

SENATE, No. 753

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 15, 1996

By Senators ADLER, BAER, Codey, MacInnes, Lipman,
Lynch, Lesniak, Casey, Rice, O'Connor, Kenny, McGreevey,
Bryant and 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.

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

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7 1. Section 1 of P.L.1971, c.183 (C.52:13C-18) is amended to read
8 as follows:

9 1. The Legislature affirms that the preservation of responsible
10 government requires that the fullest opportunity be afforded to the
11 people of the State to petition their government for the redress of
12 grievances and to express freely to individual legislators, committees
13 of the Legislature and the Governor their opinion on legislation and
14 current issues, and to Executive Branch officers and agencies their
15 opinion on rules and regulations developed and promulgated by those
16 officers and agencies in the exercise of powers delegated to them by
17 law. The Legislature finds, however, that the preservation and
18 maintenance of the integrity of the legislative process, including the
19 development and promulgation of rules and regulations to effectuate
20 the implementation of statutory law, requires the identification in
21 certain instances of persons and groups who seek to influence the
22 content, introduction, passage or defeat of legislation or the proposal,
23 adoption, amendment, or repeal of rules and regulations, and, where
24 it is not otherwise apparent or readily ascertainable, the nature of the
25 interest which those persons and groups seek to advance or protect
26 through such activity. It is the purpose of this act to require adequate
27 disclosure in certain instances in order to make available to the
28 Legislature and the public information relative to the activities of
29 persons who seek to influence the content, introduction, passage or
30 defeat of legislation or the proposal, adoption, amendment, or repeal
31 of rules and regulations by such means.

32 The Legislature also declares that the public interest requires that

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 groups or individuals engaged in influencing legislation or regulations
2 should disclose financial information regarding efforts intended to
3 influence the issuance of certain permits by State agencies.

4 (cf: P.L.1991, c.243, s.2)

5

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 n. The term "officer or staff member of the Executive Branch"
45 means any assistant or deputy head of a principal department in the
46 Executive Branch of State Government, including all assistant and

1 deputy commissioners; the members and chief executive officer of any
2 authority, board, commission or other agency or instrumentality in or
3 of such a principal department; and any officer of the Executive
4 Branch of State Government other than the Governor who is not
5 included among the foregoing or among the Governor's staff, but who
6 is empowered by law to issue, promulgate or adopt administrative
7 rules and regulations, and any person employed in the office of such
8 an officer who is involved with the development, issuance,
9 promulgation or adoption of such rules and regulations in the regular
10 course of employment.

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

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

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

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

40 s. The term "communication with the public" means any
41 communication (1) which is disseminated to members of the public,
42 including persons targeted because of their status as members of a
43 particular organization or as employees of a particular business or
44 industry, through direct mail or by telephone or other electronic
45 means, or in the form of a paid advertisement in a newspaper,
46 magazine, or other printed publication of general circulation or aired

1 on radio, television, or other broadcast medium, and (2) which
2 explicitly supports or opposes a particular item or items of legislation
3 or regulation, or the content of which can reasonably be understood,
4 irrespective of whether the communication is addressed to the public
5 or to persons holding public office or employment, as intended to
6 influence legislation or to influence regulation.

7 t. The term "permit" means a written license or grant of authority
8 issued by a State agency, as defined in section 2 of P.L.1968, c.410
9 (C.52:14B-2), which empowers the recipient thereof to perform an act
10 not allowable without such authority, but not including any
11 professional license.

12 u. The terms "influence the issuance of a permit" or "influencing
13 the issuance of a permit" mean any attempt by a lobbyist or legislative
14 agent, whether successful or not, to secure or prevent the issuance of
15 a permit by a State agency.

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

17
18 3. Section 2 of P.L.1981, c.150 (C.52:13C-22.1) is amended to
19 read as follows:

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

1 the Legislature, member of legislative staff, the Governor, member of
2 the Governor's staff, or officer or staff member of the Executive
3 Branch, date and type of expenditure, amount of expenditure and to
4 whom paid. Where the aggregate expenditures for the purpose of
5 communication with or providing benefits to any one member of the
6 Legislature, member of legislative staff, the Governor, the Governor's
7 staff, or officer or staff member of the Executive Branch exceed
8 \$200.00 per year, the expenditures, together with the name of the
9 intended recipient of the communication or benefits, shall be stated in
10 detail including the type of each expenditure, amount of expenditure
11 and to whom paid. Where [the] those expenditures in the aggregate,
12 or where the aggregate expenditures for the purpose of communication
13 with the public, or for the purpose of influencing the issuance of a
14 permit by a State agency, with respect to any specific occasion are in
15 excess of \$100.00, the report shall include the date and type of
16 expenditure, amount of expenditure and to whom paid. The Election
17 Law Enforcement Commission may, in its discretion, permit joint
18 reports by legislative agents. No legislative agent shall be required to
19 file a report unless all moneys, loans, paid personal services or other
20 things of value contributed to it for the purpose of communication
21 with or making expenditures providing a benefit to a member of the
22 Legislature, legislative staff, the Governor, the Governor's staff, or
23 officer or staff member of the Executive Branch or for the purpose of
24 communication with the public, or for the purpose of influencing the
25 issuance of a permit by a State agency, exceed \$2,500.00 in any year
26 or unless all expenditures made, incurred or authorized by it for the
27 purpose of communication with or providing benefits to a member of
28 the Legislature, legislative staff, the Governor, the Governor's staff, or
29 officer or staff member of the Executive Branch or for the purpose of
30 communication with the public or for the purpose of influencing the
31 issuance of a permit by a State agency exceed \$2,500.00 in any year.
32 However, whenever a legislative agent receives or expends at least
33 \$625 for such purposes during any quarter, the financial information
34 required to be disclosed by this section shall be reported for that
35 quarter in the report required to be filed pursuant to section 5 of
36 P.L.1971, c.183 (C.52:13C-22).

37 Any lobbyist who receives contributions or makes expenditures to
38 influence legislation or regulation shall be required to file and certify
39 the correctness of a report of such contributions or expenditures if the
40 contributions or expenditures made, incurred or authorized by it for
41 the purpose of communication with or providing benefits to a member
42 of the Legislature, legislative staff, the Governor, the Governor's staff,
43 or an officer or staff member of the Executive Branch ,or for the
44 purpose of communication with the public, or for the purpose of
45 influencing the issuance of a permit by a State agency, exceed, in the
46 aggregate, \$2,500.00 in any year. However, whenever a lobbyist

1 receives or expends at least \$625 for such purposes during any
2 quarter, the financial information required to be disclosed by this
3 section shall be reported in a report which shall be filed for that
4 quarter. Any lobbyist required to file a report pursuant to this section
5 may designate a legislative agent in its employ or otherwise engaged
6 or used by it to file a report on its behalf; provided such designation
7 is made in writing by the lobbyist, is acknowledged in writing by the
8 designated legislative agent and is filed with the Election Law
9 Enforcement Commission on or before the date on which the report of
10 the lobbyist is due for filing, and further provided that any violation of
11 this act shall subject both the lobbyist and the designated legislative
12 agent to the penalties provided in this act.

13 Any person other than a legislative agent or lobbyist who receives
14 contributions or makes expenditures for the purpose of communication
15 with the public shall be required to file and certify the correctness of
16 a report of such contributions or expenditures in the same manner as
17 legislative agents under the provisions of this section if the
18 contributions or expenditures made, incurred or authorized by the
19 person for the purpose of communication with the public exceed in
20 the aggregate \$2,500 in any year. However, whenever any person
21 receives or expends at least \$625 for such purposes during any
22 quarter, the financial information required to be disclosed by this
23 section shall be reported in a report which shall be filed for that
24 quarter.

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

32 (cf: P.L.1991, c.243, s.5)

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

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

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

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

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

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

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

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

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

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28 5. This act shall take effect immediately.
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32 STATEMENT

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34 This bill extends certain financial disclosure requirements under
35 "Legislative Activities Disclosure Act of 1971" to so-called "grass
36 roots lobbying" conducted through communication with the public.
37 Under the bill, such communication is defined as "communication (1)
38 which is disseminated to members of the public, including persons
39 targeted because of their status as members of a particular
40 organization or as employees of a particular business or industry,
41 through direct mail or by telephone or other electronic means, or in the
42 form of a paid advertisement in a newspaper, magazine, or other
43 printed publication of general circulation or aired on radio, television,
44 or other broadcast medium, and (2) which explicitly supports or
45 opposes a particular item or items of legislation or regulation, or the
46 content of which can reasonably be understood, irrespective of

1 whether the communication is addressed to the general public or to
2 persons in public office or employment, as intended to influence
3 legislation or to influence regulation."

4 The bill would require a legislative agent or lobbyist to include
5 amounts contributed to it for the purpose of communication with the
6 public in calculating whether its annual contributions or expenditures
7 exceeded \$2,500. (An agent or lobbyist with annual contributions or
8 expenditures in excess of that amount is subject to the statutory
9 obligation to make an annual report of its receipts and expenditures to
10 the Election Law Enforcement Commission (ELEC).) The bill would
11 require the identification in any such annual report of expenditures on
12 such communication. The bill would also require a lobbyist or
13 legislative agent to report expenditures made for the purpose of
14 attempting to influence the issuance of a permit by a State agency.

15 The bill would require any other person or group to make a report,
16 similar to that required of legislative agents and lobbyists, of
17 expenditures made for the purpose of influencing legislation or
18 regulation through communication with the public if these
19 expenditures exceed \$2,500 per year.

20 In addition, the bill provides for the quarterly reporting of financial
21 information when contributions or expenditures exceed \$625 during
22 any quarter.

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27 Extends certain financial disclosure requirements under "Legislative
28 Activities Disclosure Act of 1971" to so-called "grass roots lobbying"
29 and to activities related to the issuance of certain permits.