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

940

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. RIVERA, KRUEGER -- 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 who are convicted of or plead guilty to class D felonies or higher level crimes from acting as a lobbyist for a period of three years from the date of the conviction

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

Section 1. Section 1-o of the legislative law, as added by chapter 14 of the laws of 2007, is amended to read as follows:

S 1-o. Penalties. (a) ANY LOBBYIST CONVICTED OF OR PLEADING GUILTY TO A CLASS D FELONY OR HIGHER LEVEL CRIME SHALL BE BARRED FROM ACTING AS A LOBBYIST FOR A PERIOD OF THREE YEARS FROM THE DATE OF THE CONVICTION.

(B) UPON COMPLETION THE COMMISSION SHALL RE-EVALUATE THE SUSPENSION AND DETERMINE WHETHER OR NOT SUCH SUSPENSION SHOULD BE EXTENDED FOR AN ADDITIONAL PERIOD OF TIME. IN NO EVENT SHALL SUCH EXTENSION BE FOR MORE THAN TWO MORE YEARS. ANY LOBBYIST WISHING TO RE-REGISTER WITH THE COMMISSION AND RE-COMMENCE HIS OR HER PRACTICE OF LOBBYING SHALL BE ENTITLED TO A HEARING UPON APPLICATION TO DETERMINE IF THE SUSPENSION SHOULD BE EXTENDED UNDER THIS SUBDIVISION.

(C) (i) Any lobbyist, public corporation, or client who knowingly and wilfully fails to file timely a report or statement required by this section or knowingly and wilfully files false information or knowingly and wilfully violates section one-m of this article shall be guilty of a class A misdemeanor; and

(ii) any lobbyist, public corporation, or client who knowingly and wilfully fails to file timely a report or statement required by this section or knowingly and wilfully files false information or knowingly and wilfully violates section one-m of this article, after having previously been convicted in the preceding five years of the crime described

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

LBD01321-01-3

in paragraph (i) of this subdivision, shall be guilty of a class E felony. Any lobbyist convicted of or pleading guilty to a felony under the provisions of this [section] SUBDIVISION may be barred from acting as a lobbyist for a period of one year from the date of the conviction. For the purposes of this subdivision, the chief administrative officer of any organization required to file a statement or report shall be the person responsible for making and filing such statement or report unless some other person prior to the due date thereof has been duly designated to make and file such statement or report.

[(b)] (D) (i) A lobbyist, public corporation, or client who knowingly and wilfully fails to file a statement or report within the time required for the filing of such report or knowingly and wilfully violates section one-m of this article shall be subject to a civil penalty for each such failure or violation, in an amount not to exceed the greater of twenty-five thousand dollars or three times the amount the person failed to report properly or unlawfully contributed, expended, gave or received, to be assessed by the commission.

(ii) A lobbyist, public corporation, or client who knowingly and wilfully files a false statement or report shall be subject to a civil penalty, in an amount not to exceed the greater of fifty thousand dollars or five times the amount the person failed to report properly, to be assessed by the commission.

(iii)(A) A lobbyist or client who knowingly and wilfully violates the provisions of subdivision one of section one-n of this article shall be subject to a civil penalty not to exceed ten thousand dollars for an initial violation.

(B) If, after a lobbyist or client has been found to have violated subdivision one of section one-n of this article, a lobbyist or client knowingly and wilfully violates the provisions of subdivision one of section one-n of this article within four years of such finding, the lobbyist or client shall be subject to a civil penalty not to exceed twenty-five thousand dollars.

(iv) Any lobbyist or client that knowingly and wilfully fails to file a statement or report within the time required for the filing of such report, knowingly and wilfully files a false statement or report, or knowingly and wilfully violates section one-m of this article, after having been found by the commission to have knowing and wilfully committed such conduct or violation in the preceding five years, may be subject to a determination that the lobbyist or client is prohibited from engaging in lobbying activities, as that term is defined in paragraph (v) of subdivision (c) of section one-c of this article, for a period of one year.

(v) Any lobbyist or client that knowingly and wilfully engages in lobbying activities, as that term is defined in paragraph (v) of subdivision (c) of section one-c of this article, during the period in which they are prohibited from engaging in lobbying activities, as that term is defined in paragraph (v) of subdivision (c) of section one-c of this article pursuant to this subdivision, may be subject to a determination that the lobbyist or client is prohibited from engaging in lobbying activities, as that term is defined in paragraph (v) of subdivision (c) of section one-c of this article, for a period of up to four years, and shall be subject to a civil penalty not to exceed fifty thousand dollars, plus a civil penalty in an amount equal to five times the value of any gift, compensation or benefit received as a result of the violation.

(vi) A lobbyist, public corporation, or client who knowingly and wilfully fails to retain their records pursuant to paragraph three of subdivision (c) of section one-e of this article, subparagraph (v) of paragraph five of subdivision (b) of section one-h of this article, or paragraph five of subdivision (b) of section one-j of this article shall be subject to a civil penalty in an amount of two thousand dollars per violation to be assessed by the commission.

[(c)] (E) (i) Any assessment or order to debar shall be determined only after a hearing at which the party shall be entitled to appear, present evidence and be heard. Any assessment or order to debar pursuant to this section may only be imposed after the commission sends by certified and first-class mail written notice of intent to assess a penalty or order to debar and the basis for the penalty or order to debar. Any assessment may be recovered in an action brought by the attorney general.

(ii) In assessing any fine or penalty pursuant to this section, the commission shall consider: (A) as a mitigating factor that the lobbyist, public corporation or client has not previously been required to register, and (B) as an aggravating factor that the lobbyist, public corporation or client has had fines or penalties assessed against it in the past. The amount of compensation expended, incurred or received shall be a factor to consider in determining a proportionate penalty.

(iii) Any lobbyist, public corporation or client who receives a notice of intent to assess a penalty for knowingly and wilfully failing to file a report or statement pursuant to subdivision [(b)] (D) of this section and who has never previously received a notice of intent to assess a penalty for failing to file a report or statement required under this section shall be granted fifteen days within which to file the statement of registration or report without being subject to the fine or penalty set forth in subdivision [(b)] (D) of this section. Upon the failure of such lobbyist, public corporation or client to file within such fifteen day period, such lobbyist, public corporation or client shall be subject to a fine or penalty pursuant to subdivision [(b)] (D) of this section.

[(d)] (F) All moneys recovered by the attorney general or received by the commission from the assessment of civil penalties authorized by this section shall be deposited to the general fund.

S 2. This act shall take effect on the sixtieth day after it shall have become a law.