S T A T E O F N E W Y O R K

7050

2009-2010 Regular Sessions

I N A S S E M B L Y

March 19, 2009

Introduced by M. of A. BALL -- read once and referred to the Committee on Judiciary

AN ACT to amend the judiciary law, in relation to activities of judicial candidates

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

Section 1. Article 23 and sections 860 and 861 of the judiciary law, as renumbered by chapter 840 of the laws of 1983, are renumbered article 24 and sections 870 and 871, and a new article 23 is added to read as follows:

ARTICLE 23

ACTIVITIES OF A JUDICIAL CANDIDATE

SECTION 860. LEGISLATIVE INTENT.
861. ACTIVITIES PROHIBITED.
862. ACTIVITIES NOT CONDONED.
863. LIMITATIONS ON POLITICAL ACTIVITY.
864. EFFECT OF REVISION OF JUDICIAL SELECTION METHOD.
865. CAMPAIGN CONTRIBUTION AND EXPENSE; REPORTING.

S 860. LEGISLATIVE INTENT. THE LEGISLATURE FINDS THAT A JUDICIAL OFFICE IS A NONPARTISAN OFFICE, AND A CANDIDATE FOR ELECTION OR RETENTION THERETO IS PROHIBITED FROM CAMPAIGNING OR QUALIFYING FOR SUCH AN OFFICE BASED ON PARTY AFFILIATION. TO INSURE THAT SUCH CAMPAIGNS FOR ELECTION OR RETENTION ARE CONDUCTED ON A NONPARTISAN BASIS, THE LEGISLATURE WANTS THE ELECTION LAW TO IMPOSE CERTAIN RESTRICTIONS ON THE ACTIVITIES OF A JUDICIAL CANDIDATE TO INSULATE HIM OR HER FROM POLITICAL PARTIES.

S 861. ACTIVITIES PROHIBITED. A CANDIDATE FOR JUDICIAL OFFICE SHALL NOT:

1. PARTICIPATE IN ANY PARTISAN POLITICAL PARTY ACTIVITIES, EXCEPT THAT SUCH CANDIDATE MAY REGISTER TO VOTE AS A MEMBER OF ANY POLITICAL PARTY

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

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AND MAY VOTE IN ANY PARTY PRIMARY FOR CANDIDATES FOR NOMINATION OF THE PARTY IN WHICH HE OR SHE IS REGISTERED TO VOTE.

2. CAMPAIGN AS A MEMBER OF ANY POLITICAL PARTY.

3. PUBLICLY REPRESENT OR ADVERTISE HIMSELF OR HERSELF AS A MEMBER OF ANY POLITICAL PARTY.

4. ENDORSE ANY CANDIDATE.

5. MAKE POLITICAL SPEECHES OTHER THAN ON HIS OR HER BEHALF.

6. MAKE CONTRIBUTIONS TO POLITICAL PARTY FUNDS.

7. ACCEPT CONTRIBUTIONS FROM ANY POLITICAL PARTY.

8. SOLICIT CONTRIBUTIONS FROM ANY POLITICAL PARTY.

9. ACCEPT OR RETAIN A PLACE ON ANY POLITICAL PARTY COMMITTEE.

10. MAKE ANY CONTRIBUTION TO ANY PERSON, GROUP OR ORGANIZATION FOR ITS ENDORSEMENT TO JUDICIAL OFFICE.

11. AGREE TO PAY ALL OR ANY PART OF ANY ADVERTISEMENT SPONSORED BY ANY PERSON, GROUP OR ORGANIZATION WHEREIN THE CANDIDATE MAY BE ENDORSED FOR JUDICIAL OFFICE BY ANY SUCH PERSON, GROUP OR ORGANIZATION.

12. IN ADDITION TO THE ABOVE, POLITICAL PARTIES AND PARTISAN POLITICAL GROUPS, I.E., THOSE ASSOCIATED WITH A PARTICULAR POLITICAL PARTY OR CANDIDATE, ARE PROHIBITED FROM ENDORSING, SUPPORTING OR ASSISTING ANY JUDICIAL CANDIDATE.

A VIOLATION OF THIS SECTION SHALL CONSTITUTE A MISDEMEANOR.

S 862. ACTIVITIES NOT CONDONED. A JUDGE OR A CANDIDATE FOR ELECTION TO JUDICIAL OFFICE SHOULD NOT:

1. ACT AS A LEADER OR HOLD ANY OFFICE IN A POLITICAL ORGANIZATION;

2. MAKE SPEECHES FOR A POLITICAL ORGANIZATION OR CANDIDATE, OR PUBLICLY ENDORSE A CANDIDATE FOR A PUBLIC OFFICE;

3. SOLICIT FUNDS FOR, PAY AN ASSESSMENT OR MAKE A CONTRIBUTION TO A POLITICAL ORGANIZATION OR CANDIDATE, OR PURCHASE TICKETS FOR POLITICAL PARTY DINNERS OR OTHER FUNCTIONS;

4. PARTICIPATE IN ANY ACTIVITY THAT HAS ANY RELATIONSHIP WHATSOEVER TO A POLITICAL PARTY; HOWEVER, HE OR SHE MAY CAMPAIGN ON HIS OR HER OWN BEHALF AND MAY SPEAK AT MEETINGS OF PARTY EXECUTIVE COMMITTEES, RALLIES AND OTHER POLITICAL GATHERINGS, AND MAY ATTEND AND SPEAK AT MEETINGS OF POLITICAL PARTIES OR ANY PARTISAN ORGANIZATION. CARE SHOULD BE TAKEN TO INSURE THAT ANY APPEARANCE BY A JUDICIAL CANDIDATE IS ALSO AVAILABLE TO ALL OTHER SUCH CANDIDATES AND THAT THE ORGANIZATION IS NOT COLLECTIVELY SUPPORTING ANY PARTICULAR JUDICIAL CANDIDATES. IT IS ALSO ADVISABLE THAT ANY APPEARANCES BEFORE PARTISAN GROUPS BY JUDICIAL CANDIDATES BE SEPARATE FROM THOSE BY PARTISAN CANDIDATES.

A VIOLATION OF THIS SECTION SHALL CONSTITUTE A VIOLATION.

S 863. LIMITATIONS ON POLITICAL ACTIVITY. 1. NO POLITICAL PARTY OR PARTISAN POLITICAL ORGANIZATION SHALL ENDORSE, SUPPORT OR ASSIST ANY CANDIDATE IN A CAMPAIGN FOR ELECTION TO JUDICIAL OFFICE.

2. ANY PERSON WHO KNOWINGLY, IN AN INDIVIDUAL CAPACITY OR AS AN OFFICER OF AN ORGANIZATION, VIOLATES THE PROVISIONS OF THIS SECTION IS GUILTY OF A MISDEMEANOR.

S 864. EFFECT OF REVISION OF JUDICIAL SELECTION METHOD. NO JUDGE ELECTED PRIOR TO OR AT THE ELECTION THAT APPROVES ANY REVISION TO THE SELECTION OF JUDGESHIPS SHALL BE AFFECTED IN HIS OR HER CURRENT TERM OF OFFICE. ANY JUDGE WISHING TO APPLY FOR A SUBSEQUENT TERM WILL BE ELECTED OR RETAINED PURSUANT TO THE METHOD OF ELECTION OR SELECTION AND RETENTION OF JUDGES IN EFFECT AS SET BY THE ABOVE JUDICIAL ELECTION PROCESSES.

S 865. CAMPAIGN CONTRIBUTION AND EXPENSE; REPORTING. 1. A CANDIDATE FOR JUDICIAL OFFICE MAY ACCEPT CONTRIBUTIONS AND MAY INCUR ONLY SUCH EXPENSES AS ARE AUTHORIZED BY LAW. EACH SUCH CANDIDATE SHALL KEEP AN

ACCURATE RECORD OF HIS OR HER CONTRIBUTIONS AND EXPENSES, AND SHALL FILE REPORTS PURSUANT TO CURRENT STANDARDS.

2. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A CANDIDATE FOR RE-ELECTION AS A JUSTICE OR A JUDGE WHO HAS NOT RECEIVED ANY CONTRIBUTION OR MADE ANY EXPENDITURE MAY FILE A SWORN STATEMENT AT THE TIME OF QUALIFYING THAT HE OR SHE DOES NOT ANTICIPATE RECEIVING CONTRIBUTIONS OR MAKING EXPENDITURES IN CONNECTION WITH THE CANDIDACY FOR RE-ELECTION TO OFFICE. SUCH CANDIDATE SHALL FILE A FINAL REPORT WITHIN NINETY DAYS FOLLOWING THE GENERAL ELECTION FOR WHICH THE CANDIDATE'S NAME APPEARED ON THE BALLOT FOR RE-ELECTION. ANY SUCH CANDIDATE FOR RE-ELECTION TO JUDICIAL OFFICE WHO, AFTER FILING A STATEMENT PURSUANT TO THIS SUBDIVISION, RECEIVES ANY CONTRIBUTION OR MAKES ANY EXPENDITURE IN CONNECTION WITH THE CANDIDACY FOR RE-ELECTION SHALL IMMEDIATELY FILE A STATEMENT TO THAT EFFECT.

S 2. This act shall take effect immediately.