all of its members directs that the opinion
8 be made public. Public advisory opinions shall not disclose the
9 name of the local government officer or employee unless the
10 ²ethics² board in directing that the opinion be made public so
11 determines.

12 ²[26.] ^{24.}² The municipal ethics board, upon receipt of a
13 signed written complaint by any person alleging that the conduct
14 of any local government officer or employee serving the
15 municipality is in conflict with the municipal code of ethics or
16 financial disclosure requirements, shall acknowledge receipt of
17 the complaint within 30 days of receipt and initiate an
18 investigation concerning the facts and circumstances set forth in
19 the complaint. The ²ethics² board shall make a determination as
20 to whether the complaint is within its jurisdiction or frivolous or
21 without any reasonable factual basis. If the ²ethics² board shall
22 conclude that the complaint is outside its jurisdiction, frivolous
23 or without factual basis, it shall reduce that conclusion to writing
24 and shall transmit a copy thereof to the complainant and to the
25 local government officer or employee against whom the
26 complaint was filed. Otherwise the ²ethics² board shall notify
27 the local government officer or employee against whom the
28 complaint was filed of the nature of the complaint and the facts
29 and circumstances set forth therein. The officer or employer
30 shall have the opportunity to present the ²ethics² board with any
31 statement or information concerning the complaint which he
32 wishes. Thereafter, if the ²ethics² board determines that a
33 reasonable doubt exists as to whether the local government
34 officer or employee is in conflict with the municipal code of
35 ethics or any financial disclosure requirements, ²[the board] ^{it}²
36 shall conduct a hearing in the manner prescribed by section ²[14]
37 ¹²² of this act, concerning the possible violation and any other
38 facts and circumstances which may have come to ²[the] ^{its}²
39 attention ²[of the board]² with respect to the conduct of the
40 local government officer or employee. The ²ethics² board shall
41 render a decision as to whether the conduct of the officer or
42 employee is in conflict with the municipal code of ethics or any
43 financial disclosure requirements. ¹This decision shall be made
44 by no less than two-thirds of all members of the ²ethics² board.¹
45 If the ²ethics² board determines that the officer or employee
46 is in conflict with the code or any financial disclosure
47 requirements, it may impose any penalties which it believes
48 appropriate within the limitations of this act. A final decision of
49 the ²ethics² board may be appealed to the ²[commission] Local

1 Finance Board² within 30 days of the decision.
2 ²[27.] 25.² All statements, complaints, requests or other
3 written materials filed pursuant to this act, and any rulings,
4 opinions, judgments, transcripts or other official papers prepared
5 pursuant to this act shall be preserved for a period of at least
6 five years from the date of filing or preparation, as the case may
7 be.
8 ²[28. There is appropriated from the General Fund to the
9 Department of Community Affairs \$90,000 to effectuate the
10 purposes of this act.]²
11 ²[29.] 26.² Section 1 of P.L.1983, c.188 (C.40:23-6.51) is
12 repealed.
13 ²[30.] 27.² This act shall take effect on the 90th day following
14 enactment, except that any appointments authorized by this act
15 and any administrative preparations for carrying its provisions
16 into effect may be made prior to the effective date.
17
18

19 LOCAL GOVERNMENT

20
21 Creates the Local Government Ethics Law.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[SECOND REPRINT]
SENATE, No. 2027

STATE OF NEW JERSEY

DATED: DECEMBER 3, 1990

The Assembly Appropriations Committee reports favorably Senate Bill No. 2027 (2R).

Senate Bill No. 2027 (2R) would enact a "Local Government Ethics Law" by establishing a statutory code of ethics covering the officers and employees of most local governments and their agencies and instrumentalities. It would also require certain officers of such local public entities to file financial disclosure statements.

The code of ethics provides the following:

- No "local government officer or employee" (i.e., almost any officer or employee of a public agency or instrumentality below the State level except for school boards) and no member of the immediate family of the officer or employee shall have an "interest" (i.e., ownership or control exceeding 10%) in a business which is in substantial conflict with the proper discharge of the duties of the officer or employee.

- No independent local authority shall, for one year next subsequent to the termination of office of a member of that authority a.) award any no-bid contract to the former member, b.) allow the former member to represent, appear for or negotiate on behalf of any other party before the authority, or c.) employ the former member for pay, except pursuant to open competitive examination in accordance with Title 11A.

- No local government officer or employee shall: use or attempt to use his official position to secure unwarranted privileges or advantages for himself or others; act in an official capacity in any matter where the officer or employee, a member of his or her immediate family, or a business organization in which he or she has an interest, has a direct or indirect financial or personal involvement that might reasonably be expected to impair his objectivity or independence of judgment; undertake any paid or unpaid employment or service which might reasonably be expected to prejudice the independence of that officer or employee's judgment in the exercise of his or her official duties; nor, use or allow to be used his or her public office or employment, or any information not generally available to the members of the public, received or acquired in the course of and by reason of the office or employment, for the purpose of securing financial gain for himself or herself, any member of his or her immediate family, or any business organization with which he or she is associated.

- No local government officer or employee, member of the immediate family of an officer or employee, or business organization in which the officer or employee has an interest shall solicit or accept any benefit that would influence official duties. An exception is made for the solicitation or acceptance of a campaign contribution to the campaign of a candidate for elective public office if the local government officer has no knowledge or reason to believe that the contribution was given with the intent to influence the discharge of any official duties.

Finally, no local government officer or employee or business organization in which he or she has an interest shall represent any person or party other than the local government in connection with any cause, proceeding, application or other matter pending before any agency in the local government in which the officer or employee serves. An exception is allowed for the representation of one employee by another for official labor union or similar representational functions.

Filing a personal resource summary would be imposed on the following local government officers: persons elected to any local government agency office; persons serving on a local government agency which has the authority to enact ordinances, approve development applications or grant zoning variances; members of any independent municipal, county or regional authority; and anyone who is a managerial executive or confidential employee of a local government agency.

Financial disclosure statements would have to identify the local government officer's job title and include, where applicable, the name and address of each income source. The following information would be subject to disclosure for a local government officer or member of the immediate family for the preceding calendar year:

1. Each source of income, earned or unearned, exceeding \$2,000. Individual client fees, customer receipts or commissions on transactions received through a business organization need not be separately reported as sources of income. If a publicly traded security is the source of income, the security need not be reported unless the local government officer or member of his immediate family has an interest in the business organization;
2. Each source of fees and honorariums having an aggregate amount exceeding \$250 from any single source for personal appearances, speeches or writings received;
3. Each source of gifts, reimbursements or prepaid expenses having an aggregate value exceeding \$400 from any single source, excluding relatives, received;
4. The name and address of all business organizations in which there was an interest; and
5. The address and brief description of all real property in the State in which an interest was held.

General responsibility for implementation is to be provided by

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the Local Finance Board, Division of Local Government Services in the Department of Community Affairs. Counties and municipalities have the option of establishing their own ethics boards and codes. Local codes of ethics would have to be approved by the Local Finance Board if they are not identical to the basic code prescribed by the bill; and be at least as restrictive as the basic code.

The Local Finance Board or a local ethics board would have the authority to hear complaints and render advisory opinions. These boards could impose the same penalties as the Local Finance Board, including fines up to \$500 and, for appointed local government officers or employees, any further recommendations for disciplinary action. Decisions can be appealed.



**OFFICE OF THE GOVERNOR
NEWS RELEASE**

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GOVERNOR FLORIO SIGNS LANDMARK LOCAL GOVERNMENT ETHICS BILL

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PARAMUS -- Governor Jim Florio today signed a law that requires local public officials to comply with a strict code of ethical standards. The bill addresses conflicts of interest and post-employment restrictions, and requires financial disclosure for all local government officials.

"What makes a good government? It's not just having the consent of the people. It's having their trust, too," Governor Florio said. The Governor added that he was referring not just to those in Washington or Trenton. "I'm talking about this town and every town in New Jersey. This county and every county in the state."

The vast majority of elected officials as well as those who are appointed to local boards and agencies are hard-working, honest and dedicated. "They're decent people and they work very hard for those they serve. But you and I know that it only takes a few to create the worst kind of impression in people's minds. People begin to think that we can't tell right from wrong," the Governor said. "The people of this state deserve honest government and they're going to get it."

Governor Florio praised the 10-year effort of Senator Paul Contillo (D-Bergen) in working for the bill's passage. "Senator Contillo has worked harder for this bill than anyone. Harder than he should have had to work for it. He stood up nearly 10 years ago and the ripple of hope he sent out is about to become the law of this state."

"We know that a law can't guarantee ethical behavior. But it can set a standard. The standard we set today will go a long way toward restoring the people's trust," said the Governor.

The law applies to all public agencies below the state level except for purely advisory bodies and school districts. The Governor has previously called for ethics legislation covering those elected as members of local Boards of Education, and he looks forward to signing such a measure when it reaches his desk.

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The law prohibits conflict of interest activity by all officers and employees of local government by requiring them not to make use of information not generally available to the public to secure financial gain for themselves, a member of their immediate family (spouse or dependent child living in the same household) or a business with which they are associated. Also, an officer or employee of a public agency may not represent another person in any proceeding pending before that agency.

It also contains post-employment restrictions that cover former members of local independent authorities. During the year after a member leaves the authority, the authority cannot (1) award a no-bid contract to the former member; (2) allow the former member to represent anyone before the authority; or (3) hire the former member.

The law also contains a financial disclosure requirement which applies to local government officers but not employees. It defines "officer" as anyone who:

- * holds elective office
- * serves on an agency which can enact ordinances, approve development applications, or grant zoning variances
- * is a member of an independent local authority
- * is a managerial or confidential employee (this last category is taken from state public employee labor law and refers to people who are responsible for formulating and implementing policy ("managerial") or who have access to the same type of information available to managers ("confidential").

The following information, as it applies both to the member and his or her immediate family, must be disclosed:

- * each source of income over \$2,000 (individual client fees, customer receipts and commissions need not be separately reported)
- * each source of fees or honoraria over \$250 from a single source
- * each source of gifts worth more than \$400 in the aggregate; the name and address of each business in which the officer or immediate family member has an interest (control of 10% or more of stock or assets)
- * the location and description of all real property in the state in which the officer or immediate family member has an interest.

Disclosure forms will be public records and the Local Finance Board within the State Department of Community Affairs will have primary responsibility for enforcement. The law also allows local enforcement. Each county and municipality is authorized to establish its own ethics board and code of ethics. Any local code that is not identical to the code contained in the law must be approved by the Local Finance Board. A local code may be more stringent than the code in the law but it cannot be weaker.

Anyone charged with violating the code is entitled to a hearing. Penalties for a violation of the act can range from \$100 up to \$500. The Local Finance Board may also recommend that the officer or employee be disciplined or removed.
