

CHAPTER 20

AN ACT concerning the financial disclosure of lobbying activities conducted through advertisements and direct mail and amending P.L.1971, c.183 and P.L.1981, c.150.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 3 of P.L.1971, c.183 (C.52:13C-20) is amended to read as follows:

C.52:13C-20 Definitions.

3. For the purposes of this act, as amended and supplemented, unless the context clearly requires a different meaning:

a. The term "person" includes an individual, partnership, committee, association, corporation, and any other organization or group of persons.

b. The term "legislation" includes all bills, resolutions, amendments, nominations and appointments pending or proposed in either House of the Legislature, and all bills and resolutions which, having passed both Houses, are pending approval by the Governor.

c. The term "Legislature" includes the Senate and General Assembly of the State of New Jersey and all committees and commissions established by the Legislature or by either House thereof.

d. The term "lobbyist" means any person, partnership, committee, association, corporation, labor union or any other organization that employs, engages or otherwise uses the services of any legislative agent to influence legislation or regulation.

e. The term "Governor" includes the Governor or the Acting Governor.

f. The term "communication with a member of the Legislature", "with legislative staff," "with the Governor," "with the Governor's staff," or "with an officer or staff member of the Executive Branch" means any communication, oral or in writing or any other medium, addressed, delivered, distributed or disseminated, respectively, to a member of the Legislature, to legislative staff, to the Governor, to the Governor's staff, or to an officer or staff member of the Executive Branch, as distinguished from communication to the general public including but not limited to a member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch. If any person shall obtain, reproduce or excerpt any communication or part thereof which in its original form was not a communication under this subsection and shall cause such excerpt or reproduction to be addressed, delivered, distributed or disseminated to a member of the Legislature, to legislative staff, to the Governor, to the Governor's staff, or to an officer or staff member of the Executive Branch, such communication, reproduction or excerpt shall be deemed a communication with the member of the Legislature, with legislative staff, with the Governor, with the Governor's staff, or with an officer or staff member of the Executive Branch by such person.

g. The term "legislative agent" means any person who receives or agrees to receive, directly or indirectly, compensation, in money or anything of value including reimbursement of his expenses where such reimbursement exceeds \$100.00 in any three-month period, to influence legislation or to influence regulation, or both, by direct or indirect communication, or by making or authorizing, or causing to be made or authorized, any expenditures providing a benefit, to a member of the Legislature, legislative staff, the Governor, the Governor's staff, or any officer or staff member of the Executive Branch, or who holds himself out as engaging in the business of influencing legislation or regulation by such means, or who incident to his regular employment engages in influencing legislation or regulation by such means; provided, however, that a person shall not be deemed a legislative agent who, in relation to the duties or interests of his employment or at the request or suggestion of his employer, communicates with a member of the Legislature, with legislative staff, with the Governor, with the Governor's staff, or with an officer or staff member of the Executive Branch concerning any legislation or regulation, if such communication is an isolated, exceptional or infrequent activity in relation to the usual duties of his employment.

h. The term "influence legislation" means to make any attempt, whether successful or not, to secure or prevent the initiation of any legislation, or to secure or prevent the passage, defeat, amendment or modification thereof by the Legislature, or the approval, amendment or disapproval thereof by the Governor in accordance with his constitutional authority.

i. The term "statement" includes a notice of representation or a report required by this act, as amended and supplemented.

j. (Deleted by amendment, P.L.1991, c.243).

k. The term "member of the Legislature" includes any member or member-elect of, or any person who shall have been selected to fill a vacancy in, the Senate or General Assembly, and any other person who is a member or member-designate of any committee or commission established by the Legislature or by either House thereof.

l. The term "legislative staff" includes all staff, assistants and employees of the Legislature or any of its members in the member's official capacity, whether or not they receive compensation from the State of New Jersey.

m. The term "Governor's staff" includes the members of the Governor's Cabinet, the Secretary to the Governor, the Counsel to the Governor and all professional employees in the office of the Counsel to the Governor, and all other employees of the Office of the Governor.

n. The term "officer or staff member of the Executive Branch" means any assistant or deputy head of a principal department in the Executive Branch of State Government, including all assistant and deputy commissioners; the members and chief executive officer of any authority, board, commission or other agency or instrumentality in or of such a principal department; and any officer of the Executive Branch of State Government other than the Governor who is not included among the foregoing or among the Governor's staff, but who is empowered by law to issue, promulgate or adopt administrative rules and regulations, and any person employed in the office of such an officer who is involved with the development, issuance, promulgation or adoption of such rules and regulations in the regular course of employment.

o. The term "regulation" includes any administrative rule or regulation affecting the rights, privileges, benefits, duties, obligations, or liabilities of any one or more persons subject by law to regulation as a class, but does not include an administrative action (1) to issue, renew or deny, or, in an adjudicative action, to suspend or revoke, a license, order, permit or waiver under any law or administrative rule or regulation, (2) to impose a penalty, or (3) to effectuate an administrative reorganization within a single principal department of the Executive Branch of State Government.

p. The term "influence regulation" means to make any attempt, whether successful or not, to secure or prevent the proposal of any regulation or to secure or prevent the consideration, amendment, issuance, promulgation, adoption or rejection thereof by an officer or any authority, board, commission or other agency or instrumentality in or of a principal department of the Executive Branch of State Government empowered by law to issue, promulgate or adopt administrative rules and regulations.

q. The term "expenditures providing a benefit" or "expenditures providing benefits" means any expenditures for entertainment, food and beverage, travel and lodging, honoraria, loans, gifts or any other thing of value, except for (1) any money or thing of value paid for past, present, or future services in regular employment, whether in the form of a fee, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of recompense, or any combination thereof, or (2) any dividends or other income paid on investments, trusts, and estates.

r. The term "commission" means the Election Law Enforcement Commission established pursuant to section 5 of P.L.1973, c.83 (C.19:44A-5).

s. The term "communication with the general public" means any communication:

(1) disseminated to the general public through direct mail or in the form of a paid

advertisement in a newspaper, magazine, or other printed publication of general circulation or aired on radio, television, or other broadcast medium, and

(2) which explicitly supports or opposes a particular item or items of legislation or regulation, or the content of which can reasonably be understood, irrespective of whether the communication is addressed to the general public or to persons in public office or employment, as intended to influence legislation or to influence regulation.

2. Section 2 of P.L.1981, c.150 (C.52:13C-22.1) is amended to read as follows:

C.52:13C-22.1 Annual reports.

2. Each legislative agent or lobbyist shall make and certify the correctness of a full annual report to the Election Law Enforcement Commission, of those moneys, loans, paid personal services or other things of value contributed to it and those expenditures made, incurred or authorized by it for the purpose of communication with or providing benefits to any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch or communication with the general public, during the previous year. The report shall include, but not be limited to, the following expenditures which relate to communication with, or providing benefits to, any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch or communication with the general public: media, including advertising; entertainment; food and beverage; travel and lodging; honoraria; loans; gifts; and salary, fees, allowances or other compensation paid to a legislative agent. The expenditures shall be reported whether made to the intended recipient of the communication or benefit to a legislative agent or a lobbyist or in the case of a communication to the general public, to the publisher of that communication. The expenditures shall be reported in the aggregate by category, except that if the aggregate expenditures on behalf of a member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch exceed \$25.00 per day, they shall be detailed separately as to the name of the member of the Legislature, member of legislative staff, the Governor, member of the Governor's staff, or officer or staff member of the Executive Branch, date and type of expenditure, amount of expenditure and to whom paid. Where the aggregate expenditures for the purpose of communication with or providing benefits to any one member of the Legislature, member of legislative staff, the Governor, the Governor's staff, or officer or staff member of the Executive Branch exceed \$200.00 per year, the expenditures, together with the name of the intended recipient of the communication or benefits, shall be stated in detail including the type of each expenditure, amount of expenditure and to whom paid. Where those expenditures in the aggregate or where the aggregate expenditures for the purpose of communication with the general public, with respect to any specific occasion are in excess of \$100.00, the report shall include the date and type of expenditure, amount of expenditure and to whom paid. The Election Law Enforcement Commission may, in its discretion, permit joint reports by legislative agents. No legislative agent shall be required to file a report unless all moneys, loans, paid personal services or other things of value contributed to it for the purpose of communication with or making expenditures providing a benefit to a member of the Legislature, legislative staff, the Governor, the Governor's staff, or officer or staff member of the Executive Branch or for the purpose of communication with the general public exceed \$2,500.00 in any year or unless all expenditures made, incurred or authorized by it for the purpose of communication with or providing benefits to a member of the Legislature, legislative staff, the Governor, the Governor's staff, or officer or staff member of the Executive Branch or for the purpose of communication with the general public exceed \$2,500.00 in any year.

Any lobbyist who receives contributions or makes expenditures to influence legislation or regulation shall be required to file and certify the correctness of a report of such contributions

or expenditures if the contributions or expenditures made, incurred or authorized by it for the purpose of communication with or providing benefits to a member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch exceed, in the aggregate, \$2,500.00 in any year. Any lobbyist required to file a report pursuant to this section may designate a legislative agent in its employ or otherwise engaged or used by it to file a report on its behalf; provided such designation is made in writing by the lobbyist, is acknowledged in writing by the designated legislative agent and is filed with the Election Law Enforcement Commission on or before the date on which the report of the lobbyist is due for filing, and further provided that any violation of this act shall subject both the lobbyist and the designated legislative agent to the penalties provided in this act.

Any person other than a legislative agent or lobbyist who receives contributions or makes expenditures for the purpose of communication with the general public shall be required to file and certify the correctness of a report of such contributions or expenditures in the same manner as legislative agents under the provisions of this section if the contributions or expenditures made, incurred or authorized by the person for the purpose of communication with the general public exceed in the aggregate \$2,500 in any year.

This section shall not be construed to authorize any person to make or authorize, or to cause to be made or authorized, any expenditure providing a benefit, or to provide a benefit, the provision or receipt of which is prohibited under the "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.) or any code of ethics promulgated thereunder, or under any other law or any executive order, rule or regulation.

3. Section 10 of P.L.1971, c.183 (C.52:13C-27) is amended to read as follows:

C.52:13C-27 Act not applicable to certain activities.

10. This act shall not apply to the following activities:

a. the publication or dissemination, in the ordinary course of business, of news items, advertising which does not constitute communication with the general public, editorials or other comments by a newspaper, book publisher, regularly published periodical, or radio or television station, including an owner, editor or employee thereof;

b. acts of an officer or employee of the Government of this State or any of its political subdivisions, or of the Government of the United States or of any State or territory thereof or any of their political subdivisions, in carrying out the duties of their public office or employment;

c. acts of bona fide religious groups acting solely for the purpose of protecting the public right to practice the doctrines of such religious groups;

d. acts of a duly organized national, State or local committee of a political party;

e. acts of a person in testifying before a legislative committee or commission, at a public hearing duly called by the Governor on legislative proposals or on legislation passed and pending his approval, or before any officer or body empowered by law to issue, promulgate or adopt administrative rules and regulations in behalf of a nonprofit organization incorporated as such in this State who receives no compensation therefor beyond the reimbursement of necessary and actual expenses, and who makes no other communication with a member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch in connection with the subject of his testimony; and

f. acts of a person in communicating with or providing benefits to a member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch if such communication or provision of benefits is undertaken by him as a personal expression and not incident to his employment, even if it is upon a matter relevant to the interests of a person by whom or which he is employed, and if he receives no additional compensation or reward, in money or otherwise, for or as a result of such communication or

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provision of benefits.

4. This act shall take effect immediately.

Approved June 16, 2004.