

DRAFT LBDC

A BUDGET BILL submitted by the Governor  
in accordance with Article VII of the Constitution

AN ACT to amend the public officers law, the legislative law, the state finance law, the election law and the retirement and social security law, in relation to qualifications for holding office

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 1-a of section 3 of the public officers law, as  
2 added by section 31-b of subpart A of part H of chapter 55 of the laws  
3 of 2014, is amended to read as follows:

4 1-a. (i) No person shall be capable of holding a civil office who  
5 shall stand convicted of a felony defined in article two hundred or four  
6 hundred ninety-six or section 195.20 of the penal law.

7 (ii) Any individual who stands convicted of a misdemeanor defined in  
8 article two hundred, article four hundred ninety-six or section 195.00  
9 of the penal law, or who has failed to disclose such information  
10 required under subdivision four of section seventy-three-a of this chap-  
11 ter, may not hold civil office for a period of five years from the date  
12 of conviction, provided that in the event such conviction is the result  
13 of a plea agreement resulting in a plea to such charge in lieu of a plea  
14 or conviction of a felony defined in [section] sections 195.20 or  
15 175.35, or article two hundred or article four hundred ninety-six of the  
16 penal law, all parties to such agreement may agree that the period of  
17 such bar may be for a period of up to ten years from the date of  
18 conviction.

19 § 2. Subparagraphs (a) and (b) of paragraph 8 and paragraph 13 of  
20 subdivision 3 of section 73-a of the public officers law, subparagraphs

1 (a) and (b) of paragraph 8 as amended by section 37 of subpart A of part  
 2 H of chapter 55 of the laws of 2014 and paragraph 13 as amended by  
 3 section 5 of part A of chapter 399 of the laws of 2011, are amended and  
 4 a new subparagraph (b-1) is added to paragraph 8 to read as follows:

5 (a) If the reporting individual practices law, is licensed by the  
 6 department of state as a real estate broker or agent or practices a  
 7 profession licensed by the department of education, or works as a member  
 8 or employee of a firm required to register pursuant to section one-e of  
 9 the legislative law as a lobbyist, [give a general] describe the  
 10 services rendered to which compensation was paid including a general  
 11 description of the principal subject areas of matters undertaken by such  
 12 individual or principal duties performed. Additionally, if such an  
 13 individual practices with a firm or corporation and is a partner or  
 14 shareholder of the firm or corporation, give a general description of  
 15 principal subject areas of matters undertaken by such firm or corpo-  
 16 ration.

17 \_\_\_\_\_  
 18 \_\_\_\_\_  
 19 \_\_\_\_\_  
 20 \_\_\_\_\_  
 21 \_\_\_\_\_

22 (b) APPLICABLE ONLY TO NEW CLIENTS OR CUSTOMERS FOR WHOM SERVICES ARE  
 23 PROVIDED ON OR AFTER JULY FIRST, TWO THOUSAND TWELVE, OR FOR NEW MATTERS  
 24 FOR EXISTING CLIENTS OR CUSTOMERS WITH RESPECT TO THOSE SERVICES THAT  
 25 ARE PROVIDED ON OR AFTER JULY FIRST, TWO THOUSAND TWELVE:

1 If the reporting individual personally provides services to any person  
2 or entity, or works as a member or employee of a partnership or corpo-  
3 ration that provides such services (referred to hereinafter as a  
4 "firm"), then identify each client or customer to whom the reporting  
5 individual personally provided services and the services actually  
6 provided, or each client or customer, [or] who was referred to the firm  
7 by the reporting individual, and from whom the reporting individual or  
8 his or her firm [earned fees] was paid in excess of [\$10,000] \$5,000  
9 during the reporting period [for]. For such services rendered [in direct  
10 connection with] by the filer directly to each such client, describe  
11 each matter that was the subject of such representation, and payment  
12 received. For payments received from clients originated by the filer  
13 for whom the filer did not perform services, identify the client and the  
14 payment so received. Also, indicate whether such services were rendered  
15 in direct connection with:

16 (i) [A proposed bill or resolution in the senate or assembly during  
17 the reporting period;

18 (ii)] A contract in an amount totaling \$50,000 or more from the state  
19 or any state agency for services, materials, or property;

20 [(iii)] (ii) A grant of \$25,000 or more from the state or any state  
21 agency during the reporting period;

22 [(iv)] (iii) A grant obtained through a legislative initiative during  
23 the reporting period; or

24 [(v)] (iv) A case, proceeding, application or other matter that is not  
25 a ministerial matter before a state agency during the reporting period.

26 For purposes of this question, "referred to the firm" shall mean:  
27 having intentionally and knowingly taken a specific act or series of  
28 acts to intentionally procure for the reporting individual's firm or

1 knowingly solicit or direct to the reporting individual's firm in whole  
 2 or substantial part, a person or entity that becomes a client of that  
 3 firm for the purposes of representation for a matter as defined in  
 4 subparagraphs (i) through [(v)] (iv) of this paragraph, as the result of  
 5 such procurement, solicitation or direction of the reporting individual.  
 6 A reporting individual need not disclose activities performed while  
 7 lawfully acting pursuant to paragraphs (c), (d), (e) and (f) of subdivi-  
 8 sion seven of section seventy-three of this article.

9 [The disclosure requirement in this question shall not require disclo-  
 10 sure of clients or customers receiving medical or dental services,  
 11 mental health services, residential real estate brokering services, or  
 12 insurance brokering services from the reporting individual or his or her  
 13 firm. The reporting individual need not identify any client to whom he  
 14 or she or his or her firm provided legal representation with respect to  
 15 investigation or prosecution by law enforcement authorities, bankruptcy,  
 16 or domestic relations matters. With respect to clients represented in  
 17 other matters, where disclosure of a client's identity is likely to  
 18 cause harm, the reporting individual shall request an exemption from the  
 19 joint commission pursuant to paragraph (i) of subdivision nine of  
 20 section ninety-four of the executive law. Only a reporting individual  
 21 who first enters public office after July first, two thousand twelve,  
 22 need not report clients or customers with respect to matters for which  
 23 the reporting individual or his or her firm was retained prior to enter-  
 24 ing public office.

25 Client	Nature of Services Provided
26 _____	
27 _____	
28 _____	

1 \_\_\_\_\_  
 2 \_\_\_\_\_ ]

3 (b-1) For all other clients or customers (exclusive of those for whom  
 4 disclosure is not required) by whom the filer was paid in excess of  
 5 \$5,000, disclose the name of each such client or customer and the  
 6 services actually rendered for which money was received:

7 <u>Client</u>	<u>Services Actually Provided</u>

8 FOLLOWING IS AN ILLUSTRATIVE, NON-EXCLUSIVE LIST OF EXAMPLES OF  
 9 DESCRIPTIONS OF "SERVICES ACTUALLY PROVIDED":

- 10 \* REVIEWED DOCUMENTS AND CORRESPONDENCE;
- 11 \* REPRESENTED CLIENT (IDENTIFY CLIENT BY NAME) IN LEGAL PROCEEDING;
- 12 \* PROVIDED LEGAL ADVICE ON CLIENT MATTER (IDENTIFY CLIENT BY NAME);
- 13 \* CONSULTED WITH CLIENT OR LAW PARTNERS/ASSOCIATES/MEMBERS OF FIRM ON  
 14 CLIENT MATTER (IDENTIFY CLIENT BY NAME);
- 15 \* REFERRED INDIVIDUAL OR ENTITY (IDENTIFY CLIENT BY NAME) FOR REPRE-  
 16 SENTATION OR CONSULTATION.

17 The disclosure requirement in questions (b) and (b-1) shall not require  
 18 disclosing clients or customers receiving medical or dental services,  
 19 mental health services, residential real estate brokering services, or  
 20 insurance brokering services from the reporting individual or his or her

1 firm. The reporting individual need not identify any client to whom he  
2 or she or his or her firm provided legal representation with respect to  
3 investigation or prosecution by law enforcement authorities, bankruptcy,  
4 surrogate court and estate planning work, or domestic relations matters.  
5 With respect to clients represented in other matters, where disclosure  
6 of a client's identity is likely to cause harm, the reporting individual  
7 shall request an exemption from the joint commission pursuant to para-  
8 graph (i) of subdivision nine of section ninety-four of the executive  
9 law.

10 13. List below the nature and amount of any income in EXCESS of \$1,000  
11 from EACH SOURCE for the reporting individual and such individual's  
12 spouse for the taxable year last occurring prior to the date of  
13 filing. Each such source must be described with particularity.  
14 Nature of income includes, but is not limited to, all income (other  
15 than that received from the employment listed under Item 2 above)  
16 from compensated employment whether public or private, directorships  
17 and other fiduciary positions, contractual arrangements, teaching  
18 income, partnerships, honorariums, lecture fees, consultant fees,  
19 bank and bond interest, dividends, income derived from a trust, real  
20 estate rents, and recognized gains from the sale or exchange of real  
21 or other property. Income from a business or profession and real  
22 estate rents shall be reported with the source identified by the  
23 building address in the case of real estate rents and otherwise by  
24 the name of the entity and not by the name of the individual custom-  
25 ers, clients or tenants, with the aggregate net income before taxes  
26 for each building address or entity. The receipt of maintenance  
27 received in connection with a matrimonial action, alimony and child  
28 support payments shall not be listed.

1	Self/			Category
2	Spouse	Source	Nature	of Amount
3				(In Table I)

4 \_\_\_\_\_

5 \_\_\_\_\_

6 \_\_\_\_\_

7 \_\_\_\_\_

8 \_\_\_\_\_

9 § 3. Subdivision 3 of section 73 of the public officers law is amended  
 10 by adding a new paragraph (c) to read as follows:

11 (c) No member of the legislature or legislative employee shall  
 12 receive, directly or indirectly, or enter into any agreement express or  
 13 implied, for, any compensation, in whatever form for the appearance or  
 14 rendition of services by himself or herself or another in connection  
 15 with any proposed or pending bill or resolution in the senate or assem-  
 16 bly nor may a member of the assembly or senate refer any client or  
 17 customer in connection with lobbying or advocating on behalf of any  
 18 proposed or pending bill or resolution before such legislative body to  
 19 any entity with whom such member has a business relationship either as a  
 20 member or employee including any such entity that is disclosed in ques-  
 21 tion eight of the financial disclosure statement required pursuant to  
 22 section seventy-three-a of this chapter.

23 § 4. Subdivisions (k) and (t) of section 1-c of the legislative law,  
 24 subdivision (k) as amended and subdivision (t) as added by chapter 1 of  
 25 the laws of 2005, are amended to read as follows:

1 (k) The term "municipality" shall mean any jurisdictional subdivision  
2 of the state, including but not limited to counties, cities, towns,  
3 villages, improvement districts and special districts, with a population  
4 of more than [fifty] five thousand, and industrial development agencies  
5 in jurisdictional subdivisions with a population of more than [fifty]  
6 five thousand; and public authorities, and public corporations[, but  
7 shall not include school districts].

8 (t) The term "local legislative body" shall mean the board of supervi-  
9 sors, board of aldermen, common council, council, commission, town  
10 board, board of trustees or other elective governing board or body of a  
11 municipality now or hereafter vested by state statute, charter or other  
12 law with jurisdiction to initiate and adopt local laws [and], ordinances  
13 and budgets, whether or not such local laws [or], ordinances or budgets  
14 require approval of the elective chief executive officer or other offi-  
15 cial or body to become effective.

16 § 5. Subdivision 2 of section 5 of the legislative law, as amended by  
17 section 1 of part M-1 of chapter 407 of the laws of 1999, is amended to  
18 read as follows:

19 2. Each member of the legislature shall receive payment of actual and  
20 necessary transportation expenses and [a per diem equivalent to the most  
21 recent federal per diem rates published by the General Services Adminis-  
22 tration and set forth in 41 CFR (Code of Federal Regulations) Part 301,  
23 App. A] reasonable and necessary travel expenses for lodging, meals and  
24 incidentals that are actually incurred while performing his or her  
25 duties and for which receipts and other appropriate documentation are  
26 submitted which shall be reimbursed at the same rates as such receipted  
27 expenses are otherwise allowed state employees by the state comptroller,  
28 while in travel status in the performance of [his or her] their duties[;



1 and such other reasonable expenses as may be necessary for the perform-  
2 ance of the member's responsibilities as determined by the temporary  
3 president of the senate or speaker of the assembly for their respective  
4 houses. The per diem allowances, including partial per diem allowances,  
5 shall be made pursuant to regulations promulgated by the temporary pres-  
6 ident of the senate and the speaker of the assembly for their respective  
7 houses, on audit and warrant of the comptroller on vouchers approved by  
8 the temporary president of the senate or his or her designee and the  
9 speaker of the assembly or his or her designee for their respective  
10 houses].

11 § 6. Subdivision 6 of section 109 of the state finance law, as added  
12 by chapter 881 of the laws of 1980, is amended to read as follows:

13 6. Notwithstanding the provisions of this or any other law, on and  
14 after January first, nineteen hundred eighty-one, the heads of the exec-  
15 utive department, the department of law and the department of audit and  
16 control and the lieutenant governor, upon certification to the depart-  
17 ment of audit and control by such officer or his or her duly designated  
18 representative that the amounts in lieu of expenses currently provided  
19 or the currently provided payment in reimbursement of all necessary and  
20 actual expenses incurred incidental to the performance of official  
21 duties and obligations applicable on the effective date of this act have  
22 been expended, shall receive reimbursement for actual, reasonable and  
23 necessary expenses incurred incidental to the performance of official  
24 duties and obligations for expenses in excess of such amounts in lieu of  
25 expenses or such payments in reimbursement currently provided.  
26 Reimbursement for such expenses provided by this subdivision in excess  
27 of the amounts currently provided shall be obtained by submitting travel  
28 or other expense claims to the comptroller, in accordance with rules and

1 regulations of the comptroller. Provided however, that while in travel  
2 status in the performance of their official duties, with respect to  
3 expenses incurred for lodging, meals and incidentals during such status,  
4 the heads of the executive department, the department of law and the  
5 department of audit and control and the lieutenant governor shall only  
6 be entitled to and may only receive reasonable and necessary travel  
7 expenses for lodging, meals and incidentals at the same rates such  
8 expenses are otherwise allowed state employees that are actually  
9 incurred while performing such duties and for which they provide  
10 receipts and other appropriate documentation.

11 § 7. Paragraph (a) of subdivision 1 and paragraph (d) of subdivision 3  
12 of section 14-107 of the election law, as added by section 4 of subpart  
13 C of part H of chapter 55 of the laws of 2014, are amended to read as  
14 follows:

15 (a) "Independent expenditure" means an expenditure made by a person  
16 conveyed to five hundred or more members of a general public audience in  
17 the form of (i) an audio or video communication via broadcast, cable or  
18 satellite, (ii) a written communication via advertisements, pamphlets,  
19 circulars, flyers, brochures, letterheads or (iii) other published  
20 statements which: (i) irrespective of when such communication is made,  
21 contains words such as "vote," "oppose," "support," "elect," "defeat,"  
22 or "reject," which call for the election or defeat of the clearly iden-  
23 tified candidate, [or] (ii) refers to and advocates for or against a  
24 clearly identified candidate or ballot proposal on or after January  
25 first of the year of the election in which such candidate is seeking  
26 office or such proposal shall appear on the ballot, or (iii) within  
27 sixty days before a general or special election for the office sought by  
28 the candidate or thirty days before a primary election, includes or

1 references a clearly identified candidate. An independent expenditure  
2 shall not include communications where such candidate, the candidate's  
3 political committee or its agents, or a political committee formed to  
4 promote the success or defeat of a ballot proposal or its agents, did  
5 authorize, request, suggest, foster or cooperate in such communication.

6 (d) A knowing and willful violation of the provisions of this subdivi-  
7 sion shall subject the person to a civil penalty equal to five thousand  
8 dollars or the cost of the communication, whichever is greater, in a  
9 special proceeding or civil action brought by the [board or imposed  
10 directly by the board of elections] chief enforcement counsel.

11 § 8. The opening paragraph of paragraph (a) of subdivision 6 of  
12 section 156 of the retirement and social security law, as added by  
13 section 1 of part C of chapter 399 of the laws of 2011, is amended to  
14 read as follows:

15 "Public official" shall mean any of the following individuals [who  
16 were not members of any retirement system prior to the effective date of  
17 the chapter of the laws of two thousand eleven which added this article  
18 but who have become members of a covered retirement system on or after  
19 the effective date of the chapter of the laws of two thousand eleven  
20 which added this article]:

21 § 9. Subdivision 1 of section 157 of the retirement and social securi-  
22 ty law, as added by section 1 of part C of chapter 399 of the laws of  
23 2011, is amended to read as follows:

24 1. Notwithstanding any other law to the contrary, it shall be a term  
25 and condition of membership for every public official [who becomes a  
26 member of any retirement system on or after the effective date of the  
27 chapter of the laws of two thousand eleven which added this article,]  
28 that such public official's rights to a pension in a retirement system

1 that accrue in such retirement system after his or her date of initial  
2 membership in the retirement system shall be subject to the provisions  
3 of this article.

4 § 10. This act shall take effect immediately; provided, however, that  
5 sections eight and nine of this act shall take effect upon the people  
6 approving and ratifying by a majority of the electors voting thereon a  
7 constitutional amendment entitled "CONCURRENT RESOLUTION OF THE SENATE  
8 AND ASSEMBLY proposing an amendment to section 7 of article 5 of the  
9 constitution, in relation to forfeiture of pension rights or retirement  
10 benefits upon conviction of a felony related to public employment".