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

321

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. CAHILL, GALEF, HOYT, PAULIN, BRENNAN, ROSENTHAL, KAVANAGH -- Multi-Sponsored by -- M. of A. BENEDETTO, BING, DINOWITZ, ENGLEBRIGHT, LIFTON, MAGEE, MILLMAN, MOLINARO, ORTIZ, PHEFFER, REILLY, SWEENEY, THIELE, WEISENBERG -- read once and referred to the Committee on Election Law

AN ACT to amend the election law and the public officers law, in relation to campaign funds for personal use

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

Section 1. Section 14-130 of the election law, as added by chapter 152 of the laws of 1985, is amended to read as follows:

S 14-130. Campaign funds for personal use. 1. Contributions received by a candidate or a political committee may ONLY be expended for [any lawful purpose. Such funds shall not be converted by any person to a personal use which is unrelated to a political campaign or the holding of a public office or party position] BONA FIDE PURPOSES DIRECTLY RELATED TO EITHER:

A. PROMOTING THE NOMINATION OR ELECTION OF A CANDIDATE; OR

B. PERFORMING THOSE DUTIES OF PUBLIC OFFICE OR PARTY POSITION WHICH ARE NOT PAID FOR OR ELIGIBLE FOR REIMBURSEMENT BY THE STATE OR ANY POLITICAL SUBDIVISION OR PRIVATE PARTY.

2. PERMISSIBLE ORDINARY AND NECESSARY EXPENSES RELATING TO THE HOLDING OF PUBLIC OFFICE OR PARTY POSITION SHALL INCLUDE:

A. PRODUCTION AND CIRCULATION OF FLYERS OR OTHER WRITTEN MATERIALS RELATED TO DUTIES OF OFFICEHOLDER; THE PLACEMENT OF HOLIDAY GREETINGS AND CONGRATULATORY ADS AND MEMORIAL NOTICES IN LOCAL NEWSPAPERS, MAGAZINES, JOURNALS OR OTHER PUBLICATION;

B. SPONSORSHIP OR HOSTING OF COMMUNITY MEETINGS; TICKETS OR DONATIONS TO LOCAL CHARITABLE, NON-PROFIT OR POLITICAL EVENTS, ORGANIZATIONS OR

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

LBD01049-01-1

ACTIVITIES THAT PROMOTE THE WELFARE OF CONSTITUENTS OR POLITICAL CAMPAIGNS;

C. INCIDENTAL EXPENDITURES FOR THE OPERATION OF LEGISLATIVE OFFICES, INCLUDING PURCHASE OF ITEMS SUCH AS MEMORIAL OR GET-WELL GIFTS, FLOWERS OR SIMILAR ITEMS OF NOMINAL VALUE FOR CONSTITUENTS OR OTHERS;

D. MEMBERSHIP IN ORGANIZATIONS RELATED TO OFFICIAL DUTIES AND COSTS OF ATTENDING INFORMATIONAL MEETINGS ATTENDED IN CONNECTION WITH SUCH DUTIES; AND

E. TRAVEL RELATED TO DUTIES OF OFFICE, PROVIDED THAT THE TRAVEL IS NOT UNDERTAKEN FOR ANY PURPOSE RESULTING IN A PERSONAL OR FINANCIAL BENEFIT TO THE CANDIDATE OR OFFICEHOLDER. IF SUCH EXPENSES INVOLVE BOTH PERSONAL ACTIVITY AND CAMPAIGN OR OFFICIAL ACTIVITIES, THE INCREMENTAL EXPENSES ASSOCIATED WITH THE PERSONAL ACTIVITIES ARE PERSONAL USES UNLESS THE CAMPAIGN IS REIMBURSED FOR SUCH SUMS FROM OTHER THAN CAMPAIGN FUNDS WITHIN THIRTY DAYS OF THE EXPENDITURE.

NOTHING IN THIS SECTION SHALL PROHIBIT A CANDIDATE FROM PURCHASING OFFICE EQUIPMENT WITH PERSONAL FUNDS AND LEASING OR RENTING SUCH EQUIPMENT OR PROPERTY TO A COMMITTEE WORKING WITH OR FOR THE CANDIDATE, PROVIDED THE CANDIDATE OR THE CAMPAIGN TREASURER SIGN A WRITTEN LEASE OR RENTAL AGREEMENT AND FILES IT WITH THE APPROPRIATE REQUIRED CAMPAIGN FINANCIAL FILING WHICH SHALL INCLUDE THE LEASE OR RENTAL PRICE WHICH SHALL NOT EXCEED THE FAIR LEASE OR RENTAL VALUE OF THE EQUIPMENT OR IN THE AGGREGATE EXCEED THE COST OF ITS PURCHASE.

3. CAMPAIGN FUNDS SHALL NOT BE CONVERTED TO PERSONAL USE, WHICH SHALL BE DEFINED AS EXPENDITURES THAT:

A. ARE FOR THE PERSONAL BENEFIT OF OR TO DEFRAY NORMAL LIVING EXPENSES OF THE CANDIDATE, OFFICEHOLDER, IMMEDIATE FAMILY OR PARTNER OF EITHER OR ANY OTHER PERSON;

B. ARE USED TO FULFILL ANY COMMITMENT, OBLIGATION, OR EXPENSE THAT WOULD EXIST IRRESPECTIVE OF THE CANDIDATE'S CAMPAIGN OR DUTIES AS AN OFFICEHOLDER; OR

C. ARE PUT TO ANY USE FOR WHICH THE CANDIDATE OR OFFICEHOLDER WOULD BE REQUIRED TO TREAT THE AMOUNT OF THE EXPENDITURE AS GROSS INCOME UNDER SECTION 61 OF THE INTERNAL REVENUE CODE.

4. EXPENDITURES FOR PERSONAL USE SHALL ALSO INCLUDE, BUT ARE NOT LIMITED TO, EXPENDITURES FOR:

A. RESIDENTIAL OR HOUSEHOLD ITEMS, SUPPLIES, MAINTENANCE OR OTHER EXPENDITURES, INCLUDING MORTGAGE, RENT, UTILITIES, REPAIRS, OR IMPROVEMENTS FOR ANY PART OF ANY PERSONAL RESIDENCE OF A CANDIDATE OR OFFICEHOLDER, HIS OR HER IMMEDIATE FAMILY OR PARTNER;

B. RENT OR UTILITY PAYMENTS THAT EXCEED FAIR MARKET VALUE FOR USE OF ANY PART OF ANY NON-RESIDENTIAL PROPERTY OWNED BY A CANDIDATE, OR A MEMBER OF A CANDIDATE'S FAMILY OR PARTNER USED FOR CAMPAIGN PURPOSES;

C. SALARY AND OTHER FEES FOR BONA FIDE SERVICES TO A CAMPAIGN OR LEGISLATIVE OFFICE THAT EXCEED FAIR AND REASONABLE MARKET VALUE OF SUCH SERVICES;

D. INTEREST OR ANY OTHER FINANCE CHARGES FOR MONIES LOANED TO THE CAMPAIGN BY THE CANDIDATE OR THE SPOUSE OR PARTNER OF SUCH CANDIDATE;

E. TUITION PAYMENTS;

F. DUES, FEES, OR GRATUITIES AT PRIVATE CLUBS, RECREATIONAL FACILITIES OR OTHER NONPOLITICAL ORGANIZATIONS, UNLESS CONNECTED TO A SPECIFIC WIDELY ATTENDED FUNDRAISING EVENT THAT TAKES PLACE ON THE ORGANIZATION'S PREMISES;

G. AUTOMOBILE PURCHASES OR LONG TERM LEASES; SHORT TERM CAR RENTALS AND CELLULAR EQUIPMENT AND SERVICES NOT USED EXCLUSIVELY FOR CAMPAIGN PURPOSES OR DUTIES AS AN OFFICEHOLDER;

H. ADMISSION TO SPORTING EVENTS, CONCERTS, THEATERS, OR OTHER FORMS OF ENTERTAINMENT, UNLESS PART OF A SPECIFIC CAMPAIGN OR OFFICEHOLDER RELATED ACTIVITY; AND

I. PAYMENT OF ANY FINES, FEES, OR PENALTIES ASSESSED PURSUANT TO THIS CHAPTER.

5. NO CAMPAIGN FUNDS SHALL BE USED TO PAY ATTORNEY'S FEES OR ANY COSTS OF DEFENDING AGAINST ANY CIVIL OR CRIMINAL INVESTIGATION OR PROSECUTION FOR ALLEGED VIOLATIONS OF STATE OR FEDERAL LAW ALLEGED TO HAVE BEEN COMMITTED WHILE HOLDING PUBLIC OFFICE OR AS A CANDIDATE FOR OFFICE WHERE THE CANDIDATE OR PUBLIC OR PARTY OFFICIAL, MEMBERS OF THEIR IMMEDIATE FAMILIES OR PARTNERS OR THE CAMPAIGN IS THE TARGET OF SUCH INVESTIGATION OR PROSECUTION UNLESS SUCH EXPENDITURE IS USED EXCLUSIVELY FOR COSTS RELATED TO CIVIL OR CRIMINAL ACTIONS FOR ALLEGED VIOLATIONS RELATED TO ACTIVITIES PROMOTING THE NOMINATION OR ELECTION OF A CANDIDATE.

S 2. The election law is amended by adding a new section 14-132 to read as follows:

S 14-132. DISPOSITION OF CAMPAIGN FUNDS. 1. AN AUTHORIZED CONTINUING CANDIDATE COMMITTEE MUST DISPOSE OF ALL FUNDS AND CLOSE WITHIN FOUR YEARS AFTER THE LATER OF (A) THE END OF THE INDIVIDUAL'S MOST RECENT TERM OF OFFICE, OR (B) THE DATE OF THE ELECTION IN WHICH THE INDIVIDUAL LAST WAS A FILED CANDIDATE.

2. ANY CANDIDATE OR POLITICAL COMMITTEE REQUIRED TO DISPOSE OF FUNDS PURSUANT TO THIS SECTION SHALL, AT THE OPTION OF THE CANDIDATE, OR THE TREASURER OF A POLITICAL COMMITTEE FORMED SOLELY TO PROMOTE THE PASSAGE OR DEFEAT OF A BALLOT PROPOSAL, DISPOSE OF SUCH FUNDS BY ANY OF THE FOLLOWING MEANS, OR ANY COMBINATION THEREOF:

A. RETURNING, PRO RATA, TO EACH CONTRIBUTOR THE FUNDS THAT HAVE NOT BEEN SPENT OR OBLIGATED;

B. DONATING THE FUNDS TO A CHARITABLE ORGANIZATION OR ORGANIZATIONS THAT MEET THE QUALIFICATIONS OF SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE;

C. DONATING THE FUNDS TO THE STATE UNIVERSITY;

D. DONATING THE FUNDS TO THE STATE'S GENERAL FUND;

E. TRANSFERRING THE FUNDS TO A POLITICAL PARTY COMMITTEE REGISTERED WITH THE STATE BOARD OF ELECTIONS; OR

F. CONTRIBUTING THE FUNDS TO A CANDIDATE OR POLITICAL COMMITTEE SUCH THAT THIS DOES NOT EXCEED THE LIMITS SET FORTH IN SECTION 14-114 OF THIS ARTICLE.

3. NO CANDIDATE OR POLITICAL COMMITTEE SHALL DISPOSE OF CAMPAIGN FUNDS BY MAKING EXPENDITURES FOR PERSONAL USE AS DEFINED IN SECTION 14-130 OF THIS ARTICLE.

4. UPON THE DEATH OF A CANDIDATE, FORMER CANDIDATE OR HOLDER OF ELECTIVE OFFICE, WHO RECEIVED CAMPAIGN CONTRIBUTIONS, ALL CONTRIBUTIONS SHALL BE DISPOSED OF ACCORDING TO THIS SECTION WITHIN TWELVE MONTHS OF THE DEATH OF THE CANDIDATE.

S 3. Subdivision 1 of section 14-102 of the election law, as amended by chapter 8 and redesignated by chapter 9 of the laws of 1978, is amended to read as follows:

1. The treasurer of every political committee which, or any officer, member or agent of any such committee who, in connection with any election, receives or expends any money or other valuable thing or incurs any liability to pay money or its equivalent 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 all the receipts, contributions to and the expenditures by

and liabilities of the committee, and of its officers, members and agents in its behalf. Such statements shall include the dollar amount of any receipt, contribution or transfer, or the fair market value of any receipt, contribution or transfer, which is other than of money, the name and address of the transferor, contributor or person from whom received, IF THE CONTRIBUTOR IS A LOBBYIST REGISTERED PURSUANT TO ARTICLE ONE-A OF THE LEGISLATIVE LAW and if the transferor, contributor or person is a political committee; the name of and the political unit represented by the committee, 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. 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 4. Subdivision 3 of section 74 of the public officers law is amended by adding a new paragraph j to read as follows:

J. NO OFFICER OR EMPLOYEE OF A STATE AGENCY REQUIRED TO FILE AN ANNUAL STATEMENT OF FINANCIAL DISCLOSURE PURSUANT TO SECTION SEVENTY-THREE-A OF THIS ARTICLE SHALL SOLICIT OR RECEIVE CONTRIBUTIONS FOR A CAMPAIGN FOR STATE OR FEDERAL OFFICE.

S 5. This act shall take effect on the sixtieth day after it shall have become a law; provided, however, that the state board of elections shall notify all registered campaign committees of the applicable provisions of this act within thirty days after this act shall have become a law.