

STATE OF NEW YORK

5893

2019-2020 Regular Sessions

IN SENATE

May 16, 2019

Introduced by Sen. BIAGGI -- read twice and ordered printed, and when printed to be committed to the Committee on Ethics and Internal Governance

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

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

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

14 (b) No person or organization that has been retained or received
15 compensation for political consulting, is an individual who has an
16 ownership interest in a political consulting organization, or is an
17 employee of the political consultant shall engage in compensated lobby-
18 ing or lobbying activities with any state public official, candidate, or
19 prospective candidate for elected office who is a current or former
20 client of the political consultant; provided, however that a person or
21 organization that is engaged solely in the lobbying of or lobbying
22 activities related to municipal agencies, local legislative bodies and
23 municipal public officers, and does not engage in the lobbying of or
24 lobbying activities related to state agencies and state public offi-
25 cials, may engage in such political consulting for municipal public
26 officials.

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

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

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

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

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

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

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

53 § 4. Section 14-100 of the election law is amended by adding two new
54 subdivisions 18 and 19 to read as follows:

55 18. "political consulting" means and includes the provision for
56 compensation, to any political committee or candidate of advice,

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

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

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

1. The treasurer of every political committee which, or any officer, member or agent of any such committee who, in connection with any election, receives or expends any money or other valuable thing or incurs any liability to pay money or its equivalent shall file statements sworn, or subscribed and bearing a form notice that false statements made therein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law, at the times prescribed by this article setting forth all the receipts, contributions to and the expenditures by and liabilities of the committee, and of its officers, members and agents in its behalf. Such statements shall include the dollar amount of any receipt, contribution or transfer, or the fair market value of any receipt, contribution or transfer, which is other than of money, the name and address of the transferor, contributor or person from whom received, and if the transferor, contributor or person is a political committee; the name of and the political unit represented by the committee, the date of its receipt, the dollar amount of every expenditure, the name and address of the person to whom it was made or the name of and the political unit represented by the committee to which it was made and the date thereof, and shall state clearly the purpose of such expenditure. Furthermore, such statements shall include a list of all

persons and organizations which provided political consulting services, and the fair market value of and the actual amount paid to each such person and organization for the provision of political consulting services. Any statement reporting a loan shall have attached to it a copy of the evidence of indebtedness. Expenditures in sums under fifty dollars need not be specifically accounted for by separate items in said statements, and receipts and contributions aggregating not more than ninety-nine dollars, from any one contributor need not be specifically accounted for by separate items in said statements, provided however, that such expenditures, receipts and contributions shall be subject to the other provisions of section 14-118 of this article.

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

1. Any candidate for election to public office, or for nomination for public office at a contested primary election or convention, or for election to a party position at a primary election, shall file statements sworn, or subscribed and bearing a form notice that false statements made therein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law, at the times prescribed by this article setting forth the particulars specified by section 14-102 of this article, as to all moneys or other valuable things, paid, given, expended or promised by him or her to aid his or her own nomination or election, or to promote the success or defeat of a political party, or to aid or

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

23 § 7. This act shall take effect on the thirtieth day after it shall
24 have become a law.