

# STATE OF NEW YORK

1449

2017-2018 Regular Sessions

## IN SENATE

January 9, 2017

Introduced by Sens. AVELLA, CARLUCCI, SAVINO -- 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 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 § 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 § 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 has been retained or received  
14 compensation for political consulting, is an individual who has an  
15 ownership interest in a political consulting organization, or is an  
16 employee of the political consultant shall engage in compensated lobby-  
17 ing or lobbying activities with any state public official, candidate, or  
18 prospective candidate for elected office who is a current or former  
19 client of the political consultant; provided, however that a person or  
20 organization that is engaged solely in the lobbying of or lobbying  
21 activities related to municipal agencies, local legislative bodies and  
22 municipal public officers, and does not engage in the lobbying of or  
23 lobbying activities related to state agencies and state public offi-  
24 cial, may engage in such political consulting for municipal public  
25 officials.

26 (c) No person or organization that is engaged in compensated political  
27 consulting for any state public official, candidate or prospective  
28 candidate for an elected state office shall be employed by, be affil-  
29 iated with or be under common ownership with any person or organization  
30 engaged in compensated lobbying or lobbying activities, except as other-  
31 wise authorized by subdivision (b) of this section.

32 (d) (1) This prohibition shall not apply to:

33 (A) an employee of the political consultant whose sole duties are  
34 clerical; or

35 (B) an employee of the political consultant who did not personally  
36 provide political consulting services to the state public official,  
37 candidate or prospective candidate for a state elected office with whom  
38 the employee seeks to communicate for lobbying or lobbying activities.

39 (2) The exceptions in paragraph one of this subdivision shall not  
40 apply to any person who communicates with a state public official,  
41 candidate, or prospective candidate for a state elected office in his or  
42 her capacity as an employee of the political consultant who is prohibit-  
43 ed by paragraphs (b) and (c) of this subdivision from engaging in lobby-  
44 ing and lobbying activities.

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

47 (h) The term "compensation" shall mean any salary, fee, gift, payment,  
48 benefit, loan, advance or any other thing of value paid, owed, given or  
49 promised to the lobbyist or political consultant by the client for  
50 lobbying or political consulting but shall not include contributions  
51 reportable pursuant to article fourteen of the election law.

52 § 4. Section 14-100 of the election law is amended by adding two new  
53 subdivisions 17 and 18 to read as follows:

54 17. "political consulting" means and includes the provision for  
55 compensation, to any political committee or candidate of advice,  
56 services or assistance in securing state public office including, but

1 not limited to, campaign management, fundraising activities, public  
2 relations or media services, but shall exclude legal work directly  
3 related to litigation or legal advice with regard to securing a place on  
4 the ballot, the petitioning process, the conduct of an election or which  
5 involves this chapter.

6 18. "compensation" means any salary, fee, gift, payment, benefit,  
7 loan, advance or any other thing of value paid, owed, given or promised,  
8 but shall not include contributions reportable pursuant to this article.

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

12 1. The treasurer of every political committee which, or any officer,  
13 member or agent of any such committee who, in connection with any  
14 election, receives or expends any money or other valuable thing or  
15 incurs any liability to pay money or its equivalent shall file state-  
16 ments sworn, or subscribed and bearing a form notice that false state-  
17 ments made therein are punishable as a class A misdemeanor pursuant to  
18 section 210.45 of the penal law, at the times prescribed by this article  
19 setting forth all the receipts, contributions to and the expenditures by  
20 and liabilities of the committee, and of its officers, members and  
21 agents in its behalf. Such statements shall include the dollar amount of  
22 any receipt, contribution or transfer, or the fair market value of any  
23 receipt, contribution or transfer, which is other than of money, the  
24 name and address of the transferor, contributor or person from whom  
25 received, and if the transferor, contributor or person is a political  
26 committee; the name of and the political unit represented by the commit-  
27 tee, the date of its receipt, the dollar amount of every expenditure,  
28 the name and address of the person to whom it was made or the name of  
29 and the political unit represented by the committee to which it was made  
30 and the date thereof, and shall state clearly the purpose of such  
31 expenditure. Furthermore, such statements shall include a list of all  
32 persons and organizations which provided political consulting services,  
33 and the fair market value of and the actual amount paid to each such  
34 person and organization for the provision of political consulting  
35 services. Any statement reporting a loan shall have attached to it a  
36 copy of the evidence of indebtedness. Expenditures in sums under fifty  
37 dollars need not be specifically accounted for by separate items in said  
38 statements, and receipts and contributions aggregating not more than  
39 ninety-nine dollars, from any one contributor need not be specifically  
40 accounted for by separate items in said statements, provided however,  
41 that such expenditures, receipts and contributions shall be subject to  
42 the other provisions of section 14-118 of this article.

43 § 6. Subdivision 1 of section 14-104 of the election law, as amended  
44 by section 1 of part C of chapter 286 of the laws of 2016, is amended to  
45 read as follows:

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

1 date to be voted for at the election or primary election or at a conven-  
2 tion, including contributions to political committees, officers, members  
3 or agents thereof, and transfers, receipts and contributions to him or  
4 her to be used for any of the purposes above specified, or in lieu ther-  
5 eof, any such candidate may file such a sworn statement at the first  
6 filing period, on a form prescribed by the state board of elections that  
7 such candidate has made no such expenditures and does not intend to make  
8 any such expenditures, except through a political committee authorized  
9 by such candidate pursuant to this article. Such candidate may designate  
10 a committee of no less than three persons who shall be authorized to  
11 appoint and remove the treasurer of any authorized committee of the  
12 candidate. The designation or revocation of the committee shall be  
13 evidenced in a writing filed with the state board of elections by the  
14 candidate authorizing the committee. The candidate may revoke such  
15 designation at any time. Furthermore, such statements shall include a  
16 list of all persons and organizations which provided political consult-  
17 ing services, and the fair market value of and the actual amount paid to  
18 each such person and organization for the provision of political  
19 consulting services. A committee authorized by such a candidate may  
20 fulfill all of the filing requirements of this [~~act~~] article on behalf  
21 of such candidate.

22 § 7. This act shall take effect on the thirtieth day after it shall  
23 have become a law; provided, however, that if section 1 of part C of  
24 chapter 286 of the laws of 2016 shall not have taken effect on or before  
25 such date then section six of this act shall take effect on the same  
26 date and in the same manner as such chapter of the laws of 2016, takes  
27 effect.