

3245

2009-2010 Regular Sessions

I N S E N A T E

March 13, 2009

Introduced by Sens. PDAVAN, LARKIN, MORAHAN, VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

AN ACT to amend the election law, in relation to the regulation of campaign consultants

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

1 Section 1. The election law is amended by adding a new article 18 to
2 read as follows:

3 ARTICLE 18

4 REGULATION OF CAMPAIGN CONSULTANTS

5 SECTION 18-100. FINDINGS.

6 18-102. DEFINITIONS.

7 18-104. PROHIBITIONS.

8 18-106. REGISTRATION, REREGISTRATION, REPORTING, AND FEES.

9 18-108. POWERS AND DUTIES OF THE ETHICS COMMISSION.

10 18-110. ADMINISTRATIVE AND CIVIL ENFORCEMENT; PENALTIES.

11 18-112. CODE OF CONDUCT.

12 18-114. SEVERABILITY.

13 18-116. ELECTRONIC FILING OF STATEMENTS AND REPORTS.

14 S 18-100. FINDINGS. 1. THE LEGISLATURE HAS A PARAMOUNT INTEREST IN
15 PROTECTING THE INTEGRITY AND CREDIBILITY OF ITS ELECTORAL AND GOVERNMENT
16 INSTITUTIONS. ELECTION CAMPAIGNS ARE HIGHLY COMPETITIVE IN THE STATE,
17 AND CANDIDATES FREQUENTLY CONTRACT FOR THE SERVICES OF PROFESSIONAL
18 CAMPAIGN CONSULTANTS WHO SPECIALIZE IN GUIDING AND MANAGING CAMPAIGNS.

19 2. IT IS THE PURPOSE AND INTENT OF THE LEGISLATURE TO IMPOSE REASON-
20 ABLE REGISTRATION AND DISCLOSURE REQUIREMENTS ON CAMPAIGN CONSULTANTS.
21 REQUIRED REGISTRATION AND DISCLOSURE OF INFORMATION BY CAMPAIGN CONSULT-
22 ANTS WILL ASSIST THE PUBLIC IN MAKING INFORMED DECISIONS, AND PROTECT
23 PUBLIC CONFIDENCE IN THE ELECTORAL AND GOVERNMENTAL PROCESSES.

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

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1 S 18-102. DEFINITIONS. WHENEVER USED IN THIS ARTICLE, THE FOLLOWING
2 DEFINITIONS SHALL APPLY:

3 1. "CAMPAIGN CONSULTANT" MEANS ANY PERSON OR ENTITY THAT RECEIVES OR
4 IS PROMISED ECONOMIC CONSIDERATION EQUALING ONE THOUSAND DOLLARS OR MORE
5 IN A CALENDAR YEAR FOR CAMPAIGN CONSULTING SERVICES. THE TERM "CAMPAIGN
6 CONSULTANT" INCLUDES ANY PERSON OR ENTITY THAT SUBCONTRACTS WITH A
7 CAMPAIGN CONSULTANT TO PROVIDE CAMPAIGN CONSULTING SERVICES, AND THAT
8 RECEIVES OR IS PROMISED ECONOMIC CONSIDERATION EQUALING ONE THOUSAND
9 DOLLARS OR MORE IN A CALENDAR YEAR FOR PROVIDING CAMPAIGN CONSULTING
10 SERVICES. THE TERM "CAMPAIGN CONSULTANT" DOES NOT INCLUDE PERSONS WHO
11 ARE EMPLOYEES OF A CAMPAIGN CONSULTANT, ATTORNEYS WHO PROVIDE ONLY LEGAL
12 SERVICES, ACCOUNTANTS WHO PROVIDE ONLY ACCOUNTING SERVICES, POLLSTERS
13 WHO PROVIDE ONLY POLLING SERVICES, AND TREASURERS WHO PROVIDE ONLY THOSE
14 SERVICES WHICH ARE REQUIRED OF TREASURERS.

15 2. "CAMPAIGN CONSULTING SERVICES" MEANS PARTICIPATING IN CAMPAIGN
16 MANAGEMENT OR DEVELOPING OR PARTICIPATING IN THE DEVELOPMENT OF CAMPAIGN
17 STRATEGY.

18 3. "CAMPAIGN MANAGEMENT" MEANS CONDUCTING, COORDINATING OR SUPERVISING
19 A CAMPAIGN TO ELECT, DEFEAT, RETAIN OR RECALL A CANDIDATE, OR ADOPT OR
20 DEFEAT A MEASURE, INCLUDING BUT NOT LIMITED TO HIRING OR AUTHORIZING THE
21 HIRING OF CAMPAIGN STAFF AND CONSULTANTS, SPENDING OR AUTHORIZING THE
22 EXPENDITURE OF CAMPAIGN FUNDS, DIRECTING, SUPERVISING OR CONDUCTING THE
23 SOLICITATION OF CONTRIBUTIONS TO THE CAMPAIGN, AND SELECTING OR RECOM-
24 MENDING VENDORS OR SUBVENDORS OF GOODS OR SERVICES FOR THE CAMPAIGN.

25 4. "CAMPAIGN STRATEGY" MEANS PLANS FOR THE ELECTION, DEFEAT, RETENTION
26 OR RECALL OF A CANDIDATE, OR FOR THE ADOPTION OR DEFEAT OF A MEASURE,
27 INCLUDING BUT NOT LIMITED TO PRODUCING OR AUTHORIZING THE PRODUCTION OF
28 CAMPAIGN LITERATURE AND PRINT AND BROADCAST ADVERTISING, SEEKING
29 ENDORSEMENTS OF ORGANIZATIONS OR INDIVIDUALS, SEEKING FINANCING, OR
30 ADVISING ON PUBLIC POLICY POSITIONS.

31 5. "CANDIDATE" MEANS A PERSON WHO HAS TAKEN AFFIRMATIVE ACTION TO SEEK
32 NOMINATION OR ELECTION TO AN ELECTIVE OFFICE, OR A CURRENT ELECTED OFFI-
33 CIAL WHO HAS TAKEN AFFIRMATIVE ACTION TO SEEK NOMINATION OR REELECTION
34 TO ANY ELECTIVE OFFICE.

35 6. "ECONOMIC CONSIDERATION" MEANS ANY PAYMENTS, FEES, COMMISSIONS,
36 REIMBURSEMENTS FOR EXPENSES, GIFTS, OR ANYTHING ELSE OF VALUE.

37 7. "LOBBY" OR "LOBBYING" SHALL HAVE THE SAME MEANING AS DEFINED IN
38 SUBDIVISION (C) OF SECTION ONE-C OF THE LEGISLATIVE LAW.

39 8. "LOBBYIST" SHALL HAVE THE SAME MEANING AS DEFINED IN SUBDIVISION
40 (A) OF SECTION ONE-C OF THE LEGISLATIVE LAW.

41 9. "MEASURE" MEANS A LOCAL REFERENDUM OR LOCAL BALLOT MEASURE, WHETHER
42 OR NOT IT QUALIFIES FOR THE BALLOT.

43 10. "VENDOR" MEANS A PERSON OR ENTITY WHO SELLS GOODS OR SERVICES,
44 OTHER THAN CAMPAIGN CONSULTING SERVICES, INCLUDING BUT NOT LIMITED TO
45 PRINTING, CATERING, AND TRANSPORTATION SERVICES. THE TERM "VENDOR" DOES
46 NOT INCLUDE ATTORNEYS WHO PROVIDE ONLY LEGAL SERVICES, ACCOUNTANTS WHO
47 PROVIDE ONLY ACCOUNTING SERVICES, POLLSTERS WHO PROVIDE ONLY POLLING
48 SERVICES, AND TREASURERS WHO PROVIDE ONLY THOSE SERVICES WHICH ARE
49 REQUIRED OF TREASURERS.

50 S 18-104. PROHIBITIONS. IT SHALL BE UNLAWFUL FOR ANY CAMPAIGN CONSULT-
51 ANT TO PROVIDE CAMPAIGN CONSULTING SERVICES, OR ACCEPT ANY ECONOMIC
52 CONSIDERATION FOR THE PROVISION OF CAMPAIGN CONSULTING SERVICES, WITHOUT
53 FIRST REGISTERING WITH THE ETHICS COMMISSION AND COMPLYING WITH THE
54 REPORTING REQUIREMENTS SPECIFIED IN SECTION 18-106 OF THIS ARTICLE.

55 S 18-106. REGISTRATION, REREGISTRATION, REPORTING, AND FEES. 1.
56 REGISTRATION REPORTS. AT THE TIME OF INITIAL REGISTRATION, EACH CAMPAIGN

1 CONSULTANT SHALL REPORT TO THE ETHICS COMMISSION THE FOLLOWING INFORMA-
2 TION:

3 (A) THE NAME, BUSINESS ADDRESS AND BUSINESS PHONE NUMBER OF THE
4 CAMPAIGN CONSULTANT;

5 (B) IF THE CAMPAIGN CONSULTANT IS AN INDIVIDUAL, THE NAME OF THE
6 CAMPAIGN CONSULTANT'S EMPLOYER AND A DESCRIPTION OF THE BUSINESS ACTIV-
7 ITY ENGAGED IN BY THE EMPLOYER;

8 (C) THE NAMES OF ANY INDIVIDUALS EMPLOYED BY THE CAMPAIGN CONSULTANT
9 TO ASSIST IN PROVIDING CAMPAIGN CONSULTING SERVICES;

10 (D) A STATEMENT OF WHETHER THE CAMPAIGN CONSULTANT IS REQUIRED TO
11 REGISTER WITH THE ETHICS COMMISSION PURSUANT TO THE LOBBYING ACT ESTAB-
12 LISHED BY ARTICLE ONE-A OF THE LEGISLATIVE LAW;

13 (E) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF EACH CLIENT TO WHOM THE
14 CAMPAIGN CONSULTANT PROVIDED CAMPAIGN CONSULTING SERVICES DURING THE
15 PRECEDING THREE MONTHS;

16 (F) FOR EACH CLIENT, THE TOTAL ECONOMIC CONSIDERATION PROMISED BY OR
17 RECEIVED FROM THE CLIENT IN EXCHANGE FOR THE PROVISION OF CAMPAIGN
18 CONSULTING SERVICES DURING THE PRECEDING THREE MONTHS, PROVIDED THAT THE
19 TOTAL IS FIVE HUNDRED DOLLARS OR MORE;

20 (G) EACH POLITICAL CONTRIBUTION OF ONE HUNDRED DOLLARS OR MORE MADE OR
21 DELIVERED BY THE CAMPAIGN CONSULTANT, OR MADE BY A CLIENT AT THE BEHEST
22 OF THE CAMPAIGN CONSULTANT, OR FOR WHICH THE CAMPAIGN CONSULTANT ACTED
23 AS AN AGENT OR INTERMEDIARY, DURING THE PRECEDING THREE MONTHS IN
24 SUPPORT OF OR IN OPPOSITION TO A CANDIDATE OR MEASURE;

25 (H) THE CUMULATIVE TOTAL OF ALL POLITICAL CONTRIBUTIONS MADE OR DELIV-
26 ERED BY THE CAMPAIGN CONSULTANT, OR WHICH IS MADE BY A CLIENT AT THE
27 BEHEST OF THE CAMPAIGN CONSULTANT, OR FOR WHICH THE CAMPAIGN CONSULTANT
28 ACTED AS AN AGENT OR INTERMEDIARY, DURING THE PRECEDING THREE MONTHS IN
29 SUPPORT OF OR IN OPPOSITION TO EACH INDIVIDUAL CANDIDATE OR MEASURE,
30 PROVIDED THAT THE CUMULATIVE TOTAL IS FIVE HUNDRED DOLLARS OR MORE;

31 (I) ANY GIFTS PROMISED OR MADE BY THE CAMPAIGN CONSULTANT TO AN
32 ELECTED OFFICIAL DURING THE PRECEDING THREE MONTHS WHICH IN THE AGGRE-
33 GATE TOTAL FIFTY DOLLARS OR MORE; AND

34 (J) ANY OTHER INFORMATION REQUIRED BY THE ETHICS COMMISSION CONSISTENT
35 WITH THE PURPOSES AND PROVISIONS OF THIS ARTICLE.

36 2. REREGISTRATION REPORTS. EACH CAMPAIGN CONSULTANT SHALL REREGISTER
37 ANNUALLY ON JANUARY FIRST OR THE FIRST BUSINESS DAY OF THE YEAR OCCUR-
38 RING THEREAFTER. THE ETHICS COMMISSION MAY ALLOW FOR A CAMPAIGN CONSULT-
39 ANT TO REREGISTER BY MAIL, PROVIDED THAT THE REREGISTRATION MATERIALS
40 ARE POSTMARKED NO LATER THAN JANUARY FIRST.

41 3. FEES. AT THE TIME OF INITIAL REGISTRATION AND REREGISTRATION, EACH
42 CAMPAIGN CONSULTANT SHALL PAY TO THE ETHICS COMMISSION A REGISTRATION
43 FEE AND AN ADDITIONAL FEE FOR EACH CLIENT OF THE CAMPAIGN CONSULTANT.
44 THE AMOUNT OF THE FEE SHALL BE:

45 (A) CAMPAIGN CONSULTANTS EARNING AT LEAST ONE THOUSAND DOLLARS BUT NOT
46 MORE THAN FIVE THOUSAND DOLLARS PER CALENDAR YEAR SHALL PAY A REGISTRA-
47 TION FEE OF FIFTY DOLLARS AND SHALL PAY A CLIENT FEE OF FIFTY DOLLARS
48 PER CLIENT;

49 (B) CAMPAIGN CONSULTANTS EARNING MORE THAN FIVE THOUSAND DOLLARS BUT
50 NOT MORE THAN TWENTY THOUSAND DOLLARS PER CALENDAR YEAR SHALL PAY A
51 REGISTRATION FEE OF TWO HUNDRED DOLLARS AND A CLIENT FEE OF FIFTY
52 DOLLARS PER CLIENT;

53 (C) CAMPAIGN CONSULTANTS EARNING MORE THAN TWENTY THOUSAND DOLLARS PER
54 CALENDAR YEAR SHALL PAY A REGISTRATION FEE OF FOUR HUNDRED DOLLARS AND A
55 CLIENT FEE OF FIFTY DOLLARS PER CLIENT.

1 WHEN A CLIENT IS ACQUIRED SUBSEQUENT TO INITIAL REGISTRATION OR REREG-
2 ISTRATION, THE PER CLIENT FEE SHALL BE PAID AT THE TIME OF FILING THE
3 INFORMATION REQUIRED BY SUBDIVISION FOUR OF THIS SECTION. THE ETHICS
4 COMMISSION SHALL DEPOSIT FEES COLLECTED PURSUANT TO THIS SECTION INTO
5 THE GENERAL FUND.

6 4. CLIENT AUTHORIZATION STATEMENTS. AT THE TIME OF INITIAL REGISTRA-
7 TION, THE CAMPAIGN CONSULTANT SHALL SUBMIT TO THE ETHICS COMMISSION A
8 WRITTEN AUTHORIZATION FROM EACH CLIENT THAT CONTRACTS WITH THE CAMPAIGN
9 CONSULTANT FOR CAMPAIGN CONSULTING SERVICES. IF THE CAMPAIGN CONSULTANT
10 IS RETAINED BY A CLIENT AFTER THE DATE OF INITIAL REGISTRATION, THE
11 CAMPAIGN CONSULTANT MUST FILE A CLIENT AUTHORIZATION STATEMENT BEFORE
12 PROVIDING ANY CAMPAIGN CONSULTING SERVICES TO THE CLIENT AND BEFORE
13 RECEIVING ANY ECONOMIC CONSIDERATION FROM THE CLIENT IN EXCHANGE FOR
14 CAMPAIGN CONSULTING SERVICES, AND IN ANY EVENT NO LATER THAN FIFTEEN
15 DAYS AFTER BEING RETAINED TO PROVIDE CAMPAIGN CONSULTING SERVICES TO THE
16 CLIENT.

17 5. QUARTERLY REPORTS. EACH CAMPAIGN CONSULTANT SHALL FILE WITH THE
18 ETHICS COMMISSION QUARTERLY REPORTS CONTAINING THE FOLLOWING INFORMA-
19 TION:

20 (A) FOR EACH CLIENT, THE TOTAL ECONOMIC CONSIDERATION PROMISED BY OR
21 RECEIVED FROM THE CLIENT DURING THE REPORTING PERIOD FOR CAMPAIGN
22 CONSULTING SERVICES, PROVIDED THAT THE TOTAL IS FIVE HUNDRED DOLLARS OR
23 MORE;

24 (B) THE TOTAL ECONOMIC CONSIDERATION PROMISED BY OR RECEIVED FROM ALL
25 CLIENTS DURING THE REPORTING PERIOD FOR CAMPAIGN CONSULTING SERVICES;

26 (C) POLITICAL CONTRIBUTIONS OF ONE HUNDRED DOLLARS OR MORE MADE OR
27 DELIVERED BY THE CAMPAIGN CONSULTANT, OR MADE BY A CLIENT AT THE BEHEST
28 OF THE CAMPAIGN CONSULTANT, OR FOR WHICH THE CAMPAIGN CONSULTANT ACTED
29 AS AN AGENT OR INTERMEDIARY, DURING THE REPORTING PERIOD IN SUPPORT OF
30 OR IN OPPOSITION TO A CANDIDATE OR MEASURE.

31 S 18-108. POWERS AND DUTIES OF THE ETHICS COMMISSION. 1. THE ETHICS
32 COMMISSION SHALL PROVIDE FORMS FOR THE REPORTING OF ALL INFORMATION
33 REQUIRED BY THIS ARTICLE.

34 2. THE ETHICS COMMISSION SHALL ISSUE A REGISTRATION NUMBER TO EACH
35 REGISTERED CAMPAIGN CONSULTANT.

36 3. AT THE TIME OF INITIAL REGISTRATION AND REREGISTRATION, THE ETHICS
37 COMMISSION SHALL PROVIDE THE CAMPAIGN CONSULTANT WITH A COPY OF THE
38 STATE'S CAMPAIGN AND LOBBY LAWS, THE CODE OF CONDUCT SPECIFIED IN
39 SECTION 18-112 OF THIS ARTICLE, AND ANY RELATED MATERIAL WHICH THE
40 COMMISSION DETERMINES WILL SERVE THE PURPOSES OF THIS ARTICLE. EACH
41 CAMPAIGN CONSULTANT MUST SIGN A STATEMENT ACKNOWLEDGING RECEIPT OF THESE
42 MATERIALS.

43 4. THE ETHICS COMMISSION SHALL COMPILE THE INFORMATION PROVIDED IN
44 REGISTRATION AND QUARTERLY REPORTS FILED PURSUANT TO THIS ARTICLE AS
45 SOON AS PRACTICABLE AFTER THE CLOSE OF EACH QUARTER AND SHALL FORWARD A
46 REPORT OF THE COMPILED INFORMATION TO THE GOVERNOR, THE TEMPORARY PRESI-
47 DENT OF THE SENATE, AND THE SPEAKER OF THE ASSEMBLY.

48 5. THE ETHICS COMMISSION SHALL PRESERVE ALL ORIGINAL REPORTS, STATE-
49 MENTS, AND OTHER RECORDS REQUIRED TO BE KEPT OR FILED UNDER THIS ARTICLE
50 FOR A PERIOD OF FIVE YEARS. SUCH REPORTS, STATEMENTS, AND RECORDS SHALL
51 CONSTITUTE A PART OF THE PUBLIC RECORDS OF THE ETHICS COMMISSION AND
52 SHALL BE OPEN TO THE PUBLIC INSPECTION.

53 6. THE COMMISSION SHALL PROVIDE FORMAL AND INFORMAL ADVICE REGARDING
54 THE DUTIES UNDER THIS ARTICLE OF A PERSON OR ENTITY.

1 7. THE ETHICS COMMISSION SHALL HAVE THE POWER TO ADOPT ALL REASONABLE
2 AND NECESSARY RULES AND REGULATIONS FOR THE IMPLEMENTATION OF THIS ARTI-
3 CLE PURSUANT TO THE STATE ADMINISTRATIVE PROCEDURE ACT.

4 S 18-110. ADMINISTRATIVE AND CIVIL ENFORCEMENT; PENALTIES. 1. IF ANY
5 CAMPAIGN CONSULTANT FILES AN ORIGINAL STATEMENT OR REPORT AFTER ANY
6 DEADLINE IMPOSED BY THIS ARTICLE, THE ETHICS COMMISSION SHALL, IN ADDI-
7 TION TO ANY OTHER PENALTIES OR REMEDIES ESTABLISHED IN THIS ARTICLE,
8 FINE THE CAMPAIGN CONSULTANT FIFTY DOLLARS PER DAY AFTER THE DEADLINE
9 UNTIL THE STATEMENT OR REPORT IS RECEIVED BY THE ETHICS COMMISSION. IF
10 ANY CAMPAIGN CONSULTANT FILES AN ORIGINAL STATEMENT OR REPORT AFTER ANY
11 DEADLINE IMPOSED BY THIS ARTICLE, WHEN THE DEADLINE IS FEWER THAN THIRTY
12 DAYS BEFORE OR AFTER AN ELECTION, THE ETHICS COMMISSION SHALL, IN ADDI-
13 TION TO ANY OTHER PENALTIES OR REMEDIES ESTABLISHED IN THIS ARTICLE,
14 FINE THE CAMPAIGN CONSULTANT ONE HUNDRED DOLLARS PER DAY AFTER THE DEAD-
15 LINE UNTIL THE STATEMENT OR REPORT IS RECEIVED BY THE ETHICS COMMISSION.
16 THE ETHICS COMMISSION MAY REDUCE OR WAIVE A FINE IF THE COMMISSION
17 DETERMINES THAT THE LATE FILING WAS NOT WILLFUL AND THAT ENFORCEMENT
18 WILL NOT FURTHER THE PURPOSES OF THIS ARTICLE. THE ETHICS COMMISSION
19 SHALL DEPOSIT FUNDS COLLECTED UNDER THIS SECTION INTO THE GENERAL FUND.

20 2. ANY PERSON WHO BELIEVES THAT THIS ARTICLE HAS BEEN VIOLATED MAY
21 FILE A COMPLAINT WITH THE ETHICS COMMISSION. UPON RECEIPT OF A
22 COMPLAINT, OR UPON ITS OWN INITIATIVE, THE COMMISSION MAY INVESTIGATE
23 ALLEGATIONS OF A VIOLATION AND ENFORCE THE ADHERENCE TO SUCH PROVISIONS.

24 3. WHEN THE COMMISSION DETERMINES ON THE BASIS OF SUBSTANTIAL EVIDENCE
25 THAT A PERSON OR ENTITY HAS VIOLATED THE PROVISIONS OF THIS ARTICLE, THE
26 COMMISSION MAY REQUIRE THE PERSON OR ENTITY TO:

27 (A) CEASE AND DESIST THE VIOLATION;

28 (B) FILE ANY REPORTS OR STATEMENTS OR PAY ANY FEES REQUIRED BY THIS
29 ARTICLE; AND/OR

30 (C) PAY A MONETARY PENALTY OF UP TO FIVE THOUSAND DOLLARS FOR EACH
31 VIOLATION, OR THREE TIMES THE AMOUNT NOT PROPERLY REPORTED, WHICHEVER IS
32 GREATER. THE COMMISSION MAY, IN THEIR OWN DISCRETION, CANCEL FOR UP TO
33 ONE YEAR THE REGISTRATION OF ANY CAMPAIGN CONSULTANT WHO HAS VIOLATED
34 THE PROVISIONS OF THIS ARTICLE. A CAMPAIGN CONSULTANT WHOSE REGISTRATION
35 HAS BEEN CANCELED PURSUANT TO THIS SECTION MAY NOT PROVIDE CAMPAIGN
36 CONSULTING SERVICES IN EXCHANGE FOR ECONOMIC CONSIDERATION FOR THE PERI-
37 OD THAT THE REGISTRATION IS CANCELED. WHEN THE PERIOD OF CANCELLATION
38 ENDS, THE CAMPAIGN CONSULTANT MAY REREGISTER PURSUANT TO THIS ARTICLE.

39 4. ANY PERSON OR ENTITY WHICH KNOWINGLY OR NEGLIGENTLY VIOLATES OR WHO
40 CAUSES ANY OTHER PERSON TO VIOLATE THE PROVISIONS OF THIS ARTICLE MAY BE
41 LIABLE IN A CIVIL ACTION BROUGHT BY A DISTRICT ATTORNEY OR THE ATTORNEY
42 GENERAL FOR AN AMOUNT UP TO FIVE THOUSAND DOLLARS PER VIOLATION, OR
43 THREE TIMES THE AMOUNT NOT PROPERLY REPORTED, WHICHEVER IS GREATER.

44 5. ANY PERSON OR ENTITY WHICH INTENTIONALLY OR NEGLIGENTLY VIOLATES
45 THE PROVISIONS OF SECTION 18-104 OF THIS ARTICLE IS GUILTY OF A MISDE-
46 MEANOR.

47 6. NO ADMINISTRATIVE, CIVIL, OR CRIMINAL ACTION SHALL BE MAINTAINED TO
48 ENFORCE A VIOLATION OF SECTION 18-104 OF THIS ARTICLE UNLESS BROUGHT
49 WITHIN FOUR YEARS AFTER THE DATE THE CAUSE OF ACTION ACCRUED OR THE DATE
50 THAT THE FACTS CONSTITUTING THE CAUSE OF ACTION WERE DISCOVERED BY THE
51 ETHICS COMMISSION, DISTRICT ATTORNEY, OR ATTORNEY GENERAL, WHICHEVER IS
52 LATER.

53 7. IN INVESTIGATING ANY ALLEGED VIOLATION OF SECTION 18-104 OF THIS
54 ARTICLE, THE ETHICS COMMISSION, A DISTRICT ATTORNEY, AND THE ATTORNEY
55 GENERAL SHALL HAVE THE POWER TO INSPECT, UPON REASONABLE NOTICE, ALL
56 DOCUMENTS REQUIRED TO BE MAINTAINED UNDER SUCH SECTION. THIS POWER TO

1 INSPECT DOCUMENTS IS IN ADDITION TO OTHER POWERS CONFERRED ON THE ETHICS
2 COMMISSION, DISTRICT ATTORNEY, AND ATTORNEY GENERAL, INCLUDING THE POWER
3 OF SUBPOENA.

4 S 18-112. CODE OF CONDUCT. AT THE TIME OF INITIAL REGISTRATION AND
5 REREGISTRATION, EACH CAMPAIGN CONSULTANT MUST ELECT WHETHER TO VOLUNTAR-
6 ILY COMPLY WITH THE FOLLOWING CODE OF CONDUCT:

7 1. I AM FAMILIAR WITH ALL THE LAWS, RULES AND REGULATIONS APPLICABLE
8 TO LOCAL AND STATE CAMPAIGNS;

9 2. I WILL NOT KNOWINGLY MAKE FALSE STATEMENTS ABOUT THE QUALIFICATIONS
10 OR POSITIONS OF ANY CANDIDATE, OR ABOUT THE SCOPE AND EFFECT OF ANY
11 MEASURE;

12 3. I WILL NOT KNOWINGLY MAKE FALSE STATEMENTS THAT ANY REAL OR FICTI-
13 TIOUS PERSON SUPPORTS OR OPPOSES A CANDIDATE OR MEASURE;

14 4. IN THE EVENT THAT I MAKE INADVERTENT FALSE STATEMENTS ABOUT THE
15 QUALIFICATIONS OR POSITIONS OF ANY CANDIDATE OR ABOUT THE SCOPE AND
16 EFFECT OF ANY MEASURE, I WILL ENDEAVOR TO PROVIDE CORRECTED INFORMATION
17 IN WRITTEN FORM TO THE ETHICS COMMISSION WITHIN FIVE DAYS;

18 5. I WILL REFRAIN FROM APPEALING TO PREJUDICE IN THE CONDUCT OF A
19 CAMPAIGN, AND FROM CONDUCTING, MANAGING OR ADVISING A CAMPAIGN, WHICH
20 APPEALS TO PREJUDICE BASED ON RACE, GENDER, ETHNIC BACKGROUND, RELIGIOUS
21 AFFILIATION OR NONAFFILIATION, SEXUAL ORIENTATION, AGE, DISABILITY, OR
22 ECONOMIC STATUS;

23 6. I WILL REFRAIN FROM SEEKING TO OBTAIN THE SUPPORT OF OR OPPOSITION
24 TO ANY CANDIDATE OR MEASURE BY THE USE OF FINANCIAL INDUCEMENTS OR BY
25 THE USE OF THREATS OR COERCION;

26 7. I WILL REFRAIN FROM INFLUENCING THE SUBMISSION OF A MEASURE TO THE
27 VOTERS OF THIS STATE FOR THE SOLE PURPOSE OF OBTAINING ECONOMIC CONSID-
28 ERATION FOR CAMPAIGN CONSULTING SERVICES;

29 8. I WILL DISCLOSE THROUGH A FILING AT THE ETHICS COMMISSION ANY
30 AGREEMENTS THAT WOULD RESULT IN A CAMPAIGN CONSULTING CONTRACT RESULTING
31 FROM MY EFFORTS TO INFLUENCE THE SUBMISSION OF A MEASURE TO THE VOTERS
32 OF THE STATE AT THE TIME THAT I SEEK SUBMISSION OF ANY SUCH MEASURE;

33 9. I WILL REFRAIN FROM SEEKING TO EVADE, OR PARTICIPATING IN EFFORTS
34 OF OTHERS TO EVADE, THE LEGAL REQUIREMENTS IN LAWS PERTAINING TO POLI-
35 TICAL CAMPAIGNS;

36 10. I WILL NOT KNOWINGLY PARTICIPATE IN THE PREPARATION, DISSEM-
37 INATION, OR BROADCAST OF PAID POLITICAL ADVERTISING OR CAMPAIGN MATERI-
38 ALS THAT CONTAIN FALSE INFORMATION; AND

39 11. I WILL REFRAIN FROM ACCEPTING CLIENTS WHOSE INTERESTS ARE ADVERSE
40 TO EACH OTHER.

41 12. I WILL REFRAIN FROM SOLICITING FROM ANY CANDIDATE FOR WHICH I
42 HAVE PROVIDED CAMPAIGN CONSULTING SERVICES ANY CONTRACT, GRANT, REMUNER-
43 ATION OR OTHER EMOLUMENT OVER WHICH SUCH CANDIDATE HAS JURISDICTION,
44 CONSIDERATION OR INFLUENCE IN THE PUBLIC POSITION TO WHICH SUCH CANDI-
45 DATE WAS ELECTED.

46 S 18-114. SEVERABILITY. IF ANY SECTION, SUBSECTION, SUBDIVISION,
47 SENTENCE, CLAUSE, PHRASE OR PORTION OF THIS ARTICLE, OR THE APPLICATION
48 THEREOF TO ANY PERSON OR ENTITY IS FOR ANY REASON HELD TO BE INVALID OR
49 UNCONSTITUTIONAL BY THE DECISION OF ANY COURT OF COMPETENT JURISDICTION,
50 SUCH DECISION SHALL NOT AFFECT THE VALIDITY OF THE REMAINING PORTIONS OF
51 THIS ARTICLE OR ITS APPLICATION TO OTHER PERSONS, BUSINESS ENTITIES, OR
52 ORGANIZATIONS. THE LEGISLATURE HEREBY DECLARES THAT IT WOULD HAVE
53 ADOPTED THIS ARTICLE, AND EACH SECTION, SUBSECTION, SUBDIVISION,
54 SENTENCE, CLAUSE, PHRASE OR PORTION THEREOF, IRRESPECTIVE OF THE FACT
55 THAT ANY ONE OR MORE SECTIONS, SUBSECTIONS, SUBDIVISIONS, SENTENCES,

1 CLAUSES, PHRASES, OR PORTIONS, OR THE APPLICATION THEREOF TO ANY PERSON
2 OR ENTITY, TO BE DECLARED INVALID OR UNCONSTITUTIONAL.

3 S 18-116. ELECTRONIC FILING OF STATEMENTS AND REPORTS. 1. ELECTRONIC
4 FILING REQUIRED. WHENEVER CAMPAIGN CONSULTANTS ARE REQUIRED BY THIS
5 ARTICLE TO FILE AN ORIGINAL STATEMENT OR REPORT, THE ETHICS COMMISSION
6 MAY REQUIRE THE CONSULTANTS TO FILE AN ELECTRONIC COPY OF THE STATEMENT
7 OR REPORT. THE ELECTRONIC COPY SHALL BE DUE NO LATER THAN THE DEADLINE
8 IMPOSED BY THIS ARTICLE FOR FILING THE ORIGINAL STATEMENT OR REPORT.

9 2. POWERS AND DUTIES OF THE ETHICS COMMISSION. THE ETHICS COMMISSION
10 SHALL ADOPT REGULATIONS SPECIFYING THE ELECTRONIC FILING REQUIREMENTS
11 APPLICABLE TO CAMPAIGN CONSULTANTS. THE ETHICS COMMISSION SHALL ADOPT
12 THESE REGULATIONS NO FEWER THAN ONE HUNDRED TWENTY DAYS BEFORE THE ELEC-
13 TRONIC FILING REQUIREMENTS ARE EFFECTIVE. THE ETHICS COMMISSION SHALL
14 PRESCRIBE THE FORMAT FOR ELECTRONIC COPIES OF STATEMENTS AND REPORTS NO
15 FEWER THAN NINETY DAYS BEFORE THE STATEMENTS AND REPORTS ARE DUE TO BE
16 FILED.

17 3. PENALTIES. IF ANY CAMPAIGN CONSULTANT FILES AN ELECTRONIC COPY OF A
18 STATEMENT OR REPORT AFTER THE DEADLINE IMPOSED BY THIS SECTION, THE
19 ETHICS COMMISSION SHALL, IN ADDITION TO ANY OTHER PENALTIES OR REMEDIES
20 ESTABLISHED IN THIS ARTICLE, FINE THE CAMPAIGN CONSULTANT TEN DOLLARS
21 PER DAY AFTER THE DEADLINE UNTIL THE ELECTRONIC COPY IS RECEIVED BY THE
22 ETHICS COMMISSION. THE ETHICS COMMISSION MAY REDUCE OR WAIVE A FINE IF
23 THE COMMISSION DETERMINES THAT THE LATE FILING WAS NOT WILLFUL AND THAT
24 ENFORCEMENT WILL NOT FURTHER THE PURPOSES OF THIS ARTICLE. THE ETHICS
25 COMMISSION SHALL DEPOSIT FUNDS COLLECTED UNDER THIS SECTION IN THE
26 GENERAL FUND.

27 S 2. This act shall take effect on the one hundred eightieth day after
28 it shall have become a law.