

4690

2015-2016 Regular Sessions

I N S E N A T E

April 7, 2015

Introduced by Sen. AVELLA -- 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 from engaging in political consulting of candidates for and holders of state office and prohibiting certain political consultants from engaging in lobbying; and to amend the election law, in relation to requiring the reporting of the provision of political consulting services

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

1 Section 1. Section 1-c of the legislative law is amended by adding a
2 new subdivision (x) to read as follows:
3 (X) THE TERM "POLITICAL CONSULTING" SHALL MEAN AND INCLUDE THE
4 PROVISION, FOR COMPENSATION, TO ANY STATE PUBLIC OFFICIAL, CANDIDATE OR
5 PROSPECTIVE CANDIDATE FOR AN ELECTED STATE OFFICE OF ADVICE, SERVICES OR
6 ASSISTANCE IN SECURING SUCH PUBLIC OFFICE INCLUDING, BUT NOT LIMITED TO,
7 CAMPAIGN MANAGEMENT, FUNDRAISING ACTIVITIES, PUBLIC RELATIONS OR MEDIA
8 SERVICES, BUT SHALL EXCLUDE BONA FIDE LEGAL WORK DIRECTLY RELATED TO
9 LITIGATION OR LEGAL ADVICE WITH REGARD TO SECURING A PLACE ON THE
10 BALLOT, THE PETITIONING PROCESS, THE CONDUCT OF AN ELECTION OR WHICH
11 INVOLVES THE ELECTION LAW.
12 S 2. Section 1-m of the legislative law, as added by chapter 14 of the
13 laws of 2007, is amended to read as follows:
14 S 1-m. Prohibition of gifts AND POLITICAL CONSULTING. (A) No individ-
15 ual or entity required to be listed on a statement of registration
16 pursuant to this article shall offer or give a gift to any public offi-
17 cial as defined within this article, unless under the circumstances it
18 is not reasonable to infer that the gift was intended to influence such
19 public official. No individual or entity required to be listed on a
20 statement of registration pursuant to this article shall offer or give a
21 gift to the spouse or unemancipated child of any public official as

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

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1 defined within this article under circumstances where it is reasonable
2 to infer that the gift was intended to influence such public official.
3 No spouse or unemancipated child of an individual required to be listed
4 on a statement of registration pursuant to this article shall offer or
5 give a gift to a public official under circumstances where it is reason-
6 able to infer that the gift was intended to influence such public offi-
7 cial. This section shall not apply to gifts to officers, members or
8 directors of boards, commissions, councils, public authorities or public
9 benefit corporations who receive no compensation or are compensated on a
10 per diem basis, unless the person listed on the statement of registra-
11 tion appears or has matters pending before the board, commission or
12 council on which the recipient sits.

13 (B) NO PERSON OR ORGANIZATION THAT IS ENGAGED IN LOBBYING OR LOBBYING
14 ACTIVITIES SHALL ENGAGE IN POLITICAL CONSULTING FOR ANY STATE PUBLIC
15 OFFICIAL, CANDIDATE OR PROSPECTIVE CANDIDATE FOR AN ELECTED STATE
16 OFFICE; PROVIDED, HOWEVER THAT A PERSON OR ORGANIZATION THAT IS ENGAGED
17 SOLELY IN THE LOBBYING OF OR LOBBYING ACTIVITIES RELATED TO MUNICIPAL
18 AGENCIES, LOCAL LEGISLATIVE BODIES AND MUNICIPAL PUBLIC OFFICERS, AND
19 DOES NOT ENGAGE IN THE LOBBYING OF OR LOBBYING ACTIVITIES RELATED TO
20 STATE AGENCIES AND STATE PUBLIC OFFICIALS, MAY ENGAGE IN SUCH POLITICAL
21 CONSULTING FOR MUNICIPAL PUBLIC OFFICIALS.

22 (C) NO PERSON OR ORGANIZATION THAT IS ENGAGED IN POLITICAL CONSULTING
23 FOR ANY STATE PUBLIC OFFICIAL, CANDIDATE OR PROSPECTIVE CANDIDATE FOR AN
24 ELECTED STATE OFFICE SHALL BE EMPLOYED BY, BE AFFILIATED WITH OR BE
25 UNDER COMMON OWNERSHIP WITH ANY PERSON OR ORGANIZATION ENGAGED IN LOBBY-
26 ING OR LOBBYING ACTIVITIES, EXCEPT AS OTHERWISE AUTHORIZED BY SUBDIVI-
27 SION (B) OF THIS SECTION.

28 S 3. Subdivision (h) of section 1-c of the legislative law, as added
29 by chapter 2 of the laws of 1999, is amended to read as follows:

30 (h) The term "compensation" shall mean any salary, fee, gift, payment,
31 benefit, loan, advance or any other thing of value paid, owed, given or
32 promised to the lobbyist OR POLITICAL CONSULTANT by the client for
33 lobbying OR POLITICAL CONSULTING but shall not include contributions
34 reportable pursuant to article fourteen of the election law.

35 S 4. Section 14-100 of the election law is amended by adding two new
36 subdivisions 15 and 16 to read as follows:

37 15. "POLITICAL CONSULTING" MEANS AND INCLUDES THE PROVISION FOR
38 COMPENSATION, TO ANY POLITICAL COMMITTEE OR CANDIDATE OF ADVICE,
39 SERVICES OR ASSISTANCE IN SECURING STATE PUBLIC OFFICE INCLUDING, BUT
40 NOT LIMITED TO, CAMPAIGN MANAGEMENT, FUNDRAISING ACTIVITIES, PUBLIC
41 RELATIONS OR MEDIA SERVICES, BUT SHALL EXCLUDE LEGAL WORK DIRECTLY
42 RELATED TO LITIGATION OR LEGAL ADVICE WITH REGARD TO SECURING A PLACE ON
43 THE BALLOT, THE PETITIONING PROCESS, THE CONDUCT OF AN ELECTION OR WHICH
44 INVOLVES THIS CHAPTER.

45 16. "COMPENSATION" MEANS ANY SALARY, FEE, GIFT, PAYMENT, BENEFIT,
46 LOAN, ADVANCE OR ANY OTHER THING OF VALUE PAID, OWED, GIVEN OR PROMISED,
47 BUT SHALL NOT INCLUDE CONTRIBUTIONS REPORTABLE PURSUANT TO THIS ARTICLE.

48 S 5. Subdivision 1 of section 14-102 of the election law, as amended
49 by chapter 8 of the laws of 1978 and as redesignated by chapter 9 of the
50 laws of 1978, is amended to read as follows:

51 1. The treasurer of every political committee which, or any officer,
52 member or agent of any such committee who, in connection with any
53 election, receives or expends any money or other valuable thing or
54 incurs any liability to pay money or its equivalent shall file state-
55 ments sworn, or subscribed and bearing a form notice that false state-
56 ments made therein are punishable as a class A misdemeanor pursuant to

1 section 210.45 of the penal law, at the times prescribed by this article
2 setting forth all the receipts, contributions to and the expenditures by
3 and liabilities of the committee, and of its officers, members and
4 agents in its behalf. Such statements shall include the dollar amount of
5 any receipt, contribution or transfer, or the fair market value of any
6 receipt, contribution or transfer, which is other than of money, the
7 name and address of the transferor, contributor or person from whom
8 received, and if the transferor, contributor or person is a political
9 committee; the name of and the political unit represented by the commit-
10 tee, the date of its receipt, the dollar amount of every expenditure,
11 the name and address of the person to whom it was made or the name of
12 and the political unit represented by the committee to which it was made
13 and the date thereof, and shall state clearly the purpose of such
14 expenditure. FURTHERMORE, SUCH STATEMENTS SHALL INCLUDE A LIST OF ALL
15 PERSONS AND ORGANIZATIONS WHICH PROVIDED POLITICAL CONSULTING SERVICES,
16 AND THE FAIR MARKET VALUE OF AND THE ACTUAL AMOUNT PAID TO EACH SUCH
17 PERSON AND ORGANIZATION FOR THE PROVISION OF POLITICAL CONSULTING
18 SERVICES. Any statement reporting a loan shall have attached to it a
19 copy of the evidence of indebtedness. Expenditures in sums under fifty
20 dollars need not be specifically accounted for by separate items in said
21 statements, and receipts and contributions aggregating not more than
22 ninety-nine dollars, from any one contributor need not be specifically
23 accounted for by separate items in said statements, provided however,
24 that such expenditures, receipts and contributions shall be subject to
25 the other provisions of section 14-118 of this article.

26 S 6. Subdivision 1 of section 14-104 of the election law, as amended
27 by chapter 430 of the laws of 1997, is amended to read as follows:

28 1. Any candidate for election to public office, or for nomination for
29 public office at a contested primary election or convention, or for
30 election to a party position at a primary election, shall file state-
31 ments sworn, or subscribed and bearing a form notice that false state-
32 ments made therein are punishable as a class A misdemeanor pursuant to
33 section 210.45 of the penal law, at the times prescribed by this article
34 setting forth the particulars specified by section 14-102 of this arti-
35 cle, as to all moneys or other valuable things, paid, given, expended or
36 promised by him OR HER to aid his OR HER own nomination or election, or
37 to promote the success or defeat of a political party, or to aid or
38 influence the nomination or election or the defeat of any other candi-
39 date to be voted for at the election or primary election or at a conven-
40 tion, including contributions to political committees, officers, members
41 or agents thereof, and transfers, receipts and contributions to him to
42 be used for any of the purposes above specified, or in lieu thereof, any
43 such candidate may file such a sworn statement at the first filing peri-
44 od, on a form prescribed by the state board of elections that such
45 candidate has made no such expenditures and does not intend to make any
46 such expenditures, except through a political committee authorized by
47 such candidate pursuant to this article. FURTHERMORE, SUCH STATEMENTS
48 SHALL INCLUDE A LIST OF ALL PERSONS AND ORGANIZATIONS WHICH PROVIDED
49 POLITICAL CONSULTING SERVICES, AND THE FAIR MARKET VALUE OF AND THE
50 ACTUAL AMOUNT PAID TO EACH SUCH PERSON AND ORGANIZATION FOR THE
51 PROVISION OF POLITICAL CONSULTING SERVICES. A committee authorized by
52 such a candidate may fulfill all of the filing requirements of this act
53 on behalf of such candidate.

54 S 7. This act shall take effect on the thirtieth day after it shall
55 have become a law.