

ASSEMBLY, No. 142

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman JONES

1 AN ACT concerning the filing of financial disclosure statements and  
2 amending P.L.1991, c.29.

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.1991, c.29 (C.40A:9-22.3) is amended to read  
8 as follows:

9

3. As used in this act:

10 a. "Board" means the Local Finance Board in the Division of Local  
11 Government Services in the Department of Community Affairs;

12 b. "Business organization" means any corporation, partnership,  
13 firm, enterprise, franchise, association, trust, sole proprietorship, union  
14 or other legal entity;

15 c. "Governing body" means, in the case of a municipality, the  
16 commission, council, board or body, by whatever name it may be  
17 known, having charge of the finances of the municipality, and, in the  
18 case of a county, the board of chosen freeholders, or, in the case of a  
19 county having adopted the provisions of the "Optional County Charter  
20 Law," P.L.1972, c.154 (C.40:41A-1 et seq.), as defined in the form of  
21 government adopted by the county under that act;

22 d. "Interest" means the ownership or control of more than 10% of  
23 the profits, assets or stock of a business organization but shall not  
24 include the control of assets in a nonprofit entity or labor union;

25 e. "Local government agency" means any agency, board, governing  
26 body, including the chief executive officer, bureau, division, office,  
27 commission or other instrumentality within a county or municipality,  
28 and any independent local authority, including any entity created by  
29 more than one county or municipality, which performs functions other  
30 than of a purely advisory nature, but shall not include a school board;

31 f. "Local government employee" means any person, whether  
32 compensated or not, whether part-time or full-time, employed by or

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

**Matter underlined thus is new matter.**

1 serving on a local government agency who is not a local government  
2 officer, but shall not mean any employee of a school district;

3 g. "Local government officer" means any person whether  
4 compensated or not, whether part-time or full-time: (1) elected to any  
5 office of a local government agency; (2) serving on a local government  
6 agency which has the authority to enact ordinances, approve  
7 development applications or grant zoning variances; (3) who is a  
8 member of an independent municipal, county or regional authority;  
9 [or] (4) who is a managerial executive or confidential employee of a  
10 local government agency, as defined in section 3 of the "New Jersey  
11 Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-3),  
12 but shall not mean any employee of a school district or member of a  
13 school board; or (5) who voluntarily serves on a continuing basis in  
14 the role of a confidential employee of, advisor to, or consultant for a  
15 local government officer and who provides direct advice to that local  
16 government officer of an economic nature, including any advice  
17 impacting decisions on the operations and finances of a local  
18 government agency;

19 h. "Local government officer or employee" means a local  
20 government officer or a local government employee;

21 i. "Member of immediate family" means the spouse or dependent  
22 child of a local government officer or employee residing in the same  
23 household.

24 (cf: P.L.1991, c.29, s.3)

25

26 2. Section 6 of P.L.1991, c.29 (C.40A:9-22.6) is amended to read  
27 as follows:

28 6. a. Local government officers shall annually file a financial  
29 disclosure statement. All financial disclosure statements filed pursuant  
30 to this act shall include the following information which shall specify,  
31 where applicable, the name and address of each source and the local  
32 government officer's job title:

33 (1) Each source of income, earned or unearned, exceeding \$2,000  
34 received by the local government officer or a member of his immediate  
35 family during the preceding calendar year. Individual client fees,  
36 customer receipts or commissions on transactions received through a  
37 business organization need not be separately reported as sources of  
38 income. If a publicly traded security is the source of income, the  
39 security need not be reported unless the local government officer or  
40 member of his immediate family has an interest in the business  
41 organization;

42 (2) Each source of fees and honorariums having an aggregate  
43 amount exceeding \$250 from any single source for personal  
44 appearances, speeches or writings received by the local government  
45 officer or a member of his immediate family during the preceding  
46 calendar year;

1 (3) Each source of gifts, reimbursements or prepaid expenses  
2 having an aggregate value exceeding \$400 from any single source,  
3 excluding relatives, received by the local government officer or a  
4 member of his immediate family during the preceding calendar year;

5 (4) The name and address of all business organizations in which the  
6 local government officer or a member of his immediate family had an  
7 interest during the preceding calendar year; [and]

8 (5) The address and brief description of all real property in the  
9 State in which the local government officer or a member of his  
10 immediate family held an interest during the preceding calendar year;  
11 and

12 (6) The name and address of any person who voluntarily serves on  
13 a continuing basis in the role of a confidential employee of, advisor to,  
14 or consultant for the local government officer and who provides direct  
15 advice to the local government officer of an economic nature,  
16 including any area impacting decisions on the operations and finances  
17 of a local government agency.

18 b. The Local Finance Board shall prescribe a financial disclosure  
19 statement form for filing purposes. For counties and municipalities  
20 which have not established ethics boards, the board shall transmit  
21 sufficient copies of the forms to the municipal clerk in each  
22 municipality and the county clerk in each county for filing in  
23 accordance with this act. The municipal clerk shall make the forms  
24 available to the local government officers serving the municipality. The  
25 county clerk shall make the forms available to the local government  
26 officers serving the county.

27 For counties and municipalities which have established ethics  
28 boards, the Local Finance Board shall transmit sufficient copies of the  
29 forms to the ethics boards for filing in accordance with this act. The  
30 ethics boards shall make the forms available to the local government  
31 officers within their jurisdiction.

32 For local government officers serving the municipality, the original  
33 statement shall be filed with the municipal clerk in the municipality in  
34 which the local government officer serves. For local government  
35 officers serving the county, the original statement shall be filed with  
36 the county clerk in the county in which the local government officer  
37 serves. A copy of the statement shall be filed with the board. In  
38 counties or municipalities which have established ethics boards a copy  
39 of the statement shall also be filed with the ethics board having  
40 jurisdiction over the local government officer. Local government  
41 officers shall file the initial financial disclosure statement within 90  
42 days following the effective date of this act. Thereafter, statements  
43 shall be filed on or before April 30th each year.

44 c. All financial disclosure statements filed shall be public records.  
45 (cf: P.L.1991, c.29, s.6)

1       3. Section 7 of P.L.1991, c.29 (C.40A:9-22.7) is amended to read  
2 as follows:

3       7. With respect to its responsibilities for the implementation of the  
4 provisions of this act, the Local Finance Board shall have the  
5 following powers:

6       a. To initiate, receive, hear and review complaints and hold  
7 hearings with regard to possible violations of this act;

8       b. To issue subpoenas for the production of documents and the  
9 attendance of witnesses with respect to its investigation of any  
10 complaint or to the holding of a hearing;

11       c. To hear and determine any appeal of a decision made by a  
12 county or municipal ethics board;

13       d. To forward to the county prosecutor or the Attorney General or  
14 other governmental body any information concerning violations of this  
15 act which may become the subject of criminal prosecution or which  
16 may warrant the institution of other legal proceedings by the Attorney  
17 General;

18       e. To render advisory opinions as to whether a given set of facts  
19 and circumstances would constitute a violation of this act;

20       f. To enforce the provisions of this act and to impose penalties for  
21 the violation thereof as are authorized by this act; [and]

22       g. To adopt rules and regulations pursuant to the "Administrative  
23 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and to do other  
24 things as are necessary to implement the purposes of this act; and

25       h. To receive, hear and review requests for waivers of filing of a  
26 financial disclosure statement for local government officers serving  
27 under paragraph (5) of subsection g. of section 3 of P.L.1991, c.29  
28 (C.40A:9-22.3) (now pending before the Legislature as this bill). Each  
29 request for a waiver shall be submitted annually and at least 60 days  
30 prior to the deadline for filing annual financial disclosure statements  
31 or within 60 days following a new appointment of a local government  
32 officer serving in the capacity as defined under paragraph (5) of  
33 subsection g. of section 3 of P.L.1991, c.29 (C.40A:9-22.3) (now  
34 pending before the Legislature as this bill). A waiver request under  
35 this subsection shall be submitted to the Local Finance Board for  
36 approval irrespective of the existence of a county or municipal ethics  
37 board.

38 (cf: P.L.1991, c.29, s.7)

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40       4. Section 10 of P.L.1991, c.29 (C.40A:9-22.10) is amended to  
41 read as follows:

42       10. a. An appointed local government officer or employee found  
43 guilty by the Local Finance Board or a county or municipal ethics  
44 board of the violation of any provision of this act or of any code of  
45 ethics in effect pursuant to this act, shall be fined not less than \$100.00  
46 nor more than \$500.00, which penalty may be collected in a summary

1 proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:58-1  
2 et seq.). The board or a county or municipal ethics board shall report  
3 its findings to the office or agency having the power of removal or  
4 discipline of the appointed local government officer or employee and  
5 may recommend that further disciplinary action be taken.

6 b. An elected local government officer or employee, or a local  
7 government officer serving pursuant to paragraph (5) of subsection g.  
8 of section 3 of P.L.1991, c.29 (C.40A:9-22.3) (now pending before  
9 the Legislature as this bill) found guilty by the Local Finance Board or  
10 a county or municipal ethics board of the violation of any provision of  
11 this act or of any code of ethics in effect pursuant to this act, shall be  
12 fined not less than \$100.00 nor more than \$500.00, which penalty may  
13 be collected in a summary proceeding pursuant to "the penalty  
14 enforcement law" (N.J.S.2A:58-1 et seq.).

15 (cf: P.L.1991, c.29, s.10)

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17 5. This act shall take effect immediately and shall be applicable to  
18 financial disclosure filings required on or after April 30 next following  
19 enactment.

#### 20 21 STATEMENT

22  
23 This bill amends the definition of "local government officer" under  
24 the "Local Government Ethics Law," P.L.1991, c.29 (C.40A:9-22.1  
25 et seq.), to include a person who serves on a continuing basis in the  
26 role of a confidential employee of, advisor to, or consultant for the  
27 local government officer and who provides direct advice to the local  
28 government officer of an economic nature, including any area  
29 impacting decisions on the operations and finances of a local  
30 government agency. Often, local government officers rely on  
31 volunteer consultants who serve as advisors, who have a great deal of  
32 influence, and whose guidance has an impact on decisions affecting  
33 local government operations, finances and economics. Because of  
34 their influence, these individuals should be subject to the same scrutiny  
35 and financial disclosure requirements as those local government  
36 officials who are serving in an official elected or appointed capacity.  
37 The bill also requires an elected or appointed local government officer  
38 or employee to disclose the names and addresses of any volunteer  
39 consultants or advisors and provides for a penalty if such persons  
40 violate the ethics law.

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45 Requires voluntary consultants to local government officers to file  
46 financial disclosure statements.