

ASSEMBLY, No. 5877

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED NOVEMBER 14, 2019

Sponsored by:

Assemblyman RYAN E. PETERS

District 8 (Atlantic, Burlington and Camden)

Co-Sponsored by:

Assemblyman Auth

SYNOPSIS

Redefines governmental affairs agent to include those persons performing activities for more than one hour in a calendar year.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/26/2019)

1 AN ACT concerning the time threshold of governmental affairs
2 agent activities and amending P.L.1971, c.183.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 3 of P.L.1971, c.183 (C.52:13C-20) is amended to
8 read as follows:

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

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

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

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

22 d. The term "lobbyist" means any person, partnership,
23 committee, association, corporation, labor union or any other
24 organization that employs, engages or otherwise uses the services of
25 any governmental affairs agent to influence legislation, regulation
26 or governmental processes.

27 e. (1) The term "Governor" includes the Governor or the
28 Acting Governor; and

29 (2) the term "Lieutenant Governor" means the person elected to
30 that office, or appointed to fill a vacancy therein, pursuant to Article
31 V, Section I of the New Jersey Constitution.

32 f. The term "communication with a member of the
33 Legislature", "with legislative staff," "with the Governor," "with the
34 Lieutenant Governor," "with the Governor's staff," or "with an
35 officer or staff member of the Executive Branch" means any
36 communication, oral or in writing or any other medium, addressed,
37 delivered, distributed or disseminated, respectively, to a member of
38 the Legislature, to legislative staff, to the Governor, to the
39 Lieutenant Governor, to the Governor's staff, or to an officer or
40 staff member of the Executive Branch, as distinguished from
41 communication to the general public including but not limited to a
42 member of the Legislature, legislative staff, the Governor, the
43 Lieutenant Governor, the Governor's staff, or an officer or staff
44 member of the Executive Branch. If any person shall obtain,
45 reproduce or excerpt any communication or part thereof which in its

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 original form was not a communication under this subsection and
2 shall cause such excerpt or reproduction to be addressed, delivered,
3 distributed or disseminated to a member of the Legislature, to
4 legislative staff, to the Governor, to the Lieutenant Governor, to the
5 Governor's staff, or to an officer or staff member of the Executive
6 Branch, such communication, reproduction or excerpt shall be
7 deemed a communication with the member of the Legislature, with
8 legislative staff, with the Governor, with the Lieutenant Governor,
9 with the Governor's staff, or with an officer or staff member of the
10 Executive Branch by such person.

11 g. The term "governmental affairs agent" means any person
12 who receives or agrees to receive, directly or indirectly,
13 compensation, in money or anything of value including
14 reimbursement of his expenses where such reimbursement exceeds
15 \$100.00 in any three-month period, to influence legislation, to
16 influence regulation or to influence governmental processes, or all
17 of the above, for more than one hour in a calendar year, by direct or
18 indirect communication with, or by making or authorizing, or
19 causing to be made or authorized, any expenditures providing a
20 benefit to, a member of the Legislature, legislative staff, the
21 Governor, the Lieutenant Governor, the Governor's staff, or any
22 officer or staff member of the Executive Branch, or who holds
23 himself out as engaging in the business of influencing legislation,
24 regulation or governmental processes, by such means, or who
25 incident to his regular employment engages in influencing
26 legislation, regulation or governmental processes, by such means **】**;
27 provided, however, that a person shall not be deemed a
28 governmental affairs agent who, in relation to the duties or interests
29 of his employment or at the request or suggestion of his employer,
30 communicates with a member of the Legislature, with legislative
31 staff, with the Governor, with the Lieutenant Governor, with the
32 Governor's staff, or with an officer or staff member of the Executive
33 Branch concerning any legislation, regulation or governmental
34 process, if such communication is an isolated, exceptional or
35 infrequent activity in relation to the usual duties of his
36 employment**】**.

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

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

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

46 k. The term "member of the Legislature" includes any member
47 or member-elect of, or any person who shall have been selected to
48 fill a vacancy in, the Senate or General Assembly, and any other

1 person who is a member or member-designate of any committee or
2 commission established by the Legislature or by either House
3 thereof.

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

8 m. The term "Governor's staff" includes the members of the
9 Governor's Cabinet, the Secretary to the Governor, the Counsel to
10 the Governor and all professional employees in the office of the
11 Counsel to the Governor, and all other employees of the Office of
12 the Governor, including employees of that office who may be
13 assigned by the Governor to assist the Lieutenant Governor.

14 n. The term "officer or staff member of the Executive Branch"
15 means any assistant or deputy head of a principal department in the
16 Executive Branch of State Government, including all assistant and
17 deputy commissioners; the members and chief executive officer of
18 any authority, board, commission or other agency or instrumentality
19 in or of such a principal department; and any officer of the
20 Executive Branch of State Government other than the Governor
21 who is not included among the foregoing or among the Governor's
22 staff, but including the Lieutenant Governor when the Lieutenant
23 Governor has been appointed by the Governor to serve in any of the
24 foregoing positions, but who is empowered by law to issue,
25 promulgate or adopt administrative rules and regulations or to
26 administer governmental processes, and any person employed in the
27 office of such an officer who is involved with the development,
28 issuance, promulgation or adoption of such rules and regulations or
29 administration of governmental processes in the regular course of
30 employment.

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

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

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

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

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

16 (1) disseminated to the general public through direct mail or in
17 the form of a paid advertisement in a newspaper, magazine, or other
18 printed publication of general circulation or aired on radio,
19 television, or other broadcast medium, and

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

26 t. The terms "influence governmental processes", "influencing
27 governmental processes" or "influence governmental process"
28 means to make any attempt, whether successful or not, to assist a
29 represented entity or group to engage in communication with, or to
30 secure information from, an officer or staff member of the
31 Executive Branch, or any authority, board, commission or other
32 agency or instrumentality in or of a principal department of the
33 Executive Branch of State Government, empowered by law to
34 administer a governmental process or perform other functions that
35 relate to such processes.

36 u. The term "governmental process" means:

37 promulgation of executive orders;

38 rate setting;

39 development, negotiation, award, modification or cancellation of
40 public contracts;

41 issuance, denial, modification, renewal, revocation or suspension
42 of permits, licenses or waivers;

43 procedures for bidding;

44 imposition or modification of fines and penalties;

45 procedures for purchasing;

46 rendition of administrative determinations; and

47 award, denial, modification, renewal or termination of financial
48 assistance, grants and loans.

1 v. The term "public contract" means a contract the cost or price
2 of which is to be paid with or out of State funds or the funds of an
3 independent authority created by the State or by the Legislature.
4 (cf: P.L.2009, c.66, s.37)

5
6 2. This act shall take effect immediately.
7
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9 STATEMENT
10

11 Under current law, a “governmental affairs agent” is a person
12 who receives or agrees to receive compensation in money or
13 anything of value, including certain reimbursements, to influence
14 legislation, regulation, or governmental processes, by
15 communicating with or making expenditures providing a benefit to,
16 a member of the Legislature, legislative staff, the Governor, the
17 Lieutenant Governor, the Governor’s staff, or any officer or staff
18 member of the Executive Branch, or who holds himself or herself
19 out as engaging in that business, unless the communication is
20 “isolated, exceptional, or infrequent.” Certain communications with
21 the general public are also considered governmental affairs agent
22 activities. However, by regulation of the Election Law Enforcement
23 Commission (ELEC), a communication is “isolated, exceptional, or
24 infrequent” if it constitutes 20 hours or less of a person’s usual
25 work duties. In those cases, that person is not considered a
26 governmental affairs agent. This bill would lower this time
27 threshold to one hour or less, thereby classifying persons as
28 governmental affairs agents subject to the disclosure and reporting
29 requirements under current law when they perform their activities
30 for more than one hour in a calendar year.