

5009

2013-2014 Regular Sessions

I N   S E N A T E

May 6, 2013

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Introduced by Sens. VALESKY, KLEIN, SAVINO, CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the legislative law, in relation to prohibiting lobbyists from engaging in political consulting of candidates for and holders of state office and prohibiting certain political consultants from engaging in lobbying; and to amend the election law, in relation to requiring the reporting of the provision of political consulting services

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 1-c of the legislative law is amended by adding a  
2     new subdivision (x) to read as follows:  
3     (X) THE TERM "POLITICAL CONSULTING" SHALL MEAN AND INCLUDE THE  
4     PROVISION, FOR COMPENSATION, TO ANY STATE PUBLIC OFFICIAL, CANDIDATE OR  
5     PROSPECTIVE CANDIDATE FOR AN ELECTED STATE OFFICE OF ADVICE, SERVICES OR  
6     ASSISTANCE IN SECURING SUCH PUBLIC OFFICE INCLUDING, BUT NOT LIMITED TO,  
7     CAMPAIGN MANAGEMENT, FUNDRAISING ACTIVITIES, PUBLIC RELATIONS OR MEDIA  
8     SERVICES, BUT MAY EXCLUDE BONA FIDE LEGAL WORK DIRECTLY RELATED TO LITI-  
9     GATION OR LEGAL ADVICE WITH REGARD TO SECURING A PLACE ON THE BALLOT,  
10    THE PETITIONING PROCESS, THE CONDUCT OF AN ELECTION OR WHICH INVOLVES  
11    THE ELECTION LAW.  
12    S 2. Section 1-m of the legislative law, as added by chapter 14 of the  
13    laws of 2007, is amended to read as follows:  
14    S 1-m. Prohibition of gifts AND POLITICAL CONSULTING. (A) No individ-  
15    ual or entity required to be listed on a statement of registration  
16    pursuant to this article shall offer or give a gift to any public offi-  
17    cial as defined within this article, unless under the circumstances it  
18    is not reasonable to infer that the gift was intended to influence such  
19    public official. No individual or entity required to be listed on a  
20    statement of registration pursuant to this article shall offer or give a

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 gift to the spouse or unemancipated child of any public official as  
2 defined within this article under circumstances where it is reasonable  
3 to infer that the gift was intended to influence such public official.  
4 No spouse or unemancipated child of an individual required to be listed  
5 on a statement of registration pursuant to this article shall offer or  
6 give a gift to a public official under circumstances where it is reason-  
7 able to infer that the gift was intended to influence such public offi-  
8 cial. This section shall not apply to gifts to officers, members or  
9 directors of boards, commissions, councils, public authorities or public  
10 benefit corporations who receive no compensation or are compensated on a  
11 per diem basis, unless the person listed on the statement of registra-  
12 tion appears or has matters pending before the board, commission or  
13 council on which the recipient sits.

14 (B) NO PERSON OR ORGANIZATION THAT IS ENGAGED IN LOBBYING OR LOBBYING  
15 ACTIVITIES SHALL ENGAGE IN POLITICAL CONSULTING FOR ANY STATE PUBLIC  
16 OFFICIAL, CANDIDATE OR PROSPECTIVE CANDIDATE FOR AN ELECTED STATE  
17 OFFICE; PROVIDED, HOWEVER THAT A PERSON OR ORGANIZATION THAT IS ENGAGED  
18 SOLELY IN THE LOBBYING OF OR LOBBYING ACTIVITIES RELATED TO MUNICIPAL  
19 AGENCIES, LOCAL LEGISLATIVE BODIES AND MUNICIPAL PUBLIC OFFICERS, AND  
20 DOES NOT ENGAGE IN THE LOBBYING OF OR LOBBYING ACTIVITIES RELATED TO  
21 STATE AGENCIES AND STATE PUBLIC OFFICIALS, MAY ENGAGE IN SUCH POLITICAL  
22 CONSULTING FOR MUNICIPAL PUBLIC OFFICIALS.

23 (C) NO PERSON OR ORGANIZATION THAT IS ENGAGED IN POLITICAL CONSULTING  
24 FOR ANY STATE PUBLIC OFFICIAL, CANDIDATE OR PROSPECTIVE CANDIDATE FOR AN  
25 ELECTED STATE OFFICE SHALL BE EMPLOYED BY, BE AFFILIATED WITH OR BE  
26 UNDER COMMON OWNERSHIP WITH ANY PERSON OR ORGANIZATION ENGAGED IN LOBBY-  
27 ING OR LOBBYING ACTIVITIES, EXCEPT AS OTHERWISE AUTHORIZED BY SUBDIVI-  
28 SION (B) OF THIS SECTION.

29 S 3. Section 14-100 of the election law is amended by adding a new  
30 subdivision 12 to read as follows:

31 12. "POLITICAL CONSULTING" MEANS AND INCLUDES THE PROVISION FOR  
32 COMPENSATION, TO ANY POLITICAL COMMITTEE OR CANDIDATE OF ADVICE,  
33 SERVICES OR ASSISTANCE IN SECURING STATE PUBLIC OFFICE INCLUDING, BUT  
34 NOT LIMITED TO, CAMPAIGN MANAGEMENT, FUNDRAISING ACTIVITIES, PUBLIC  
35 RELATIONS OR MEDIA SERVICES, BUT MAY EXCLUDE LEGAL WORK DIRECTLY RELATED  
36 TO LITIGATION OR LEGAL ADVICE WITH REGARD TO SECURING A PLACE ON THE  
37 BALLOT, THE PETITIONING PROCESS, THE CONDUCT OF AN ELECTION OR WHICH  
38 INVOLVES THIS CHAPTER.

39 S 4. Subdivision 1 of section 14-102 of the election law, as amended  
40 by chapter 8 of the laws of 1978 and as redesignated by chapter 9 of the  
41 laws of 1978, is amended to read as follows:

42 1. The treasurer of every political committee which, or any officer,  
43 member or agent of any such committee who, in connection with any  
44 election, receives or expends any money or other valuable thing or  
45 incurs any liability to pay money or its equivalent shall file state-  
46 ments sworn, or subscribed and bearing a form notice that false state-  
47 ments made therein are punishable as a class A misdemeanor pursuant to  
48 section 210.45 of the penal law, at the times prescribed by this article  
49 setting forth all the receipts, contributions to and the expenditures by  
50 and liabilities of the committee, and of its officers, members and  
51 agents in its behalf. Such statements shall include the dollar amount of  
52 any receipt, contribution or transfer, or the fair market value of any  
53 receipt, contribution or transfer, which is other than of money, the  
54 name and address of the transferor, contributor or person from whom  
55 received, and if the transferor, contributor or person is a political  
56 committee; the name of and the political unit represented by the commit-

tee, the date of its receipt, the dollar amount of every expenditure, the name and address of the person to whom it was made or the name of and the political unit represented by the committee to which it was made and the date thereof, and shall state clearly the purpose of such expenditure. FURTHERMORE, SUCH STATEMENTS SHALL INCLUDE A LIST OF ALL PERSONS AND ORGANIZATIONS WHICH PROVIDED POLITICAL CONSULTING SERVICES, AND THE FAIR MARKET VALUE OF AND THE ACTUAL AMOUNT PAID TO EACH SUCH PERSON AND ORGANIZATION FOR THE PROVISION OF POLITICAL CONSULTING SERVICES. Any statement reporting a loan shall have attached to it a copy of the evidence of indebtedness. Expenditures in sums under fifty dollars need not be specifically accounted for by separate items in said statements, and receipts and contributions aggregating not more than ninety-nine dollars, from any one contributor need not be specifically accounted for by separate items in said statements, provided however, that such expenditures, receipts and contributions shall be subject to the other provisions of section 14-118 of this article.

S 5. Subdivision 1 of section 14-104 of the election law, as amended by chapter 430 of the laws of 1997, is amended to read as follows:

1. Any candidate for election to public office, or for nomination for public office at a contested primary election or convention, or for election to a party position at a primary election, shall file statements sworn, or subscribed and bearing a form notice that false statements made therein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law, at the times prescribed by this article setting forth the particulars specified by section 14-102 of this article, as to all moneys or other valuable things, paid, given, expended or promised by him OR HER to aid his OR HER own nomination or election, or to promote the success or defeat of a political party, or to aid or influence the nomination or election or the defeat of any other candidate to be voted for at the election or primary election or at a convention, including contributions to political committees, officers, members or agents thereof, and transfers, receipts and contributions to him to be used for any of the purposes above specified, or in lieu thereof, any such candidate may file such a sworn statement at the first filing period, on a form prescribed by the state board of elections that such candidate has made no such expenditures and does not intend to make any such expenditures, except through a political committee authorized by such candidate pursuant to this article. FURTHERMORE, SUCH STATEMENTS SHALL INCLUDE A LIST OF ALL PERSONS AND ORGANIZATIONS WHICH PROVIDED POLITICAL CONSULTING SERVICES, AND THE FAIR MARKET VALUE OF AND THE ACTUAL AMOUNT PAID TO EACH SUCH PERSON AND ORGANIZATION FOR THE PROVISION OF POLITICAL CONSULTING SERVICES. A committee authorized by such a candidate may fulfill all of the filing requirements of this act on behalf of such candidate.

S 6. This act shall take effect on the thirtieth day after it shall have become a law.