STATE OF NEW YORK

9186

IN ASSEMBLY

February 9, 2022

Introduced by M. of A. GALEF -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the public officers law, in relation to prohibiting public officials from using, or soliciting or permitting the use of, the name, voice, picture or other likeness of a candidate or a member of a candidate's family in publicly funded disseminations of material or information

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The public officers law is amended by adding a new section 73-c to read as follows:

§ 73-c. Use of candidates' name, voice, picture or likeness in certain publicly-funded advertisements and announcements prohibited. 1. As used in this section the term:

(a) "Public official" shall mean:

(i) the governor, lieutenant governor, comptroller or attorney general;

(ii) members of the state legislature;

(iii) state officers and employees including:

(A) heads of state agencies and their deputies and assistants other than members of the board of regents of the university of the state of New York who receive no compensation or are compensated on a per diem basis,

(B) officers and employees of statewide elected officials,

(C) officers and employees of state agencies other than officers of boards, commissions or councils who receive no compensation or are compensated on a per diem basis,

(D) members or directors of public authorities, other than multi-state authorities, public benefit corporations and commissions at least one of whose members is appointed by the governor, who receive compensation other than on a per diem basis, and employees of such authorities, corporations and commissions;

(iv) officers and employees of the legislature; and

(v) municipal officers and employees including an officer or employee of a municipal entity, whether paid or unpaid, including members of any administrative board, commission or other agency thereof and in the case of a county, shall be deemed to also include any officer or employee

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

LBD14242-01-2

paid from county funds. No person shall be deemed to be a municipal officer or employee solely by reason of being a volunteer fireman or civil defense volunteer, except a fire chief or assistant fire chief.

(b) "State agency" shall mean any department, board, bureau, commission, division, office, council, committee or officer of the state, whether permanent or temporary, or a public benefit corporation or public authority at least one of whose members is appointed by the governor, authorized by law to make rules or to make final decisions in adjudicatory proceedings but shall not include the judicial branch or agencies created by interstate compact or international agreement.

(c) "Municipality" shall mean any jurisdictional subdivision of the state, including but not limited to counties, cities, towns, villages, improvement districts and special districts, with a population of more than fifty thousand; and public authorities, and public corporations, but shall not include school districts.

(d) "Public funds" shall mean all moneys in the possession, custody, control or under the authority of: the comptroller; the commissioner of tax and finance; any other state agency; a municipality; or any public official.

(e) "Candidate" shall mean an individual who seeks nomination for election, or election, to any public office to be voted for at a primary, general, local or special election.

(f) "Disseminate" shall include, but not be limited to, advertise, announce, broadcast (via television, radio, the internet or via any electronic or other means), communicate, distribute, fax, give out, issue, mail, post, publish, release, telephone, or transmit.

2. No public official shall use, or solicit or permit the use of, the name, voice, picture or other likeness of a candidate, or any member of a candidate's family, in the dissemination of any material or information where such dissemination is supported in whole or in part, directly or indirectly, by public funds.

3. The prohibitions set forth in the provisions of subdivision two of this section apply: during the thirty day period immediately preceding any primary, local or special election; and during the sixty day period immediately preceding any general election.

4. Upon receipt of notice of the failure of any public officer to comply with the provisions of this section, the attorney general or other appropriate authority shall take such action as he or she deems appropriate to secure compliance with the provisions of this section.

5. The provisions of this section shall not require the removal of any material disseminated prior to the applicable thirty or sixty day period, as the case may be, set forth in subdivision three of this section.

§ 2. If any item, clause, sentence, subparagraph, subdivision, section or other part of this act, or the application thereof to any person or circumstances shall be held to be invalid, such holding shall not affect, impair or invalidate the remainder of this act, or the application of such section or part of a section held invalid, to any other person or circumstances, but shall be confined in its operation to the item, clause, sentence, subparagraph, subdivision, section or other part of this act directly involved in such holding, or to the person and circumstances therein involved.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law.