

SENATE, No. 651

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 5, 1996

By Senator SCHLUTER

1 AN ACT concerning the disclosure of certain lobbying activities and
2 amending P.L.1971, c.183 and P.L.1981, c.150.

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

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7 1. Section 3 of P.L.1971, c.183 (C.52:13C-20) is amended to read
8 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, committee,
12 association, corporation, and any other organization or group of
13 persons.

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

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

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

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

27 f. The term "communication with a member of the Legislature,
28 "with legislative staff," "with the Governor," "with the Governor's
29 staff," or "with an officer or staff member of the Executive Branch"
30 means any communication, oral or in writing or any other medium,
31 addressed, delivered, distributed or disseminated, respectively, to a
32 member of the Legislature, to legislative staff, to the Governor, to the
33 Governor's staff, or to an officer or staff member of the Executive
34 Branch, as distinguished from communication to the general public

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 including but not limited to a member of the Legislature, legislative
2 staff, the Governor, the Governor's staff, or an officer or staff member
3 of the Executive Branch. If any person shall obtain, reproduce or
4 excerpt any communication or part thereof which in its original form
5 was not a communication under this subsection and shall cause such
6 excerpt or reproduction to be addressed, delivered, distributed or
7 disseminated to a member of the Legislature, to legislative staff, to the
8 Governor, to the Governor's staff, or to an officer or staff member of
9 the Executive Branch, such communication, reproduction or excerpt
10 shall be deemed a communication with the member of the Legislature,
11 with legislative staff, with the Governor, with the Governor's staff, or
12 with an officer or staff member of the Executive Branch by such
13 person.

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

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

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

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

43 k. The term "member of the Legislature" includes any member or
44 member-elect of, or any person who shall have been selected to fill a
45 vacancy in, the Senate or General Assembly, and any other person who
46 is a member or member-designate of any committee or commission

1 established by the Legislature or by either House thereof.

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

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

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

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

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

41 q. The term "expenditures providing a benefit" or "expenditures
42 providing benefits" means any expenditures for entertainment, food
43 and beverage, travel and lodging, honoraria, loans, gifts or any other
44 thing of value, except for (1) any money or thing of value paid for
45 past, present, or future services in regular employment, whether in the
46 form of a fee, expense, allowance, forbearance, forgiveness, interest,

1 dividend, royalty, rent, capital gain, or any other form of recompense,
2 or any combination thereof, or (2) any dividends or other income paid
3 on investments, trusts, and estates.

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

7 s. The term "communication with the general public" means any
8 communication (1) disseminated to the general public through direct
9 mail or in the form of a paid advertisement in a newspaper, magazine,
10 or other printed publication of general circulation or aired on radio,
11 television, or other broadcast medium, and (2) which explicitly
12 supports or opposes a particular item or items of legislation or
13 regulation, or the content of which can reasonably be understood,
14 irrespective of whether the communication is addressed to the general
15 public or to persons in public office or employment, as intended to
16 influence legislation or to influence regulation.

17 (cf: P.L.1991, c.244, s.1)

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

21 2. Each legislative agent or lobbyist shall make and certify the
22 correctness of a full annual report to the Election Law Enforcement
23 Commission, of those moneys, loans, paid personal services or other
24 things of value contributed to it and those expenditures made, incurred
25 or authorized by it for the purpose of communication with or
26 providing benefits to any member of the Legislature, legislative staff,
27 the Governor, the Governor's staff, or an officer or staff member of
28 the Executive Branch, or communication with the general public,
29 during the previous year. The report shall include, but not be limited
30 to, the following expenditures which relate to communication with, or
31 providing benefits to, any member of the Legislature, legislative staff,
32 the Governor, the Governor's staff, or an officer or staff member of
33 the Executive Branch, or communication with the general public:
34 media, including advertising; entertainment; food and beverage; travel
35 and lodging; honoraria; loans; gifts; and salary, fees, allowances or
36 other compensation paid to a legislative agent. The expenditures shall
37 be reported whether made to the intended recipient of the
38 communication or benefit [or], to a legislative agent or a lobbyist, or
39 in the case of a communication to the general public, to the publisher
40 of that communication. The expenditures shall be reported in the
41 aggregate by category, except that if the aggregate expenditures on
42 behalf of a member of the Legislature, legislative staff, the Governor,
43 the Governor's staff, or an officer or staff member of the Executive
44 Branch exceed \$25.00 per day, they shall be detailed separately as to
45 the name of the member of the Legislature, member of legislative staff,
46 the Governor, member of the Governor's staff, or officer or staff

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

28 Any lobbyist who receives contributions or makes expenditures to
29 influence legislation or regulation shall be required to file and certify
30 the correctness of a report of such contributions or expenditures if the
31 contributions or expenditures made, incurred or authorized by it for
32 the purpose of communication with or providing benefits to a member
33 of the Legislature, legislative staff, the Governor, the Governor's staff,
34 or an officer or staff member of the Executive Branch exceed, in the
35 aggregate, \$2,500.00 in any year. Any lobbyist required to file a
36 report pursuant to this section may designate a legislative agent in its
37 employ or otherwise engaged or used by it to file a report on its
38 behalf; provided such designation is made in writing by the lobbyist,
39 is acknowledged in writing by the designated legislative agent and is
40 filed with the Election Law Enforcement Commission on or before the
41 date on which the report of the lobbyist is due for filing, and further
42 provided that any violation of this act shall subject both the lobbyist
43 and the designated legislative agent to the penalties provided in this
44 act.

45 Any person other than a legislative agent or lobbyist who receives
46 contributions or makes expenditures for the purpose of communication

1 with the general public shall be required to file and certify the
2 correctness of a report of such contributions or expenditures in the
3 same manner as legislative agents under the provisions of this section
4 if the contributions or expenditures made, incurred or authorized by
5 the person for the purpose of communication with the general public
6 exceed in the aggregate \$2,500 in any year.

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)

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16 3. Section 10 of P.L.1971, c.183 (C.52:13C-27) is amended to
17 read 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 which does not constitute
21 communication with the general public, editorials or other comments
22 by a newspaper, book publisher, regularly published periodical, or
23 radio or television station, including an owner, editor or employee
24 thereof;

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

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

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

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

46 f. acts of a person in communicating with or providing benefits to

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

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

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11 4. This act shall take effect immediately.

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14 STATEMENT

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16 This bill extends certain financial disclosure requirements under the
17 "Legislative Activities Disclosure Act of 1971" to "grass roots"
18 lobbying conducted through communication with the general public.
19 Under the bill, such communication is defined as "communication (1)
20 disseminated to the general public through direct mail or in the form
21 of a paid advertisement in a newspaper, magazine, or other printed
22 publication of general circulation or aired on radio, television, or other
23 broadcast medium, and (2) which explicitly supports or opposes a
24 particular item or items of legislation or regulation, or the content of
25 which can reasonably be understood, irrespective of whether the
26 communication is addressed to the general public or to persons in
27 public office or employment, as intended to influence legislation or to
28 influence regulation."

29 The bill would require a legislative agent or lobbyist to include
30 amounts contributed to it for the purpose of communication with the
31 general public in calculating whether its annual contributions or
32 expenditures exceeded \$2,500. (An agent or lobbyist with annual
33 contributions or expenditures in excess of that amount is subject to the
34 statutory obligation to make an annual report of its receipts and
35 expenditures to the Election Law Enforcement Commission (ELEC)).
36 The bill would also require the identification in any such annual report
37 of expenditures on such communication.

38 The bill also requires any other person or group to make a report,
39 similar to that required of legislative agents and lobbyists, of such
40 expenditures.

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44 Extends certain financial disclosure requirements under "Legislative
45 Activities Disclosure Act of 1971" to "grass roots" lobbying conducted
46 through direct mail and advertisements to general public.