

The Legislative History of New York State's Conflicts of Interest Law for Municipal Officials

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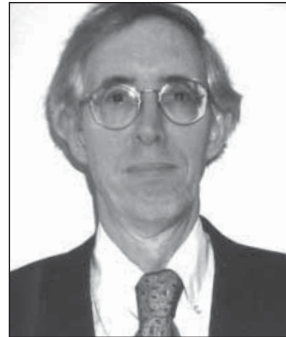
Article 18 of the New York State General Municipal Law defines certain conflicts that may exist between the private interests and official duties of municipal officers and employees. It acts as a safeguard against public officials who seek to further their own interests at the expense of their municipal

employer. Certain types of municipalities must also have a local code of ethics that may be more stringent, but not less stringent, than Article 18.¹

While designed to deter self-interested public servants, Article 18 has often been criticized for its confusing language.² Through a comprehensive review of the legislative history of Article 18, this article aims to provide a clearer understanding of the statute's legislative intent and to assist practitioners in interpreting this at times obscure law. Following a discussion of the genesis and initial adoption of Article 18 in 1964, this article will review each amendment to Article 18 in the five areas it covers: prohibited interests (sections 800-805), prohibited conduct (sections 805-a and 805-b), administration (sections 806-808), applicant disclosure in land use matters (section 809), and financial disclosure (sections 810-813).³

Adoption of Article 18

New York State had a form of a municipal ethics law prior to 1964, but those ethics provisions were scattered throughout the County Law, Education Law, General City Law, General Municipal Law, Local Finance Law, Mental Hygiene Law, Penal Law, Second Class Cities Law, Social Welfare Law, Town Law, and Village Law, as well as in local laws, charters, ordinances, resolutions, rules, and regulations, often resulting in contradictions and confusing exceptions.⁴ By consolidating and standardizing ethics regulations across the state, Article 18 sought to provide a uniform law, a single reference point for local officials and municipal attorneys on ethical conduct. It aimed "to protect the public from municipal contracts influenced by avaricious officers, to protect innocent public officers from unwarranted assaults on their integrity and to encourage each community to adopt an appropriate code of ethics to supplement" Article 18.⁵ The Legislature found that



"[e]xisting law is too complex, too inconsistent, too overgrown with exceptions, for...a clarity of understanding to be possible."⁶ Article 18 would prevent municipal officers and employees from knowingly or unknowingly violating conflict of interest laws; it would also override any existing conflicts of inter-

est laws contradicting its provisions.

Assembly Bill No. 2807 (1964), enacting Article 18, was introduced at the request of the Department of Audit and Control. This reform was spearheaded by State Comptroller Arthur Levitt.⁷ The bill was proposed in response to audits conducted by the State Comptroller, which revealed that between 1961 and 1963, 274 public officers or employees had violated existing conflict of interest laws and in 1961, 63% of the counties, 41% of the cities, and 20% of the towns audited had conflicts of interest cases.⁸ To prevent similar occurrences in the future, State Comptroller Arthur Levitt pressed the Legislature to adopt a uniform code of ethics. Indeed, at the time, ethics was very much in the air. Attorney General Louis Lefkowitz based his 1961 campaign for New York City Mayor on ethics issues. The final end of Tammany Hall influence and the removal of Carmine De Sapio as Boss in 1961 undoubtedly provided a further impetus for ethics legislation.⁹ Mr. Levitt's interest in the matter may have been influenced by his bruising primary battle in 1961 with Mayor Wagner for the Democratic nomination for Mayor, a campaign in which ethics arose as a major issue,¹⁰ and a later push for a major ethics reform in the State Legislature, an effort in which Levitt played a key role as a member of a special legislative ethics committee.¹¹ The Assembly bill garnered a broad range of supporters, including the New York State Conference of Mayors and the Association of Towns, although it was opposed by the State Education Department and the School Boards Association.¹²

As stated by the Legislature, Article 18 sought "to define areas of conflicts of interest in municipal transactions, leaving to each community the expression of its own code of ethics."¹³ The original approach of Article 18 was thus to regulate only municipal officials' interests in municipal contracts and to leave to local codes of ethics all other ethics restrictions.

Prohibited Interests (Sections 800-805)

The 1964 Act

The 1964 act established a foundation upon which later ethics legislation could build, defining specific conflicts of interest and providing a formal procedure for a municipal employee to declare his or her interest in a contract with the municipality if a conflict arose. The 1964 act targeted conflicts that may arise from municipal contracts in which the municipal official has an “interest,” as defined in the statute.

Section 801, which was entitled “conflicts of interest prohibited” and which remains substantially the same today, prohibited a municipal official from having an interest in a municipal contract if the official had some control with respect to the contract. An “interest” was defined in section 800(3) more broadly than in current Article 18 to mean not just a pecuniary or material benefit accruing to the municipal officer or employee as the result of a *contract* with the municipality but as a result of “a business or professional transaction” with the municipality. So, too, in the 1964 act, a municipal officer or employee was deemed to have an interest not just in a “contract” of his or her spouse, minor children, dependents, firm, business, or investments but in the “affairs” of those persons and entities. In addition, no exclusion existed for employment contracts of the official’s spouse, minor children, or dependents with the municipality.¹⁴ Then, as now, “municipality” was broadly defined and excluded the City of New York.¹⁵ The other definitions in section 800 were substantially the same as now. The power required of the official in regard to the contract in order for the interest to be prohibited was the same then as now.¹⁶

Section 802, as originally enacted, included a laundry list of exceptions to the prohibited interest provision of section 801. All but one of these exceptions still exists, and a couple of exceptions have been added, as discussed below.

Section 803, requiring the disclosure of interests in a contract with the municipality, has been amended twice. Section 804, voiding contracts entered into in violation of Article 18, and section 805, providing that a violation of section 801 is a misdemeanor, remained unchanged.

Amendments

Definitions and prohibited interests (Sections 800 and 801). The definition of “chief fiscal officer” was amended in 1965 to exclude members and trustees of boards of education, thus permitting the members or trustees to have an interest in the bank or trust company used by the school district.¹⁷ In addition, “contract” was amended to include the designation of any newspaper, not just an official newspaper, for publication of notices, resolutions, ordinances, and other proceedings

where such publication is required or authorized by law.¹⁸ In the definition of “interest,” the words “direct or indirect” were added before “pecuniary or material benefit” and deleted after “interest” in sections 801 (prohibited interests in contracts) and 803 (disclosure of interest in contracts);¹⁹ this has been the only amendment to section 801 since its enactment almost 50 years ago. At the same time, in the definition of “interest,” the phrases “business or professional transaction” and “affairs” were changed to just “contract,” thereby narrowing the scope of section 801 and section 803. Most significantly, in the definition of “interest,” contracts of employment with the municipality were excluded, thereby permitting, as the Attorney General’s Office has opined, a municipal official to hire his or her own spouse as a municipal officer or employee.²⁰ The definition of “municipality” was expanded to include joint water works systems.²¹ This definition was further amended in 1971 to add industrial development agencies.²² Finally, in 1980, the definition of “municipal officer or employee” was amended to include fire chiefs and assistant fire chiefs, instead of chief engineers and assistant chief engineers; this change, according to the Memorandum of the Department of State, adopted the proper designation for those offices.²³

Exceptions (Section 802). The exceptions to section 801, set forth in section 802, have been amended numerous times since 1964. In 1965, the exception for the designation of a bank or trust company as a depository or paying agent or for the investment of funds was amended to add “registration agent.” The exception for employees of firms was clarified to apply to prohibited interests under section 801 and not to interests generally. The exception for designation of newspapers was amended to reflect the change in the definition of “contract,” noted above.²⁴ In the exception for certain stock holdings, the exclusion from that exception for chief fiscal officers having stock in the municipality’s bank was amended in 1965 and then deleted in 1966; and, in 1970, the requirement that the stock be publicly traded in order for the exception to apply was removed,²⁵ thereby no longer limiting to large corporations the exception for stock ownership.

In 1968, an exception for school doctors was added.²⁶ In 1973, the exception for contracts with mental health hospitals, clinics, laboratories, and institutions was amended and then repealed in 1977.²⁷ In 1983, an exception for contracts with private industry councils was added.²⁸

Rural municipalities have generated several exceptions to section 801. In 1996, an exception was added for purchases and public work by a municipality, other than a county, located within a county having a population of 200,000 or less, where a member of the municipality’s governing body has a prohibited interest, provided that certain requirements are met. At the same time, in the

exception for small contracts in which a municipal officer or employee has an interest, the cap was increased from \$100 per fiscal year to \$750 per fiscal year.²⁹ According to the Senate Memorandum in Support, the addition of the exception for rural municipalities arose from a fire district in a rural area with a limited choice of suppliers for updated communications equipment, where the lowest bid came from an individual who was a fire commissioner; the change was thus “aimed at areas who, due to their rural nature, are limited in resources.” In 2009, an exception for contracts with rural electric cooperatives was added, to “clarify that it is not a conflict of interest for locally elected officials to vote on contracts which involve rural cooperatives that they may be members of,” according to the Senate Introducer’s Memorandum in Support.³⁰

Disclosure of interests in contracts (Section 803).

As noted above, in 1965 the words “direct or indirect” were deleted after “interest” in section 803 because of their addition to the definition of “interest” before “pecuniary or material benefit.”³¹ While that change was merely technical, in 2005 section 803 was amended in four respects. First, disclosure is now required if the municipal official’s spouse has, will have, or later acquires an interest in a contract with the municipality. Second, disclosure is also required if the interest is in a “purchase agreement, lease agreement or other agreement, including oral agreements....” In view of the broad definition of “contract” in section 800(2), this addition seems redundant. Third, disclosure must be made not only to the municipal governing body but also to the official’s immediate supervisor. Finally, the 2005 amendment deletes the provision that, once disclosure has been made with respect to an interest in a contract with a particular person or firm, no further disclosure need be made with respect to additional contracts with that party during the rest of the fiscal year.³² According to the Senate Memorandum in Support, the 2005 amendments arose out of concerns over larceny by school district officials, as a result of a case in May 2004 where an assistant superintendent of a school district misappropriated funds; the disclosure requirements were expanded “in order for the public to be aware of any potential conflicts of interest by school district officials responsible for financial transactions, lease agreements and purchasing contracts.”

Special Rules for Nassau County (Section 804-a).

In 1970, a new section 804-a was added to Article 18 prohibiting members of the governing board of a municipality from having any interest in the development or operation of any real property located within Nassau County and developed or operated by any membership corporation formed for certain specified purposes.³³ Since section 804-a precedes section 805, a violation of section 804-a is presumably a misdemeanor. Section 805 provides that “[a]ny municipal officer or employee who willfully and knowingly violates the foregoing provi-

sions of this article shall be guilty of a misdemeanor.” Section 804-a has not been amended.

Prohibited Conduct (Sections 805-a and 805-b)

The 1964 Act contained no provisions on prohibited conduct, leaving such regulation to the individual municipality. In 1970, Article 18 was amended to add a new section 805-a prohibiting certain actions by municipal officials: the solicitation of any gifts or acceptance of certain gifts worth \$25 or more; disclosure or use of confidential municipal information; compensated services in relation to any matter before the official’s own municipal agency or before a municipal agency over which the official has jurisdiction or to which the official has the power to appoint; and compensated services in relation to any matter before any municipal agency where the compensation is contingent on action taken by the agency, except that a fee based on the reasonable value of services rendered may be set at any time. A violation carries no remedy except disciplinary action. Section 805-a was amended in 1987 to increase the gift threshold from \$25 to \$75.³⁴

In 1983, section 805-b was added to permit officials to accept gifts or benefits up to \$50 for performing marriages outside of normal business hours and place of business. The amount was increased to \$75 in 1990 and to \$100 in 2007, when “gift or benefit” was replaced with “fee or compensation.”³⁵ According to the Senate Introducer’s Memorandum in Support of the 2007 amendment, municipal officials performing marriages “are often requested to travel on occasion great distances and at great personal inconvenience to themselves to perform these valuable services.”

Administration (Sections 806-808)

Codes of Ethics (Section 806)

As originally enacted, section 806 authorized but did not require municipalities to adopt codes of ethics setting forth standards of conduct. A 1969 amendment to section 806 required that each municipality file with the Office of the State Comptroller a copy of the municipality’s code of ethics, if any, and any amendments thereto as well as a statement as to whether the municipality had established an ethics board. The following year codes of ethics became mandatory for every county, city, town, village, and school district and discretionary for all other municipalities; and such codes were required to provide standards with respect to certain ethics matters. Interestingly, in making codes mandatory, the Legislature deleted from the list of covered matters representation of private interests before municipal agencies and courts, acceptance of gifts and favors, and disclosure of confidential information, presumably because those matters were addressed, albeit weakly, in section 805-a, enacted by the same session law. The 1970

law also authorized codes of ethics to “provide for the prohibition of conduct or disclosure of information and the classification of employees or officers” and added a requirement that the municipality’s CEO cause a copy of the ethics code to be distributed to every officer and employee of the municipality. The Comptroller was also required to submit an annual report to the Legislature of each county, city, town, village, and school district that had failed to file a code of ethics with that office.³⁶

The 1987 Ethics in Government Act, which imposed financial disclosure on counties, cities, towns, and villages with a population of 50,000 or more, amended section 806 to authorize the code of ethics to include financial disclosure requirements and to mandate that municipalities maintain on record and file with the Temporary State Commission on Local Government Ethics a copy of the codes of ethics and amendments thereto, the statement whether the municipality has established an ethics board, and a copy of the municipality’s financial disclosure form, if any, and when it was adopted. The responsibility of submitting the annual report to the Legislature as to whether the municipality had adopted a code of ethics was shifted from the Comptroller to the Commission and, after the expiration of the Commission, to each individual municipal clerk. The 1987 law also required the Comptroller to turn over to the Commission the most recent municipal ethics codes on file with that office and to report to the Commission which municipalities had adopted a financial disclosure law or defaulted into the state financial disclosure law.³⁷

Section 806 was amended once again in 2006 to require that fire districts adopt codes of ethics, that the code also apply to volunteer members of the fire district fire department, and that the fire district commissioners require a copy of the code to be posted publicly and conspicuously in each fire district building.³⁸ The Assembly Memorandum in Support of the law gave the large size of fire district budgets as the justification for mandating ethics codes in fire districts.

Posting of Article 18 (Section 807)

As originally enacted, section 807 did not require the posting of Article 18 but rather mandated that it, along with any local code of ethics, be distributed by the municipality’s CEO to every officer and employee of the municipality and to municipal officers and employees before they entered into municipal service, although any failure to distribute or receive a copy of Article 18 or the local ethics code would not affect the duty of compliance with them or their enforcement. With the adoption of the prohibited conduct provisions in section 805-a in 1970, the requirements for distribution of the local ethics code were shifted to section 806, discussed above, and section 807 was changed to

require the posting of Article 18. Neither the posting of the local ethics code nor the distribution of Article 18 was required. In 2008, section 807 was amended to require the posting only of sections 800-809 (i.e., not the financial disclosure provisions in sections 810-813).³⁹ According to the Senate Introducer’s Memorandum in Support of that law, the change resulted from the addition of the “voluminous new provisions relating to financial disclosure” in 1987, the limited applicability of those provisions and their absence from Article 18 when the posting requirement was added in 1970, and the fact that most municipalities have adopted their own financial disclosure form and not that set forth in Article 18.

Boards of Ethics (Section 808)

While Article 18 mandates that counties, cities, towns, villages, school districts, and fire districts have ethics codes, local ethics boards have always been, and remain, optional. The 1964 law provided that the board of supervisors of any county may establish a board of ethics and appoint its members, who would consist of an officer or employee of a town, village, school district, and city (if any) within the county, at least one member who was not a municipal officer or employee, and the county attorney sitting *ex officio*. A supervisor was eligible for appointment to the ethics board, which was to serve at the pleasure of the board of supervisors. The ethics board had to render advisory opinions to municipal officers and employees within the county on Article 18 and local ethics codes, but such opinions had to be approved by counsel to the board or, in the absence of such counsel, the county attorney. In addition, the governing body of any city, town, or village (but not other municipalities) could establish a local board of ethics and appoint its members, at least one of whom could not be a municipal officer or employee. The municipal attorney would be an *ex officio* member of the ethics board, which would have the same powers and duties as the county ethics board but only as to officials of the municipality. The county ethics board could not act with respect to the officers and employees of a municipality that had set up its own board of ethics, except upon referral from the local ethics board.⁴⁰

Amendments to section 808 have related to the appointment, structure, and duties of ethics boards. In 1965, section 808 was amended to require the county executive or county manager to appoint the members of the ethics board, subject to confirmation by the board of supervisors, in those counties operating under an optional or alternative form of county government or a county charter. In addition, with respect to city, town, and village ethics boards, the 1965 law required at least three members and clarified that the local ethics board’s jurisdiction also existed over agencies of the city, town, or village.⁴¹

In 1970, section 808 was again amended. The board of supervisors was replaced by the “governing body” as the appointing/confirming authority for county ethics boards. The authorization for the appointment of a supervisor to the county ethics board was deleted, and the county attorney was removed as an *ex officio* member of the ethics board, which, however, was now required to have at least three members, a majority of whom could not be officers or employees of the county or municipalities within the county but at least one of whom had to be an elected or appointed officer or employee of the county or municipality within the county. Advisory opinions of the ethics board would no longer require the approval but only the advice of the board’s counsel/county attorney. Most significantly, the 1970 amendments authorized every municipality, not just counties, cities, towns, and villages, to establish an ethics board, the members of which were to be appointed “by such person or body as may be designated by the governing body of the municipality.” Members would serve at the pleasure of the appointing authority. The requirement for board membership was changed from at least one member not being a municipal official to a majority not being municipal officials and at least one member being one. The municipal attorney would no longer be an *ex officio* member of the local ethics board.⁴²

With the adoption of the financial disclosure provisions in 1987, ethics boards were required to notify the Temporary State Commission whether the Commission or the board was the repository for annual financial disclosure reports. Upon the expiration of the Commission, a statement that the ethics board is the repository for such reports is to be filed with the municipal clerk.⁴³

Disclosure in Land Use Applications (Section 809)

As enacted in 1964, Article 18 did not contain applicant disclosure provisions. In 1968, the Town Law was amended to add a requirement for disclosure of interests in zoning applications.⁴⁴ That section was repealed in 1969 and replaced with section 809, which has been amended only once, in 1970. Thus, section 809 required most types of land use applications to disclose the name, residence, nature, and extent of the interest of any officer of the state, or any officer or employee of the municipality or any officer or employee of any municipality of which the municipality is a part, in the person, partnership, or association making the application, to the extent the applicant knows. Officers and employees are deemed to have an interest in the applicant when they or their spouse, siblings, parents, children, grandchildren, or any spouse of those relatives are the applicant or are an officer, director, partner, or employee of the applicant or own or control stock of a corporate applicant (unless the stock is publicly traded and they own less than 5%) or are a member of a partnership

or association applicant or are a party to an agreement with the applicant pursuant to which they may receive a benefit if the application is approved. An intentional violation is a misdemeanor. The 1970 amendment, reflecting the special prohibited interest provisions adopted for Nassau County earlier that year, discussed above, required that in Nassau County applicant disclosure under section 809 also be made for party officers.⁴⁵

Financial Disclosure (Sections 810-813)

Almost three-quarters of Article 18 consists of the financial disclosure provisions of sections 810-813. Passed in the wake of a host of scandals involving state and local officials and political party leaders,⁴⁶ the 1987 Ethics in Government Act, while focusing primarily on state officials, mandated, for the first time, pursuant to section 811, annual financial disclosure by high-level officials in counties, cities, towns, and villages having a population of 50,000 or more (defined as “political subdivisions” in section 810(1)). Pursuant to section 811(2), those political subdivisions that failed to adopt their own financial disclosure law and form were subject to the state law and form, set forth in section 812. Unlike the rest of Article 18, sections 810-813 expressly applied to New York City, pursuant to section 810(1); indeed, pursuant to section 811(1)(a), New York City, alone among all municipalities in the state, was required to adopt the state financial disclosure form set forth in section 812. Municipalities not subject to mandatory financial disclosure could, but need not, adopt a financial disclosure law and form. In any event, a municipality had to elect to have its officials file their financial disclosure reports either with the local ethics board or with the Temporary State Commission on Local Government Ethics. Upon the expiration of the Commission, its powers, duties, and functions devolved upon the local boards of ethics or, where a political subdivision lacked an ethics board, upon the local governing body.⁴⁷

In 1993, the definition of “local officer or employee” set forth in section 810(3) was amended to provide that the members, officers, and employees of an industrial development agency or authority shall be deemed officers or employees of the county, city, town, or village for whose benefit the agency or authority was established.⁴⁸ In 2003, the Real Property Tax Law was amended to add a provision requiring certain tax assessors to file annual financial disclosure reports pursuant to Article 18. According to the Assembly Memorandum in Support, the genesis of this legislation lay in the federal indictment of eighteen tax assessors in New York City for bribery and the suicide of an upstate tax assessor under suspicious circumstances. However, in 2004, the 2003 legislation was amended to set forth a specific form for tax assessors subject to that law but not otherwise subject to the financial disclosure requirements of Article 18.⁴⁹ The Assembly Memorandum in Support of the 2004 law

notes that the 2004 law was “designed to streamline the assessor disclosure requirements enacted by [the 2003 law],” presumably because “[m]any assessors believed the requirements of [the 2003 law] to be burdensome and unnecessary.” A conforming amendment to section 812(1)(a) provided that tax assessors not covered by the filing requirements of Article 18 are governed by the requirements of section 336 of the Real Property Tax Law.⁵⁰

Finally, in 2008, section 811 was amended to replace the mandate that New York City adopt a financial disclosure law (and form) at least as stringent in scope and substance as the state law (and form) with specified minimum requirements for New York City’s financial disclosure forms.⁵¹ According to the Senate Introducer’s Memorandum in Support, this change was occasioned by the requirement in the Public Authorities Accountability Act of 2005 that members and staff of municipal-affiliated not-for-profit entities file financial disclosure reports pursuant to Article 18, which in New York City, because of the mandate in section 811, would have meant the lengthy state form, quite possibly driving volunteer board members out of City-affiliated not-for-profit organizations.⁵²

Conclusion

Since first enacted almost 50 years ago, Article 18 has maintained its basic approach to municipal ethics regulation: prohibiting interests in contracts with the municipality while leaving almost entirely to the individual municipalities the regulation of all other unethical conduct. The 1970 addition of section 805-a made only a passing feint toward conduct regulation, failing even to touch on such basic conflicts of interest as misuse of office, misuse of municipal resources, or revolving door, and providing no penalties for violations of that section. Apart from mandating financial disclosure in large municipalities and adding restrictions on municipal officials’ property interests within Nassau County, the amendments to Article 18 over the years have, on the whole, cut back on Article 18’s original restrictions. As has been discussed elsewhere, a complete overhaul of the statute is long overdue.⁵³

Endnotes

1. Gen. Mun. Law § 806(1)(a).
2. See e.g., Steven G. Leventhal, *Needed: A New Statewide Ethics Code for Municipalities*, NYSBA/MLRC MUNICIPAL LAWYER, Fall 2009, Vol. 23, No. 4, at 16. Ironically, making conflicts of interest restrictions clearer and in some respects less restrictive formed part of the impetus for the enactment of Article 18. See *Levitt Will Seek Revised State Aid*, N.Y. Times, Oct. 3, 1961; *Levitt Asks Eased Ethics Code for Nonsalaried Local Officials*, N.Y. Times, March 30, 1962; *New Ethics Law Urged by Levitt*, N.Y. Times, Dec. 9, 1963.
3. The session laws enacting and amending Article 18, and the memoranda in support, may be found on the Municipal Law Section’s website at <http://www.nysba.org/>

Content/NavigationMenu18/EthicsforMunicipalLawyers/Article18LegHis6408.pdf. A detailed analysis of the requirements of Article 18 is beyond the scope of this article. For such an analysis, the reader is referred to Mark Davies, *Article 18: A Conflicts of Interest Checklist for Municipal Officers and Employees*, NYSBA/MLRC MUNICIPAL LAWYER, Vol. 19, No. 3, at 10 (Summer 2005); *Ethics Laws for Municipal Officials Outside New York City*, in 1 NYSBA GOVERNMENT, LAW AND POLICY JOURNAL 44 (Fall 1999); Mark Davies, *Article 18 of New York’s General Municipal Law: The State Conflicts of Interest Law for Municipal Officials*, 59 ALBANY LAW REVIEW 1321 (1996); Mark Davies, *The 1987 Ethics in Government Act: Financial Disclosure Provisions for Municipal Officials and Proposals for Change*, 11 PACE LAW REVIEW 243 (1991).

4. See 1964 N.Y. Laws ch. 946, § 17 (repealing provisions of the County Law, Education Law, General Municipal Law, Local Finance Law, Social Welfare Law, Town Law, and Village Law); NYS Dept. of Audit and Control, Report to the Governor on Legislation (April 2, 1964), Bill Jacket, 1964 N.Y. Laws ch. 946; Division of the Budget Report on A-2807 (April 20, 1964), Bill Jacket, 1964 N.Y. Laws ch. 946 (“This bill would eliminate conflicting statutes and consolidate into a single statute provisions relating to conflict of interest. At the present time, transactions permitted in one jurisdiction are illegal in another.”). Conflicts of interest provisions still exist in other titles of the consolidated laws but are far narrower in scope and primarily address the holding of dual offices, political activities, recusal, and removal from office. See Mark Davies, *Non-Article 18 Conflicts of Interest Restrictions Governing Counties, Cities, Towns, and Villages under New York State Law*, NYSBA/MLRC MUNICIPAL LAWYER, Winter 2006, Vol. 20, No. 1, at 5.
5. 1964 N.Y. Laws ch. 946, § 1. See also Division of the Budget Report on A-2807 (April 20, 1964), Bill Jacket, 1964 N.Y. Laws ch. 946 (“By specifically defining what constitutes a conflict and what does not, both the municipality and the employee would be protected”).
6. 1964 N.Y. Laws ch. 946, § 1.
7. See newspaper articles cited in note 2.
8. See *Levitt Asks Eased Ethics Code for Nonsalaried Local Officials*, N.Y. Times, March 30, 1962; *Violations Found by Albany Audits*, N.Y. Times, May 11, 1963.
9. See *‘Village’ Vote Big: Tammany Chief Loses His District Post by 6,165 to 4,745*, N.Y. Times, Sept. 8, 1961; *Brake on Tammany’s Power*, N.Y. Times, Sept. 14, 1961; *De Sapio Says Good-By Today at Meeting with his Regulars*, N.Y. Times, Sept. 19, 1961; *Levitt Will Seek Revised State Aid*, N.Y. Times, Oct. 3, 1961; *Lefkowitz Faces Heavy Odds in Mayoralty Race: Despite His Successes with the Issue of Ethics He Still Must Develop Other Strong Points*, N.Y. Times, Oct. 8, 1961.
10. See e.g., *Gerosa Questions Wagner’s Ethics on Home Expenses*, N.Y. Times, Aug. 23, 1961; *De Sapio Asserts State Questioned Mayor on Ethics*, N.Y. Times, Sept. 6, 1961; *Ethics Unit Clears Mayor, Asks Fund-Raising Curb*, N.Y. Times, Oct. 6, 1961; *Prendergast Calls Wagner an Ingrate over Fund-Raising*, N.Y. Times, Oct. 22, 1961.
11. *New Ethics Code Is Sought in State for All Officials*, N.Y. Times, Oct. 5, 1963; *State A.D.A. Asks New Ethics Code*, N.Y. Times, Oct. 6, 1963; *New Ethics Plan Studied by State*, N.Y. Times, Oct. 12, 1963; *Levitt Named to Join Study of Ethics Code*, N.Y. Times, Dec. 7, 1963; *State Ethics Body to be Limited to 3*, N.Y. Times, Dec. 14, 1963; *State Ethics Unit Starts Hearings*, N.Y. Times, Jan. 23, 1964; *Obey Conscience Legislators Told*, N.Y. Times, Feb. 4, 1964; *Lawyers Debate Legislative Code*, N.Y. Times, Feb. 6, 1964; *Liberals Demand Stiff Ethics Code*, N.Y. Times, Feb. 8, 1964; *Puzzle in Ethics Battle*, N.Y. Times, Feb. 10, 1964; *City Ethics Body Gaining Stature*, N.Y. Times, Feb. 18, 1964; *Judge Opposes Code of Ethics Being Studied for Legislators*, Feb. 25, 1964; *Panel to Proposed State Ethics Board*, N.Y. Times, March 6, 1964; *Set a High Standard (editorial)*, N.Y. Times, March 6, 1964; *Panel on Ethics Offers New Code for Legislature*, N.Y. Times, March 9, 1964.
12. See Bill Jacket, 1964 N.Y. Laws ch. 946.

13. 1964 N.Y. Laws ch. 946, § 1.
14. “For the purposes of this article a municipal officer or employee shall be deemed to have an interest in the affairs of (a) his spouse, minor children and dependents, (b) a firm, partnership or association of which such officer or employee is a member or employee, (c) a corporation of which such officer or employee is an officer, director or employee and (d) a corporation any stock of which is owned or controlled directly or indirectly by such officer or employee.” Gen. Mun. Law § 800(3), as enacted by 1964 N.Y. Laws ch. 946, § 2.
15. Gen. Mun. Law § 800(4).
16. The official’s interest in the contract was prohibited “when such officer or employee, individually or as a member of a board, has the power or duty to (a) negotiate, prepare, authorize or approve the contract or authorize or approve payment thereunder, (b) audit bills or claims under the contract, or (c) appoint an officer or employee who has any of the powers or duties set forth above and (2) no chief fiscal officer, treasurer, or his deputy or employee, shall have an interest, direct or indirect, in a bank or trust company designated as a depository, paying agent, registration agent or for investment of funds of the municipality of which he is an officer or employee. The provisions of this section shall in no event be construed to preclude the payment of lawful compensation and necessary expenses of any municipal officer or employee in one or more public offices or positions of employment, the holding of which is not prohibited by law.” Gen. Mun. Law § 801, as enacted by 1964 N.Y. Laws ch. 946, § 2.
17. 1965 N.Y. Laws ch. 1043, § 1, amending Gen. Mun. Law § 800(1).
18. 1965 N.Y. Laws ch. 1043, § 1, amending Gen. Mun. Law § 800(2).
19. 1965 N.Y. Laws ch. 1043, §§ 2, 4, amending Gen. Mun. Law §§ 801, 803.
20. 1965 N.Y. Laws ch. 1043, § 1, amending Gen. Mun. Law § 800(3). See 1967 Op. Atty. Gen. (Inf.) 158 (opining that a sheriff may appoint his wife as the matron of the county jail without violating section 801).
21. 1965 N.Y. Laws ch. 1043, § 1, amending Gen. Mun. Law § 800(4).
22. 1971 N.Y. Laws ch. 179, § 1, amending Gen. Mun. Law § 800(4).
23. 1980 N.Y. Laws ch. 88, § 3, amending Gen. Mun. Law § 800(5).
24. 1965 N.Y. Laws ch. 1043, § 3, amending Gen. Mun. Law § 802(1) (a), (b), (c).
25. 1965 N.Y. Laws ch. 1043, § 3, 1966 N.Y. Laws ch. 135, § 1, and 1970 N.Y. Laws ch. 1019, § 1, amending Gen. Mun. Law § 802(2) (a).
26. 1968 N.Y. Laws ch. 105, § 1, adding Gen. Mun. Law § 802(1)(i).
27. 1973 N.Y. Laws ch. 195, § 18, and 1977 N.Y. Laws ch. 28, § 1, amending and then repealing Gen. Mun. Law § 802(2)(b) and relettering existing paragraphs (c)-(f) as (b)-(e).
28. 1983 N.Y. Laws ch. 440, § 1, adding Gen. Mun. Law § 802(2)(f).
29. 1996 N.Y. Laws ch. 364, adding Gen. Mun. Law § 802(1)(j) and amending § 802(2)(e).
30. 2009 N.Y. Laws ch. 249, § 1, amending Gen. Mun. Law § 802(1) (f).
31. 1965 N.Y. Laws ch. 1043, §§ 1, 4, amending Gen. Mun. Law §§ 800(3), 803.
32. 2005 N.Y. Laws ch. 499, § 1, amending Gen. Mun. Law § 803.
33. 1970 N.Y. Laws ch. 720, § 1, adding Gen. Mun. Law § 804-a.
34. 1970 N.Y. Laws ch. 1019, § 2, adding Gen. Mun. Law § 805-a, as amended by 1987 N.Y. Laws ch. 813, § 21.
35. 1983 N.Y. Laws ch. 433, § 1, adding Gen. Mun. Law § 805-b, as amended by 1990 N.Y. Laws ch. 238, § 1, and 2007 N.Y. Laws ch. 536, § 1.
36. 1964 N.Y. Laws ch. 946, § 2, adding Gen. Mun. Law § 806, as amended by 1969 N.Y. Laws ch. 646, § 2, 1970 N.Y. Laws ch. 1019, § 3. The 1970 amendment also expressly provided that an ethics code may regulate or prescribe conduct not expressly prohibited by Article 18 but may not authorize conduct otherwise prohibited.
37. 1987 N.Y. Laws ch. 813, §§ 10, 11, amending Gen. Mun. Law § 806.
38. 2006 N.Y. Laws ch. 238, § 1, amending Gen. Mun. Law § 806.
39. 1964 N.Y. Laws ch. 946, § 2, adding Gen. Mun. Law § 807, as amended by 1970 N.Y. Laws ch. 1019, § 4, and 2008 N.Y. Laws ch. 236, § 1.
40. 1964 N.Y. Laws ch. 946, § 2, adding Gen. Mun. Law § 808.
41. 1965 N.Y. Laws ch. 1043, § 5, amending Gen. Mun. Law § 808.
42. 1970 N.Y. Laws ch. 1019, § 5, amending Gen. Mun. Law § 808.
43. 1987 N.Y. Laws ch. 813, § 12, amending Gen. Mun. Law § 808.
44. 1968 N.Y. Laws ch. 1086, § 1, repealed by 1969 N.Y. Laws ch. 646, § 1.
45. 1969 N.Y. Laws ch. 646, § 3, adding Gen. Mun. Law § 809, as amended by 1970 N.Y. Laws ch. 825, § 1.
46. See *Neither Scandals nor Jail Terms Derail the Democrats*, N.Y. Times, March 15, 1987; *New York Democrats Need a Tougher Ethics Code than That* (Attorney General Robert Abrams letter to editor), N.Y. Times, May 7, 1987; *2 Inquiries may be Tied through Syracuse Firm*, N.Y. Times, June 25, 1987; *2 New York Bills would Hold Government Officials Accountable for Ethics*, N.Y. Times, July 4, 1987; *Ex-Mayor Indicted in Syracuse Bribes*, N.Y. Times, July 17, 1987; *8 Plead Guilty in Syracuse Kickback Case*, N.Y. Times, July 18, 1987.
47. 1987 N.Y. Laws ch. 813, §§ 13-16, 26, adding Gen. Mun. Law §§ 810-813.
48. 1993 N.Y. Laws ch. 356, § 2, amending Gen. Mun. Law § 810(3).
49. 2003 N.Y. Laws ch. 548, §§ 1-2, amending Real Prop. Tax Law § 334(3) and adding Real Prop. Tax Law § 336, as amended by 2004 N.Y. Laws ch. 85, § 2.
50. 2004 N.Y. Laws ch. 85, § 1, amending Gen. Mun. Law § 812(1)(a).
51. 2008 N.Y. Laws ch. 41, § 1, amending Gen. Mun. Law § 811(1)(a) and adding § 811(1)(a-1).
52. See Public Authorities Accountability Act of 2005, 2005 N.Y. Laws ch. 766, §§ 2, 19, adding Pub. Auth. Law §§ 2(2), 2825(3).
53. See Steven G. Leventhal, *Needed: A New Statewide Ethics Code for Municipalities*, NYSBA/MLRC MUNICIPAL LAWYER, Fall 2009, Vol. 23, No. 4, at 16; Henry G. Miller & Mark Davies, *Why We Need a New State Ethics Law for Municipal Officials*, County Attorneys’ Association of the State of New York FOOTNOTES, Winter 1996, Vol. 4, No. 12, at 5; *Final Report of the Temporary State Commission on Local Government Ethics*, 21 FORDHAM URBAN LAW JOURNAL 1 (1993); Mark Davies, *The 1987 Ethics in Government Act: Financial Disclosure Provisions for Municipal Officials and Proposals for Change*, 11 PACE LAW REVIEW 243, 262-267 (1991); Mark Davies, *New Municipal Ethics Law Proposed*, MUNICIPAL LAWYER, March/April 1991, Vol. 5, No. 2, at 1.

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