# ASSEMBLY, No. 2472 STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED FEBRUARY 14, 2022

Sponsored by: Assemblyman GREGORY P. MCGUCKIN District 10 (Ocean) Assemblyman PAUL D. MORIARTY District 4 (Camden and Gloucester) Assemblyman ROBERT AUTH District 39 (Bergen and Passaic) Assemblywoman MARILYN PIPERNO District 11 (Monmouth) Senator JOSEPH P. CRYAN District 20 (Union)

Co-Sponsored by: Assemblymen Space, Wirths, Catalano, McKeon and Senator Johnson

### SYNOPSIS

Establishes bribery in official and political matters applies to person soliciting, accepting, or agreeing to accept benefit as consideration to act even though not yet in office or otherwise qualified to act.



(Sponsorship Updated As Of: 3/24/2022)

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AN ACT concerning certain acts of bribery in official and political 1 2 matters, and amending N.J.S.2C:27-2. 3 4 **BE IT ENACTED** by the Senate and General Assembly of the State 5 of New Jersey: 6 7 1. N.J.S.2C:27-2 is amended to read as follows: 2C:27-2. Bribery in Official and Political Matters. A person is 8 9 guilty of bribery if he directly or indirectly offers, confers or agrees 10 to confer upon another, or solicits, accepts or agrees to accept from 11 another: 12 Any benefit as consideration for a decision, opinion, a. recommendation, vote or exercise of discretion of a public servant, 13 14 party official or voter on any public issue or in any public election; 15 or 16 b. Any benefit as consideration for a decision, vote, 17 recommendation or exercise of official discretion in a judicial or 18 administrative proceeding; or c. Any benefit as consideration for a violation of an official 19 20 duty of a public servant or party official; or 21 d. Any benefit as consideration for the performance of official 22 duties. 23 For the purposes of this section ["benefit]: 24 "Benefit as consideration" shall be deemed to mean any benefit 25 not authorized by law; and "Public servant" shall, in addition to the definition set forth in 26 subsection g. of N.J.S.2C:27-1, be deemed to mean any person who 27 is a candidate for public office as defined under subsection c. of 28 section 3 of P.L.1973, c.83 (C.19:44A-3), whose activities are 29 30 subject to regulatory oversight by the Election Law Enforcement 31 Commission, and any person elected but who has not yet assumed 32 office. 33 It is no defense to prosecution under this section that a person 34 whom the actor sought to offer, confer, or agreed to confer a benefit 35 as consideration to influence, or a person who acted to solicit, 36 accept, or agree to accept a benefit as consideration for influencing 37 specifically on behalf of an individual benefit provider was not 38 qualified to act in the desired way, whether because he had not yet 39 assumed office, or lacked jurisdiction, or for any other reason. 40 In any prosecution under this section of an actor who offered, 41 conferred or agreed to confer, or who solicited, accepted or agreed 42 to accept a benefit, it is no defense that he did so as a result of 43 conduct by another constituting theft by extortion or coercion or an 44 attempt to commit either of those crimes.

**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.

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1 The provisions of this section concerning a solicitation, 2 acceptance, or agreement to accept a benefit as consideration for 3 influencing shall not be deemed to apply to any public or general 4 campaign speech, advertisement, or other campaign activity used to 5 generate lawful campaign contributions in accordance with 6 applicable State and federal law, including "The New Jersey Campaign Contributions and Expenditures Reporting Act," 7 8 P.L.1973, c.83 (C.19:44A-1 et seq.). 9 Any offense proscribed by this section is a crime of the second 10 degree. If the benefit offered, conferred, agreed to be conferred, solicited, accepted or agreed to be accepted is of the value of 11 12 \$200.00 or less, any offense proscribed by this section is a crime of 13 the third degree. 14 (cf: P.L.1979, c.178, s.48) 15 16 2. This act shall take effect immediately. 17 18 19 **STATEMENT** 20

21 This bill concerns the act of bribery in official and political matters. It establishes that a person would be guilty of such bribery 22 23 if the person acted to solicit, accept, or agree to accept a benefit 24 from another as consideration for taking future action, specifically 25 on behalf of that benefit provider, even though the person had not 26 yet assumed the public or political position needed to act or was not 27 yet otherwise qualified to act. To clarify its application with 28 respect to any candidates for elective public office, the bill expands 29 the definition of "public servant," a term used periodically under 30 existing bribery laws, to include not just current officeholders, but 31 any person who is a candidate for public office as defined under 32 subsection c. of section 3 of P.L.1973, c.83 (C.19:44A-3), whose 33 activities are subject to regulatory oversight by the Election Law 34 Enforcement Commission, and any person elected but who has not 35 yet assumed office.

36 Thus, for example, it would be a crime for a candidate for public 37 office to seek out or accept a campaign contribution (the benefit) from an individual contributor as consideration to take future 38 39 action, specifically on behalf of that contributor, as the officeholder 40 to the position sought in the campaign. By focusing the act of 41 bribery to a direct consideration between the candidate's 42 solicitation, acceptance, or agreement to accept a campaign 43 contribution and the individual contributor, the bill intends to not 44 criminalize the public and general campaign speeches and promises 45 that generate lawful campaign contributions in accordance with 46 applicable State and federal law, such as "The New Jersey 47 Campaign Contributions and Expenditures Reporting Act," 48 P.L.1973, c.83 (C.19:44A-1 et seq.). To that end, the provisions of

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the bill include language stating that the crime of bribery in official and political matters is inapplicable to "any public or general campaign speech, advertisement, or other campaign activity used to generate lawful campaign contributions."

5 The bill would make the above described form of bribery a crime 6 of the second degree, which is ordinarily punishable by a term of 7 imprisonment of five to 10 years, a fine of up to \$150,000, or both; 8 however, if the benefit involved with the criminal act was valued at 9 \$200 or less, then the bribery would be a crime of the third degree, 10 ordinarily punishable by a term of imprisonment of three to five 11 years, a fine of up to \$15,000, or both.

12 The bill, in part, is intended to respond to the 2012 dismissal of a 13 criminal indictment against a New Jersey mayoral candidate in the 14 case of U.S. v. Manzo, 851 F. Supp.2d 797 (D.N.J. 2012). 15 According to the indictment, the candidate accepted cash payments 16 in exchange for promising to expedite a local development project 17 and promote an individual within the municipal government if the candidate became mayor. Id., at 800. While the federal court found 18 19 the alleged conduct "deeply objectionable" and "morally 20 reprehensible," Id., at 819, 829, it dismissed the indictment because 21 the actions did not amount to criminal activity under New Jersey 22 law. This bill would ensure that such future incidents involving 23 persons seeking public or political office are punishable as criminal 24 acts.