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2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

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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:

- 1 Section 1. Section 14-130 of the election law, as added by chapter 152
2 of the laws of 1985, is amended to read as follows:
3 S 14-130. Campaign funds for personal use. 1. Contributions received
4 by a candidate or a political committee may ONLY be expended for [any
5 lawful purpose. Such funds shall not be converted by any person to a
6 personal use which is unrelated to a political campaign or the holding
7 of a public office or party position] BONA FIDE PURPOSES DIRECTLY
8 RELATED TO EITHER:
9 A. PROMOTING THE NOMINATION OR ELECTION OF A CANDIDATE; OR
10 B. PERFORMING THOSE DUTIES OF PUBLIC OFFICE OR PARTY POSITION WHICH
11 ARE NOT PAID FOR OR ELIGIBLE FOR REIMBURSEMENT BY THE STATE OR ANY POLI-
12 TICAL SUBDIVISION OR PRIVATE PARTY.
13 2. PERMISSIBLE ORDINARY AND NECESSARY EXPENSES RELATING TO THE HOLDING
14 OF PUBLIC OFFICE OR PARTY POSITION SHALL INCLUDE:
15 A. PRODUCTION AND CIRCULATION OF FLYERS OR OTHER WRITTEN MATERIALS
16 RELATED TO DUTIES OF OFFICEHOLDER; THE PLACEMENT OF HOLIDAY GREETINGS
17 AND CONGRATULATORY ADS AND MEMORIAL NOTICES IN LOCAL NEWSPAPERS, MAGA-
18 ZINES, JOURNALS OR OTHER PUBLICATION;
19 B. SPONSORSHIP OR HOSTING OF COMMUNITY MEETINGS; TICKETS OR DONATIONS
20 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.

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1 ACTIVITIES THAT PROMOTE THE WELFARE OF CONSTITUENTS OR POLITICAL
2 CAMPAIGNS;

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

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

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

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

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

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

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

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

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

37 A. RESIDENTIAL OR HOUSEHOLD ITEMS, SUPPLIES, MAINTENANCE OR OTHER
38 EXPENDITURES, INCLUDING MORTGAGE, RENT, UTILITIES, REPAIRS, OR IMPROVE-
39 MENTS FOR ANY PART OF ANY PERSONAL RESIDENCE OF A CANDIDATE OR OFFICE-
40 HOLDER, HIS OR HER IMMEDIATE FAMILY OR PARTNER;

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

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

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

49 E. TUITION PAYMENTS;

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

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

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

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

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

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

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

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

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

29 B. DONATING THE FUNDS TO A CHARITABLE ORGANIZATION OR ORGANIZATIONS
30 THAT MEET THE QUALIFICATIONS OF SECTION 501(C)(3) OF THE INTERNAL REVEN-
31 UE CODE;

32 C. DONATING THE FUNDS TO THE STATE UNIVERSITY;

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

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

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

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

42 4. UPON THE DEATH OF A CANDIDATE, FORMER CANDIDATE OR HOLDER OF ELEC-
43 TIVE OFFICE, WHO RECEIVED CAMPAIGN CONTRIBUTIONS, ALL CONTRIBUTIONS
44 SHALL BE DISPOSED OF ACCORDING TO THIS SECTION WITHIN TWELVE MONTHS OF
45 THE DEATH OF THE CANDIDATE.

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

49 1. The treasurer of every political committee which, or any officer,
50 member or agent of any such committee who, in connection with any
51 election, receives or expends any money or other valuable thing or
52 incurs any liability to pay money or its equivalent shall file state-
53 ments sworn, or subscribed and bearing a form notice that false state-
54 ments made therein are punishable as a class A misdemeanor pursuant to
55 section 210.45 of the penal law, at the times prescribed by this article
56 setting forth all the receipts, contributions to and the expenditures by

1 and liabilities of the committee, and of its officers, members and
2 agents in its behalf. Such statements shall include the dollar amount of
3 any receipt, contribution or transfer, or the fair market value of any
4 receipt, contribution or transfer, which is other than of money, the
5 name and address of the transferor, contributor or person from whom
6 received, IF THE CONTRIBUTOR IS A LOBBYIST REGISTERED PURSUANT TO ARTI-
7 CLE ONE-A OF THE LEGISLATIVE LAW and if the transferor, contributor or
8 person is a political committee; the name of and the political unit
9 represented by the committee, the date of its receipt, the dollar amount
10 of every expenditure, the name and address of the person to whom it was
11 made or the name of and the political unit represented by the committee
12 to which it was made and the date thereof, and shall state clearly the
13 purpose of such expenditure. Any statement reporting a loan shall have
14 attached to it a copy of the evidence of indebtedness. Expenditures in
15 sums under fifty dollars need not be specifically accounted for by sepa-
16 rate items in said statements, and receipts and contributions aggregat-
17 ing not more than ninety-nine dollars, from any one contributor need not
18 be specifically accounted for by separate items in said statements,
19 provided however, that such expenditures, receipts and contributions
20 shall be subject to the other provisions of section 14-118 of this arti-
21 cle.

22 S 4. Subdivision 3 of section 74 of the public officers law is amended
23 by adding a new paragraph j to read as follows:

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

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