

4690--A

2015-2016 Regular Sessions

I N S E N A T E

April 7, 2015

Introduced by Sens. AVELLA, CARLUCCI, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- recommitted to the Committee on Finance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 compensated lobbying and lobbying activities; 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

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

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

16 (B) NO PERSON OR ORGANIZATION THAT HAS BEEN RETAINED OR RECEIVED
17 COMPENSATION FOR POLITICAL CONSULTING, IS AN INDIVIDUAL WHO HAS AN
18 OWNERSHIP INTEREST IN A POLITICAL CONSULTING ORGANIZATION, OR IS AN
19 EMPLOYEE OF THE POLITICAL CONSULTANT SHALL ENGAGE IN COMPENSATED LOBBY-
20 ING OR LOBBYING ACTIVITIES WITH ANY STATE PUBLIC OFFICIAL, CANDIDATE, OR
21 PROSPECTIVE CANDIDATE FOR ELECTED OFFICE WHO IS A CURRENT OR FORMER
22 CLIENT OF THE POLITICAL CONSULTANT; PROVIDED, HOWEVER THAT A PERSON OR
23 ORGANIZATION THAT IS ENGAGED SOLELY IN THE LOBBYING OF OR LOBBYING
24 ACTIVITIES RELATED TO MUNICIPAL AGENCIES, LOCAL LEGISLATIVE BODIES AND
25 MUNICIPAL PUBLIC OFFICERS, AND DOES NOT ENGAGE IN THE LOBBYING OF OR
26 LOBBYING ACTIVITIES RELATED TO STATE AGENCIES AND STATE PUBLIC OFFI-
27 CIALS, MAY ENGAGE IN SUCH POLITICAL CONSULTING FOR MUNICIPAL PUBLIC
28 OFFICIALS.

29 (C) NO PERSON OR ORGANIZATION THAT IS ENGAGED IN COMPENSATED POLITICAL
30 CONSULTING FOR ANY STATE PUBLIC OFFICIAL, CANDIDATE OR PROSPECTIVE
31 CANDIDATE FOR AN ELECTED STATE OFFICE SHALL BE EMPLOYED BY, BE AFFIL-
32 IATED WITH OR BE UNDER COMMON OWNERSHIP WITH ANY PERSON OR ORGANIZATION
33 ENGAGED IN COMPENSATED LOBBYING OR LOBBYING ACTIVITIES, EXCEPT AS OTHER-
34 WISE AUTHORIZED BY SUBDIVISION (B) OF THIS SECTION.

35 (D) (1) THIS PROHIBITION SHALL NOT APPLY TO:

36 (A) AN EMPLOYEE OF THE POLITICAL CONSULTANT WHOSE SOLE DUTIES ARE
37 CLERICAL; OR

38 (B) AN EMPLOYEE OF THE POLITICAL CONSULTANT WHO DID NOT PERSONALLY
39 PROVIDE POLITICAL CONSULTING SERVICES TO THE STATE PUBLIC OFFICIAL,
40 CANDIDATE OR PROSPECTIVE CANDIDATE FOR A STATE ELECTED OFFICE WITH WHOM
41 THE EMPLOYEE SEEKS TO COMMUNICATE FOR LOBBYING OR LOBBYING ACTIVITIES.

42 (2) THE EXCEPTIONS IN PARAGRAPH ONE OF THIS SUBDIVISION SHALL NOT
43 APPLY TO ANY PERSON WHO COMMUNICATES WITH A STATE PUBLIC OFFICIAL,
44 CANDIDATE, OR PROSPECTIVE CANDIDATE FOR A STATE ELECTED OFFICE IN HIS OR
45 HER CAPACITY AS AN EMPLOYEE OF THE POLITICAL CONSULTANT WHO IS PROHIBIT-
46 ED BY PARAGRAPHS (B) AND (C) OF THIS SUBDIVISION FROM ENGAGING IN LOBBY-
47 ING AND LOBBYING ACTIVITIES.

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

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

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

1 15. "POLITICAL CONSULTING" MEANS AND INCLUDES THE PROVISION FOR
2 COMPENSATION, TO ANY POLITICAL COMMITTEE OR CANDIDATE OF ADVICE,
3 SERVICES OR ASSISTANCE IN SECURING STATE PUBLIC OFFICE INCLUDING, BUT
4 NOT LIMITED TO, CAMPAIGN MANAGEMENT, FUNDRAISING ACTIVITIES, PUBLIC
5 RELATIONS OR MEDIA SERVICES, BUT SHALL EXCLUDE LEGAL WORK DIRECTLY
6 RELATED TO LITIGATION OR LEGAL ADVICE WITH REGARD TO SECURING A PLACE ON
7 THE BALLOT, THE PETITIONING PROCESS, THE CONDUCT OF AN ELECTION OR WHICH
8 INVOLVES THIS CHAPTER.

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

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

15 1. The treasurer of every political committee which, or any officer,
16 member or agent of any such committee who, in connection with any
17 election, receives or expends any money or other valuable thing or
18 incurs any liability to pay money or its equivalent shall file state-
19 ments sworn, or subscribed and bearing a form notice that false state-
20 ments made therein are punishable as a class A misdemeanor pursuant to
21 section 210.45 of the penal law, at the times prescribed by this article
22 setting forth all the receipts, contributions to and the expenditures by
23 and liabilities of the committee, and of its officers, members and
24 agents in its behalf. Such statements shall include the dollar amount of
25 any receipt, contribution or transfer, or the fair market value of any
26 receipt, contribution or transfer, which is other than of money, the
27 name and address of the transferor, contributor or person from whom
28 received, and if the transferor, contributor or person is a political
29 committee; the name of and the political unit represented by the commit-
30 tee, the date of its receipt, the dollar amount of every expenditure,
31 the name and address of the person to whom it was made or the name of
32 and the political unit represented by the committee to which it was made
33 and the date thereof, and shall state clearly the purpose of such
34 expenditure. FURTHERMORE, SUCH STATEMENTS SHALL INCLUDE A LIST OF ALL
35 PERSONS AND ORGANIZATIONS WHICH PROVIDED POLITICAL CONSULTING SERVICES,
36 AND THE FAIR MARKET VALUE OF AND THE ACTUAL AMOUNT PAID TO EACH SUCH
37 PERSON AND ORGANIZATION FOR THE PROVISION OF POLITICAL CONSULTING
38 SERVICES. Any statement reporting a loan shall have attached to it a
39 copy of the evidence of indebtedness. Expenditures in sums under fifty
40 dollars need not be specifically accounted for by separate items in said
41 statements, and receipts and contributions aggregating not more than
42 ninety-nine dollars, from any one contributor need not be specifically
43 accounted for by separate items in said statements, provided however,
44 that such expenditures, receipts and contributions shall be subject to
45 the other provisions of section 14-118 of this article.

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

48 1. Any candidate for election to public office, or for nomination for
49 public office at a contested primary election or convention, or for
50 election to a party position at a primary election, shall file state-
51 ments sworn, or subscribed and bearing a form notice that false state-
52 ments made therein are punishable as a class A misdemeanor pursuant to
53 section 210.45 of the penal law, at the times prescribed by this article
54 setting forth the particulars specified by section 14-102 of this arti-
55 cle, as to all moneys or other valuable things, paid, given, expended or
56 promised by him OR HER to aid his OR HER own nomination or election, or

1 to promote the success or defeat of a political party, or to aid or
2 influence the nomination or election or the defeat of any other candi-
3 date to be voted for at the election or primary election or at a conven-
4 tion, including contributions to political committees, officers, members
5 or agents thereof, and transfers, receipts and contributions to him to
6 be used for any of the purposes above specified, or in lieu thereof, any
7 such candidate may file such a sworn statement at the first filing peri-
8 od, on a form prescribed by the state board of elections that such
9 candidate has made no such expenditures and does not intend to make any
10 such expenditures, except through a political committee authorized by
11 such candidate pursuant to this article. FURTHERMORE, SUCH STATEMENTS
12 SHALL INCLUDE A LIST OF ALL PERSONS AND ORGANIZATIONS WHICH PROVIDED
13 POLITICAL CONSULTING SERVICES, AND THE FAIR MARKET VALUE OF AND THE
14 ACTUAL AMOUNT PAID TO EACH SUCH PERSON AND ORGANIZATION FOR THE
15 PROVISION OF POLITICAL CONSULTING SERVICES. A committee authorized by
16 such a candidate may fulfill all of the filing requirements of this act
17 on behalf of such candidate.

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