

ASSEMBLY, No. 1799

STATE OF NEW JERSEY

INTRODUCED MARCH 28, 1996

By Assemblyman GUSCIORA, Assemblywomen WEINBERG,
Buono and Assemblyman Barnes

1 AN ACT prohibiting the granting of benefits by lobbyists and
2 legislative agents and the receipt of those benefits by certain
3 candidates and elected officials, amending P.L.1971, c.183 and
4 P.L.1981, c.150 and supplementing Title 52 of the Revised
5 Statutes.

6
7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:

9
10 1. (New section) a. The Legislature finds and declares that it is
11 essential for it to maintain its integrity as a public institution and to
12 separate itself clearly from corruption or the appearance of corruption.
13 This interest can be served by prohibiting any lobbyist or legislative
14 agent from providing any compensation, employment or reward or
15 making any expenditures providing a benefit to a member of the
16 Legislature, legislative staff or a candidate for the office of member of
17 the Legislature and by prohibiting those persons from accepting any
18 compensation, employment or reward or any expenditures providing
19 a benefit. The Legislature, by imposing such a prohibition, affirms
20 that it, its employees and those who seek to serve in it are not subject
21 to control by nor are they the tool of any special group, interest or
22 organization.

23 b. As used in this section:

24 (1) the terms "person," "lobbyist," "legislative agent," "member of
25 the Legislature," and "legislative staff" have the meaning provided for
26 in section 3 of P.L.1971, c.183 (52:13C-20), as amended; and

27 (2) the terms "expenditures providing a benefit" and "expenditures
28 providing benefits" mean any expenditures for entertainment, food and
29 beverage, travel and lodging, honoraria, loans, gifts or any other thing
30 of value, except for (a) any money or thing of value paid for past,
31 present, or future services in regular employment, whether in the form
32 of a fee, expense, allowance, forbearance, forgiveness, interest,
33 dividend, royalty, rent, capital gain, or any other form of recompense,
34 or any combination thereof, or (b) any dividends or other income paid
35 on investments, trusts, and estates.

36 c. No lobbyist or legislative agent who or which has filed a notice

1 of representation with the commission pursuant to section 4 of
2 P.L.1971, c.183 (C.52:13C-21) and no organization, association,
3 corporation, federation of organized labor, union or other group that
4 has been listed as providing compensation or some other form of
5 payment to a lobbyist or legislative agent on a notice of representation
6 pursuant to that same section shall offer, make or authorize or cause
7 to be offered, made or authorized, whether directly or indirectly, any
8 compensation, reward, employment, money, service, item of
9 merchandise or any expenditures providing a benefit to a member of
10 the Legislature, legislative staff or a candidate for nomination for
11 election or for election to the office of member of the Legislature.

12 d. A member of the Legislature, a candidate for nomination for
13 election or for election to the office of member of the Legislature and
14 a member of legislative staff shall not accept, whether directly or
15 indirectly, any compensation, reward, employment, money, service,
16 item of merchandise or any expenditures providing a benefit from a
17 lobbyist or legislative agent who or which has filed a notice of
18 representation with the commission pursuant to section 4 of P.L.1971,
19 c.183 (C.52:13C-21) or any organization, association, corporation,
20 federation of organized labor, union or other group that has been listed
21 as providing compensation or some other form of payment to a
22 lobbyist or legislative agent on a notice of representation pursuant to
23 that same section.

24 e. The prohibitions provided for in subsections c. and d. of this
25 section shall not apply to any contribution made by a lobbyist or
26 legislative agent to the campaign, candidate committee, joint
27 candidates committee, or both, of a candidate for nomination for
28 election or for election to the office of member of the Legislature or
29 for reelection to such office that is subject to the provisions of "The
30 New Jersey Campaign Contributions and Expenditures Reporting
31 Act," P.L.1973, c.83 (C.19:44A-1 et seq.), as amended and
32 supplemented.

33 f. The provisions of this section shall not apply to the acts of a
34 person in providing benefits to a member of the Legislature or
35 legislative staff if such provision of benefits is undertaken by him as a
36 personal expression and not incident to his employment, even if it is
37 upon a matter relevant to the interests of a person by whom or which
38 he is employed, and if he receives no additional compensation or
39 reward, in money or otherwise, for or as a result of such provision of
40 benefits.

41 g. Any person who willfully violates the provisions of this section
42 is a disorderly person and shall be subject to a fine not to exceed
43 \$500.00 or imprisonment not to exceed six months, or both.

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

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

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

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

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

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

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

21 f. The term "communication with a member of the Legislature,
22 "with legislative staff," "with the Governor," "with the Governor's
23 staff," or "with an officer or staff member of the Executive Branch"
24 means any communication, oral or in writing or any other medium,
25 addressed, delivered, distributed or disseminated, respectively, to a
26 member of the Legislature, to legislative staff, to the Governor, to the
27 Governor's staff, or to an officer or staff member of the Executive
28 Branch, as distinguished from communication to the general public
29 including but not limited to a member of the Legislature, legislative
30 staff, the Governor, the Governor's staff, or an officer or staff member
31 of the Executive Branch. If any person shall obtain, reproduce or
32 excerpt any communication or part thereof which in its original form
33 was not a communication under this subsection and shall cause such
34 excerpt or reproduction to be addressed, delivered, distributed or
35 disseminated to a member of the Legislature, to legislative staff, to the
36 Governor, to the Governor's staff, or to an officer or staff member of
37 the Executive Branch, such communication, reproduction or excerpt
38 shall be deemed a communication with the member of the Legislature,
39 with legislative staff, with the Governor, with the Governor's staff, or
40 with an officer or staff member of the Executive Branch by such
41 person.

42 g. The term "legislative agent" means any person who receives or
43 agrees to receive, directly or indirectly, compensation, in money or
44 anything of value including reimbursement of his expenses where such
45 reimbursement exceeds \$100.00 in any three-month period, to
46 influence legislation or to influence regulation, or both, by direct or

1 indirect communication with a member of the Legislature or legislative
2 staff or by direct or indirect communication with, or by making or
3 authorizing, or causing to be made or authorized, any expenditures
4 providing a benefit to, [a member of the Legislature, legislative
5 staff,]the Governor, the Governor's staff, or any officer or staff
6 member of the Executive Branch, or who holds himself out as
7 engaging in the business of influencing legislation or regulation by
8 such means, or who incident to his regular employment engages in
9 influencing legislation or regulation by such means; provided,
10 however, that a person shall not be deemed a legislative agent who, in
11 relation to the duties or interests of his employment or at the request
12 or suggestion of his employer, communicates with a member of the
13 Legislature, with legislative staff, with the Governor, with the
14 Governor's staff, or with an officer or staff member of the Executive
15 Branch concerning any legislation or regulation, if such
16 communication is an isolated, exceptional or infrequent activity in
17 relation to the usual duties of his employment.

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

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

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

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

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

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

41 n. The term "officer or staff member of the Executive Branch"
42 means any assistant or deputy head of a principal department in the
43 Executive Branch of State Government, including all assistant and
44 deputy commissioners; the members and chief executive officer of any
45 authority, board, commission or other agency or instrumentality in or
46 of such a principal department; and any officer of the Executive

1 Branch of State Government other than the Governor who is not
2 included among the foregoing or among the Governor's staff, but who
3 is empowered by law to issue, promulgate or adopt administrative
4 rules and regulations, and any person employed in the office of such
5 an officer who is involved with the development, issuance,
6 promulgation or adoption of such rules and regulations in the regular
7 course of employment.

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

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

25 q. [The term "expenditures providing a benefit" or "expenditures
26 providing benefits" means any expenditures for entertainment, food
27 and beverage, travel and lodging, honoraria, loans, gifts or any other
28 thing of value, except for (1) any money or thing of value paid for
29 past, present, or future services in regular employment, whether in the
30 form of a fee, expense, allowance, forbearance, forgiveness, interest,
31 dividend, royalty, rent, capital gain, or any other form of recompense,
32 or any combination thereof, or (2) any dividends or other income paid
33 on investments, trusts, and estates] (Deleted by amendment, P.L. ,
34 c. (now pending before the Legislature as this bill)).

35 r. The term "commission" means the Election Law Enforcement
36 Commission established pursuant to section 5 of P.L.1973, c.83
37 (C.19:44A-5).
38 (cf: P.L.1991,c.244,s.1)

39
40 3. Section 4 of P.L.1971, c.183 (C.52:13C-21) is amended to read
41 as follows:

42 4. a. Any person who, on or after the effective date of P.L.1991,
43 c.243, is employed, retained or engages himself as a legislative agent
44 shall, prior to any communication with a member of the Legislature or
45 legislative staff or any communication with, or the making of any
46 expenditures providing a benefit to, [a member of the Legislature,

1 legislative staff,]the Governor, the Governor's staff, or an officer or
2 staff member of the Executive Branch, and in any event within 30 days
3 of that effective date or of such employment, retainer or engagement,
4 whichever occurs later, file a signed notice of representation with the
5 Election Law Enforcement Commission in such detail as the
6 commission may prescribe, identifying himself and persons by whom
7 he is employed or retained, and the persons in whose interests he is
8 working, and the general nature of his proposed services as a
9 legislative agent for such persons, which notice shall contain the
10 following information:

11 (1) his name, business address and regular occupation;

12 (2) the name, business address and occupation or principal business
13 of the person from whom he receives compensation for acting as a
14 legislative agent;

15 (3) (a) the name, business address and occupation or principal
16 business of any person in whose interest he acts as a legislative agent
17 in consideration of the aforesaid compensation, if such person is other
18 than the person from whom said compensation is received; and

19 (b) if a person, identified under paragraph (2) of this subsection as
20 one from whom the legislative agent receives compensation, is a
21 membership organization or corporation whose name or occupation so
22 identified does not, either explicitly or by virtue of the nature of the
23 principal business in which the organization or its members, or the
24 corporation or its shareholders, is commonly known to be engaged,
25 clearly reveal the primary specific economic, social, political, or other
26 interest which the organization or corporation may reasonably be
27 understood to seek to advance or protect through its employment,
28 retainer, or engagement of the legislative agent, a description of that
29 primary economic, social, political, or other interest and a list of the
30 persons having organizational or financial control of the organization
31 or corporation, including the names, mailing addresses and
32 occupations, respectively, of those persons. The commission shall
33 promulgate rules and regulations to govern the content of any
34 information required to be disclosed under this subparagraph and shall
35 take such steps as are reasonably necessary to ensure that all such
36 information is, in accordance with those rules and regulations, both
37 accurate and complete.

38 Any list of legislative agents and their principals required to be
39 published quarterly under subsection h. of section 6 of P.L.1971, c.183
40 (C.52:13C-23) shall include, for each such principal for whom it is not
41 otherwise apparent, the primary specific interest which the principal
42 may reasonably be understood to seek to advance or protect through
43 its engagement of the legislative agent and the category of persons
44 required to file additional information, as that interest and such
45 category shall have been determined under subparagraph (b) of this
46 paragraph;

1 (4) whether the person from whom he receives said compensation
2 employs him solely as a legislative agent, or whether he is a regular
3 employee performing services for his employer which include but are
4 not limited to the influencing of legislation or regulation;

5 (5) the length of time for which he will be receiving compensation
6 from the person aforesaid for acting as a legislative agent, if said
7 length of time can be ascertained at the time of filing;

8 (6) the type of legislation or regulation or the particular legislation
9 or regulation in relation to which he is to act as legislative agent in
10 consideration of the aforesaid compensation, and any particular
11 legislation or regulation or type of legislation or regulation which he
12 is to promote or oppose;

13 (7) a full and particular description of any agreement, arrangement
14 or understanding according to which his compensation, or any portion
15 thereof, is or will be contingent upon the success of any attempt to
16 influence legislation or regulation.

17 b. Any legislative agent who receives compensation from more
18 than one person for his services as a legislative agent shall file a
19 separate notice of representation with respect to each such person;
20 except that a legislative agent whose fee for acting as such in respect
21 to the same legislation or regulation or type of legislation or regulation
22 is paid or contributed to by more than one person may file a single
23 statement, in which he shall detail the name, business address and
24 occupation or principal business of each person so paying or
25 contributing.

26 (cf: P.L.1991,c.244,s.2)

27
28 4. Section 2 of P.L.1981, c.150 (C.52:13C-22.1) is amended to
29 read as follows:

30 2. Each legislative agent or lobbyist shall make and certify the
31 correctness of a full annual report to the Election Law Enforcement
32 Commission, of those moneys, loans, paid personal services or other
33 things of value contributed to it and those expenditures made, incurred
34 or authorized by it for the purpose of communication with [or
35 providing benefits to] any member of the Legislature[,] or legislative
36 staff, or communication with or providing benefits to the Governor,
37 the Governor's staff, or an officer or staff member of the Executive
38 Branch during the previous year. The report shall include, but not be
39 limited to, the following expenditures which relate to communication
40 with[, or providing benefits to,]any member of the Legislature[,]or
41 legislative staff, or communication with or providing benefits to the
42 Governor, the Governor's staff, or an officer or staff member of the
43 Executive Branch: media, including advertising; entertainment; food
44 and beverage; travel and lodging; honoraria; loans; gifts; and salary,
45 fees, allowances or other compensation paid to a legislative agent. The
46 expenditures shall be reported whether made to the intended recipient

1 of the communication or benefit or to a legislative agent or a lobbyist.
2 The expenditures shall be reported in the aggregate by category,
3 except that if the aggregate expenditures on behalf of a member of the
4 Legislature, legislative staff, the Governor, the Governor's staff, or an
5 officer or staff member of the Executive Branch exceed \$25.00 per
6 day, they shall be detailed separately as to the name of the member of
7 the Legislature, member of legislative staff, the Governor, member of
8 the Governor's staff, or officer or staff member of the Executive
9 Branch, date and type of expenditure, amount of expenditure and to
10 whom paid. Where the aggregate expenditures for the purpose of
11 communication with [or providing benefits to] any one member of the
12 Legislature[,]or member of legislative staff, or communication with or
13 providing benefits to the Governor, the Governor's staff, or an officer
14 or staff member of the Executive Branch, exceed \$200.00 per year, the
15 expenditures, together with the name of the intended recipient of the
16 communication or benefits, shall be stated in detail including the type
17 of each expenditure, amount of expenditure and to whom paid. Where
18 the expenditures in the aggregate with respect to any specific occasion
19 are in excess of \$100.00, the report shall include the date and type of
20 expenditure, amount of expenditure and to whom paid. The Election
21 Law Enforcement Commission may, in its discretion, permit joint
22 reports by legislative agents. No legislative agent shall be required to
23 file a report unless all moneys, loans, paid personal services or other
24 things of value contributed to it for the purpose of communication
25 with [or making expenditures providing a benefit to] a member of the
26 Legislature[,]or legislative staff, or communication with or making
27 expenditures providing a benefit to the Governor, the Governor's staff,
28 or officer or staff member of the Executive Branch, exceed \$2,500.00
29 in any year or unless all expenditures made, incurred or authorized by
30 it for the purpose of communication with [or providing benefits to] a
31 member of the Legislature[,]or legislative staff, or communication with
32 or providing benefits to the Governor, the Governor's staff, or officer
33 or staff member of the Executive Branch exceed \$2,500.00 in any
34 year.

35 Any lobbyist who receives contributions or makes expenditures to
36 influence legislation or regulation shall be required to file and certify
37 the correctness of a report of such contributions or expenditures if the
38 contributions or expenditures made, incurred or authorized by it for
39 the purpose of communication with [or providing benefits to] a
40 member of the Legislature[,]or legislative staff, or communication with
41 or providing benefits to the Governor, the Governor's staff, or an
42 officer or staff member of the Executive Branch, exceed, in the
43 aggregate, \$2,500.00 in any year. Any lobbyist required to file a
44 report pursuant to this section may designate a legislative agent in its
45 employ or otherwise engaged or used by it to file a report on its
46 behalf; provided such designation is made in writing by the lobbyist,

1 is acknowledged in writing by the designated legislative agent and is
2 filed with the Election Law Enforcement Commission on or before the
3 date on which the report of the lobbyist is due for filing, and further
4 provided that any violation of this act shall subject both the lobbyist
5 and the designated legislative agent to the penalties provided in this
6 act.

7 This section shall not be construed to authorize any person to make
8 or authorize, or to cause to be made or authorized, any expenditure
9 providing a benefit, or to provide a benefit, the provision or receipt of
10 which is prohibited under the "New Jersey Conflicts of Interest Law,"
11 P.L.1971, c.182 (C.52:13D-12 et seq.) or any code of ethics
12 promulgated thereunder, or under any other law or any executive
13 order, rule or regulation.
14 (cf: P.L.1991,c.243,s.5)
15

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

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

19 a. the publication or dissemination, in the ordinary course of
20 business, of news items, advertising, editorials or other comments by
21 a newspaper, book publisher, regularly published periodical, or radio
22 or television station, including an owner, editor or employee thereof;

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

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

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

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

44 f. acts of a person in communicating with [or providing benefits to]
45 a member of the Legislature[,]or legislative staff, or communicating
46 with or providing benefits to the Governor, the Governor's staff, or an

1 officer or staff member of the Executive Branch if such
2 communication or provision of benefits is undertaken by him as a
3 personal expression and not incident to his employment, even if it is
4 upon a matter relevant to the interests of a person by whom or which
5 he is employed, and if he receives no additional compensation or
6 reward, in money or otherwise, for or as a result of such
7 communication or provision of benefits.

8 (cf: P.L.1991,c.243,s.6)

9
10 6. This act shall take effect on January 1st following enactment.

11
12
13 STATEMENT

14
15 The purpose of this bill is to prohibit the granting of certain benefits
16 by lobbyists and legislative agents.

17 Specifically, the bill:

18 1) prohibits lobbyists and legislative agents and any organization
19 that provides some form of compensation thereto from giving any
20 compensation, employment, reward or making any expenditures
21 providing a benefit to members of the Legislature, legislative staff or
22 candidates for the office of member of the Legislature;

23 2) prohibits those same public officials from accepting any
24 compensation, employment, reward or any expenditures providing a
25 benefit from a lobbyist or legislative agent or any organization that
26 provides some form of compensation to a lobbyist or legislative agent;

27 3) exempts from the prohibitions any campaign contribution by a
28 lobbyist or legislative agent to a candidate for nomination for or
29 election to the office of member of the Legislature; and

30 4) provides that any person who willfully violates the prohibitions
31 is a disorderly person and shall be subject to a fine not to exceed
32 \$500.00 or imprisonment not to exceed six months, or both.

33
34
35 _____
36
37 Prohibits lobbyists or legislative agents from providing benefits to
38 legislators, staff and legislative candidates and prohibits those officials
39 from accepting such benefits.