

ASSEMBLY, No. 338

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman RYAN E. PETERS

District 8 (Atlantic, Burlington and Camden)

Co-Sponsored by:

Assemblyman Auth

SYNOPSIS

Establishes “Local Governmental Process Activities Disclosure Act;” expands lobbying disclosure requirements to local level.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** establishing the “Local Governmental Process Activities
2 Disclosure Act” and supplementing chapter 13C of Title 52 of
3 the New Jersey Statutes.

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

7
8 1. The Legislature affirms that the preservation of responsible
9 government requires that the fullest opportunity be afforded to the
10 people of the State to petition their local governments for the
11 redress of grievances and to express freely to individual members of
12 the local governing bodies, to governing bodies at all local
13 government levels, and to their local chief executives their opinion
14 on local measures and current issues; to local government officers
15 and agencies their opinion on local rules and regulations developed
16 and promulgated by those officers and agencies in the exercise of
17 powers delegated to them by law; and to the local chief executives
18 and local government officers and agencies their opinion on matters
19 involving the administration of various local governmental
20 processes by the chief executives and those officers and agencies in
21 the exercise of powers delegated to them by law.

22 The Legislature finds, however, that the preservation and
23 maintenance of the integrity of the process for the adoption of local
24 measures, of the local regulatory process, and of the local
25 governmental process, including the development and promulgation
26 of local rules and regulations, or the administration of various local
27 governmental processes to effectuate the implementation of law,
28 requires the identification in certain instances of persons and groups
29 who seek to influence the content, introduction, passage or defeat of
30 local measures, the proposal, adoption, amendment, or repeal of
31 local rules and regulations or the administration of various local
32 governmental processes, and, where it is not otherwise apparent or
33 readily ascertainable, the nature of the interest which those persons
34 and groups seek to advance or protect through such activity.

35 It is in the public interest to closely monitor the activities of
36 governmental affairs agents and lobbyists with respect to their
37 involvement in influencing the adoption of local measures and local
38 regulatory and governmental processes to ensure the integrity of
39 government.

40 Therefore, it is the purpose of this act, P.L. , c. (C.) (pending
41 before the Legislature as this bill), to require adequate disclosure in
42 certain instances in order to make available to the Legislature, local
43 governmental officials and the public information relative to the
44 activities of persons who seek to influence the content, introduction,
45 passage or defeat of local measures, the proposal, adoption,
46 amendment or repeal of local rules and regulations or the
47 administration of various local governmental processes by such
48 means.

1 2. This act shall be known as the “Local Governmental Process
2 Activities Disclosure Act.”

3

4 3. For the purposes of this act, P.L. , c. (C.) (pending
5 before the Legislature as this bill), unless the context clearly
6 requires a different meaning:

7 a. The term “person” includes an individual, partnership,
8 committee, association, corporation, and any other organization or
9 group of persons.

10 b. The term “local measure” includes all ordinances,
11 resolutions, amendments, nominations and appointments pending or
12 proposed in a local governing body, and all ordinances and
13 resolutions which having been approved by the local governing
14 body are pending implementation.

15 c. The term “local governing body” means:

16 (1) in the case of a municipality, the commission, council, board
17 or body, by whatever name it may be known, having charge of the
18 finances of the municipality;

19 (2) in the case of a county, the board of chosen freeholders, or,
20 in the case of a county having adopted the provisions of the
21 “Optional County Charter Law,” P.L.1972, c.154 (C.40:41A-
22 1 et seq.), as the governing body is defined in the form of
23 government adopted by the county under that act;

24 (3) in the case of an authority, a body, public and corporate,
25 created by one or more municipalities or counties pursuant to any
26 law authorizing that creation, which law provides that the public
27 body so created has at least the following powers: to adopt and use
28 a corporate seal; to sue and be sued; to acquire and hold real or
29 personal property for its purposes; and to provide for and secure the
30 payment of its bonds or other obligations, or to provide for the
31 assessment of a tax on real property within its district, or to impose
32 charges for the use of its facilities or any combination thereof; and

33 (4) in the case of a school district, the board of education of any
34 local school district, consolidated school district, regional school
35 district, county vocational school and any other board of education
36 or other similar local body established and operating under the
37 provisions of Title 18A of the New Jersey Statutes, and also
38 including the board of trustees of a charter school established under
39 P.L.1995, c.426 (C.18A:36A-1 et seq.).

40 d. The term “lobbyist” means any person, partnership,
41 committee, association, corporation, labor union or any other
42 organization that employs, engages or otherwise uses the services of
43 any governmental affairs agent to influence local measures, local
44 regulations or local governmental processes.

45 e. The term “local chief executive” means:

46 (1) in the case of a municipality, the mayor or chief executive of
47 the municipality, whatever his official designation may be;

1 (2) in the case of a county, the chief executive of the county,
2 whatever his official designation may be;

3 (3) in the case of an authority, the chief executive of the
4 authority, whatever his official designation may be;

5 (4) in the case of a school district, the chief executive of the
6 school district, whatever his official designation may be; and

7 (5) any person designated to act in the role of the local chief
8 executive, or elected or appointed to fill a vacancy in that office.

9 f. The term “communication with a member of the local
10 governing body,” “with staff of the local governing body,” “with
11 the local chief executive,” “with staff of the local chief executive,”
12 or “with a local government officer or employee” means any
13 communication, oral or in writing or any other medium, addressed,
14 delivered, distributed or disseminated, respectively, to a member of
15 the local governing body, to staff of the local governing body, to the
16 local chief executive, to staff of the local chief executive, or to a
17 local government officer or employee, as distinguished from
18 communication to the general public including but not limited to a
19 member of the local governing body, to staff of the local governing
20 body, to the local chief executive, to staff of the local chief
21 executive, or to a local government officer or employee. If any
22 person shall obtain, reproduce, or excerpt any communication or
23 part thereof which in its original form was not a communication
24 under this subsection and shall cause such excerpt or reproduction
25 to be addressed, delivered, distributed, or disseminated to a member
26 of the local governing body, to staff of the local governing body, to
27 the local chief executive, to staff of the local chief executive, or to a
28 local government officer or employee, such communication,
29 reproduction or excerpt shall be deemed a communication with the
30 member of the local governing body, with staff of the local
31 governing body, with the local chief executive, with staff of the
32 local chief executive, or with a local government officer or
33 employee by such person.

34 g. The term “governmental affairs agent” means any person
35 who receives or agrees to receive, directly or indirectly,
36 compensation, in money or anything of value including
37 reimbursement of his expenses where such reimbursement exceeds
38 \$100 in any three-month period, to influence a local measure, to
39 influence local regulation or to influence local governmental
40 processes, or all of the above, for more than one hour in a calendar
41 year, by direct or indirect communication with, or by making or
42 authorizing, or causing to be made or authorized, any expenditures
43 providing a benefit to, a member of the local governing body, staff
44 of the local governing body, the local chief executive, staff of the
45 local chief executive, or any local government officer or employee,
46 or who holds himself out as engaging in the business of influencing
47 local measures, local regulations or local governmental processes,
48 by such means, or who incident to his regular employment engages

1 in influencing local measures, local regulations or local
2 governmental processes, by such means.

3 h. The term “influence a local measure” means to make any
4 attempt, whether successful or not, to secure or prevent the
5 initiation of any local measure, or to secure or prevent the passage,
6 defeat, amendment or modification thereof by the local governing
7 body, or the approval, amendment, or disapproval thereof by the
8 local chief executive in accordance with his authority.

9 i. The term “statement” includes a notice of representation or a
10 report required by this act.

11 j. The term “member of the local governing body” includes
12 any member or member-elect of, or any person who shall have been
13 selected to fill a vacancy in, the local governing body, and any other
14 person who is a member or member-designate of any committee or
15 commission established by the local governing body.

16 k. The term “staff of the local governing body” includes all
17 staff, assistants and employees of the local governing body or any
18 of its members in the member's official capacity, whether or not
19 they receive compensation from public funds.

20 l. The term “staff of the local chief executive” includes the
21 heads of principal local government departments and agencies, the
22 secretary to the local chief executive, the counsel to the local chief
23 executive, and all professional employees in the office of the
24 counsel to the local chief executive, and all other employees of the
25 office of the local chief executive.

26 m. The term “local government officer or employee” means any
27 assistant or deputy heads of principal local government departments
28 or agencies, and any officer of a local government department or
29 agency who is not included among the foregoing or among the staff
30 of the local chief executive who is empowered by law to issue,
31 promulgate or adopt local administrative rules and regulations or to
32 administer local governmental processes, and any person employed
33 in the office of such an officer who is involved with the
34 development, issuance, promulgation, or adoption of such local
35 rules and regulations or administration of local governmental
36 processes in the regular course of employment.

37 n. The term “local regulation” includes any local administrative
38 rule or regulation affecting the rights, privileges, benefits, duties,
39 obligations, or liabilities of any one or more persons subject by law
40 to regulation as a class, but does not include a local administrative
41 action (1) to issue, renew or deny, or, in an adjudicative action, to
42 suspend or revoke, a license, order, permit or waiver under any law
43 or administrative rule or regulation, (2) to impose a penalty, or (3)
44 to effectuate an administrative reorganization within a single local
45 government department or agency.

46 o. The term “influence local regulation” means to make any
47 attempt, whether successful or not, to secure or prevent the proposal
48 of any local regulation or to secure or prevent the consideration,

1 amendment, issuance, promulgation, adoption, or rejection thereof
2 by an officer or any local government department or agency
3 empowered by law to issue, promulgate, or adopt local
4 administrative rules and regulations.

5 p. The term “expenditures providing a benefit” or
6 “expenditures providing benefits” means any expenditures for
7 entertainment, food and beverage, travel and lodging, honoraria,
8 loans, gifts or any other thing of value, except for (1) any money or
9 thing of value paid for past, present, or future services in regular
10 employment, whether in the form of a fee, expense, allowance,
11 forbearance, forgiveness, interest, dividend, royalty, rent, capital
12 gain, or any other form of recompense, or any combination thereof,
13 or (2) any dividends or other income paid on investments, trusts,
14 and estates.

15 q. The term “commission” means the Election Law
16 Enforcement Commission established pursuant to section 5 of
17 P.L.1973, c.83 (C.19:44A-5).

18 r. The term “communication with the general public” means
19 any communication:

20 (1) disseminated to the general public through direct mail or in
21 the form of a paid advertisement in a newspaper, magazine, or other
22 printed publication of general circulation or aired on radio,
23 television, or other broadcast medium; and

24 (2) which explicitly supports or opposes a particular item or
25 items of a local measure or local regulation, or the content of which
26 can reasonably be understood, irrespective of whether the
27 communication is addressed to the general public or to persons in
28 public office or employment, as intended to influence a local
29 measure or to influence local regulation.

30 s. The terms “influence local governmental processes,”
31 “influencing local governmental processes” or “influence local
32 governmental process” means to make any attempt, whether
33 successful or not, to assist a represented entity or group to engage in
34 communication with, or to secure information from, a local
35 government officer or employee, or any local government
36 department or agency, empowered by law to administer a local
37 governmental process or perform other functions that relate to such
38 processes.

39 t. The term “local governmental process” means:

40 (1) promulgation of local administrative orders;

41 (2) rate setting;

42 (3) development, negotiation, award, modification or
43 cancellation of public contracts;

44 (4) issuance, denial, modification, renewal, revocation or
45 suspension of permits, licenses or waivers;

46 (5) procedures for bidding;

47 (6) imposition or modification of fines and penalties;

48 (7) procedures for purchasing;

1 (8) rendition of local administrative determinations; and
2 (9) award, denial, modification, renewal or termination of
3 financial assistance, grants and loans.

4 u. The term “public contract” means a contract the cost or price
5 of which is to be paid with or out of public funds or the funds of an
6 independent local authority.

7
8 4. a. Any person who is employed, retained or engages himself
9 as a governmental affairs agent shall, prior to any communication
10 with, or the making of any expenditures providing a benefit to, a
11 member of the local governing body, staff of the local governing
12 body, the local chief executive, staff of the local chief executive, or
13 a local government officer or employee, and in any event within 30
14 days of the effective date of this act, P.L. , c. (C.) (pending
15 before the Legislature as this bill), or of such employment, retainer
16 or engagement, whichever occurs later, file a signed notice of
17 representation with the Election Law Enforcement Commission in
18 such detail as the commission may prescribe, identifying himself
19 and persons by whom he is employed or retained, and the persons in
20 whose interests he is working, and the general nature of his
21 proposed services as a governmental affairs agent for such persons,
22 which notice shall contain the following information:

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

24 (2) the name, business address and occupation or principal
25 business of the person from whom he receives compensation for
26 acting as a governmental affairs agent;

27 (3) (a) the name, business address and occupation or principal
28 business of any person in whose interest he acts as a governmental
29 affairs agent in consideration of the aforesaid compensation, if such
30 person is other than the person from whom said compensation is
31 received; and

32 (b) if a person, identified under paragraph (2) of this subsection
33 as one from whom the governmental affairs agent receives
34 compensation, is a membership organization or corporation whose
35 name or occupation so identified does not, either explicitly or by
36 virtue of the nature of the principal business in which the
37 organization or its members, or the corporation or its shareholders,
38 is commonly known to be engaged, clearly reveal the primary
39 specific economic, social, political, or other interest which the
40 organization or corporation may reasonably be understood to seek
41 to advance or protect through its employment, retainer, or
42 engagement of the governmental affairs agent, a description of that
43 primary economic, social, political, or other interest and a list of the
44 persons having organizational or financial control of the
45 organization or corporation, including the names, mailing addresses
46 and occupations, respectively, of those persons. The commission
47 shall promulgate rules and regulations to govern the content of any
48 information required to be disclosed under this subparagraph and

1 shall take such steps as are reasonably necessary to ensure that all
2 such information is, in accordance with those rules and regulations,
3 both accurate and complete.

4 Any list of governmental affairs agents and their principals
5 required to be published quarterly under subsection h. of section 16
6 of P.L. , c. (C.) (pending before the Legislature as this bill)
7 shall include, for each such principal for whom it is not otherwise
8 apparent, the primary specific interest which the principal may
9 reasonably be understood to seek to advance or protect through its
10 engagement of the governmental affairs agent and the category of
11 persons required to file additional information, as that interest and
12 such category shall have been determined under subparagraph (b) of
13 this paragraph;

14 (4) whether the person from whom he receives said
15 compensation employs him solely as a governmental affairs agent,
16 or whether he is a regular employee performing services for his
17 employer which include but are not limited to the influencing of
18 local measures, local regulations or local governmental processes;

19 (5) the length of time for which he will be receiving
20 compensation from the person aforesaid for acting as a
21 governmental affairs agent, if said length of time can be ascertained
22 at the time of filing;

23 (6) the type of local measure, local regulation or local
24 governmental process or the particular local measure, local
25 regulation or local governmental process in relation to which he is
26 to act as governmental affairs agent in consideration of the
27 aforesaid compensation, and any particular local measure, local
28 regulation or local governmental process or type of local measure,
29 local regulation or local governmental process which he is to
30 promote or oppose; and

31 (7) when a governmental affairs agent is employed or retained
32 by any State or local government agency, department, board,
33 bureau, commission, authority, board of education, institution of
34 higher education, or any other government entity in this State, the
35 notice of representation shall also indicate the compensation
36 amount received or to be received by the governmental affairs agent
37 from the government entity. Each notice of representation
38 indicating that the governmental affairs agent is employed or
39 retained by a government entity shall be posted by the commission
40 on the commission's Internet site within 30 days of filing, and shall
41 be easily available for public inspection through that Internet site.

42 b. Any governmental affairs agent who receives compensation
43 from more than one person for his services as a governmental
44 affairs agent shall file a separate notice of representation with
45 respect to each such person; except that a governmental affairs
46 agent whose fee for acting as such in respect to the same local
47 measure, local regulation or local governmental process or type of
48 local measure, local regulation or local governmental process is

1 paid or contributed to by more than one person may file a single
2 statement, in which he shall detail the name, business address and
3 occupation or principal business of each person so paying or
4 contributing.

5
6 5. Any governmental affairs agent or lobbyist not a resident of
7 this State, or not a corporation of this State or authorized to do
8 business in this State, shall file with the Election Law Enforcement
9 Commission, before attempting to influence a local measure, local
10 regulation or local governmental process, its consent to service of
11 process at an address within this State, or by regular mail at an
12 address outside this State.

13
14 6. a. No lobbyist or governmental affairs agent shall offer or
15 give or agree to offer or give, directly or indirectly, any
16 compensation, reward, employment, gift, honorarium, or other thing
17 of value to a local government officer or employee or member of
18 the local governing body or staff of the local governing body,
19 totaling more than \$250 in a calendar year. The \$250 limit on any
20 compensation, reward, gift, honorarium or other thing of value shall
21 also apply to each member of the immediate family of a member of
22 the local governing body, which means a spouse, child, parent, or
23 sibling of the member residing in the same household as the
24 member of the local governing body.

25 b. The prohibition in subsection a. of this section on offering or
26 giving, or agreeing to offer or give, any compensation, reward, gift,
27 honorarium or other thing of value shall not apply: (1) if it is in the
28 course of employment, by an employer other than a public
29 employer, of an individual covered in subsection a. of this section
30 or a member of the immediate family; or (2) if receipt is from a
31 member of the immediate family when the family member received
32 such in the course of his or her employment; or (3) if it is in
33 accordance with the terms of regulations promulgated by the
34 commission with regard to coworkers employed by the same public
35 employer and the governmental affairs agent is a fellow employee
36 of that public employer not acting as a governmental affairs agent
37 with respect thereto pursuant to the provisions of section 10 of this
38 act, P.L. , c. (C.) (pending before the Legislature as this bill).

39 c. Subsection a. of this section shall not apply if the local
40 government officer or employee or member of the local governing
41 body or staff of the local governing body who accepted any
42 compensation, reward, gift, honorarium or other thing of value
43 offered or given by a lobbyist or governmental affairs agent makes
44 a full reimbursement, within 90 days of acceptance, to the lobbyist
45 or governmental affairs agent in an amount equal to the money
46 accepted or the fair market value of that which was accepted if
47 other than money. As used in this subsection, "fair market value"

1 means the actual cost of the compensation, reward, gift, honorarium
2 or other thing of value accepted.

3 d. A violation of this section shall not constitute a crime or
4 offense under the laws of this State.

5
6 7. Any person who knowingly employs another person to serve
7 as a governmental affairs agent who is not registered as required by
8 section 4 of this act, P.L. , c. (C.) (pending before the
9 Legislature as this bill), except upon the condition that such person
10 register as a governmental affairs agent as provided by law or who
11 continues to employ any such person who has not registered within
12 the time required by law, shall, upon conviction, be guilty of a
13 crime of the fourth degree.

14
15 8. Any governmental affairs agent who knowingly represents
16 an interest adverse to any of his employer's without first obtaining
17 such employer's written consent thereto, after full disclosure to such
18 employer of such adverse interest, shall, upon conviction, be guilty
19 of a crime of the fourth degree.

20
21 9. Any governmental affairs agent who knowingly causes,
22 influences, or otherwise secures the introduction of any local
23 measure or amendment thereto for the purpose of thereafter being
24 employed to prevent the passage thereof, shall upon conviction be
25 guilty of a crime of the fourth degree.

26
27 10. a. As used in this section, "person" means any member of
28 the local governing body, the local chief executive, or the head of a
29 principal local government department or agency.

30 b. No person shall act as a "governmental affairs agent" as
31 defined in section 3 of P.L. , c. (C.) (pending before the
32 Legislature as this bill) with respect to any local measure, local
33 regulation, or local governmental process of the municipality,
34 county, authority, or school district with which the person holds
35 office or is employed and for one year next subsequent to the
36 termination of the office or employment of the person.

37 c. Any person who knowingly and willfully violates the
38 provisions of subsection b. of this section shall be subject to a
39 penalty of not more than \$10,000.

40 d. Upon receiving evidence of any violation of this section, the
41 Election Law Enforcement Commission shall have the power to
42 hold, or to cause to be held, hearings about the violation and, upon
43 finding any person to have committed a violation, to assess such
44 penalty, within the limits prescribed herein, as it deems proper
45 under the circumstances, which penalty may be collected in a
46 summary proceeding pursuant to the "Penalty Enforcement Law of
47 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

1 11. A governmental affairs agent shall not enter into any
2 agreement, arrangement, or understanding under which the
3 governmental affairs agent's compensation, or any portion thereof,
4 is made contingent upon the success of any attempt to influence a
5 local measure, local regulation or local governmental process.

6
7 12. a. Every governmental affairs agent shall file with the
8 commission a signed quarterly report of his activity in attempting to
9 influence local measures, local regulations or local governmental
10 processes during each such quarter.

11 b. The quarterly reports required under this section shall be
12 made in the form and manner prescribed by the commission and
13 shall be filed between the first and tenth days of each calendar
14 quarter for such activity during the preceding calendar quarter. The
15 commission may, in its discretion, permit joint reports by persons
16 subject to this act, P.L. , c. (C.) (pending before the Legislature
17 as this bill).

18 c. Each such quarterly report shall:

19 (1) describe the particular items of local measure, local
20 regulation or local governmental process, the particular items in the
21 annual local budget ordinance or resolution or any measure that is
22 supplemental to that ordinance or resolution, and any general
23 category or type of local measure, local regulation or local
24 governmental process regarding which the governmental affairs
25 agent acted as a governmental affairs agent during the quarter, and
26 any particular items or general types of local measures, local
27 regulations, or local governmental processes which he actively
28 promoted or opposed during the quarter; and

29 (2) supply any information necessary to make the notice of
30 representation filed by the governmental affairs agent pursuant to
31 section 4 of P.L. , c. (C.) (pending before the Legislature as this
32 bill), current and accurate as of the final day of the calendar quarter
33 covered by the report.

34
35 13. Each governmental affairs agent or lobbyist shall make and
36 certify the correctness of a full annual report to the Election Law
37 Enforcement Commission, of those moneys, loans, paid personal
38 services or other things of value contributed to it and those
39 expenditures made, incurred or authorized by it for the purpose of
40 communication with or providing benefits to any member of the
41 local governing body, staff of the local governing body, the local
42 chief executive, staff of the local chief executive, or a local
43 government officer or employee, or a communication with the
44 general public, during the previous year. The report shall include,
45 but not be limited to, the following expenditures which relate to
46 communication with, or providing benefits to, any member of the
47 local governing body, staff of the local governing body, the local
48 chief executive, staff of the local chief executive, or a local

1 government officer or employee, or communication with the general
2 public: media, including advertising; entertainment; food and
3 beverage; travel and lodging; honoraria; loans; gifts; and salary,
4 fees, allowances or other compensation paid to an agent. The
5 expenditures shall be reported whether made to the intended
6 recipient of the communication or benefit, to a governmental affairs
7 agent or a lobbyist, or in the case of a communication to the general
8 public, to the publisher of that communication. The expenditures
9 shall be reported in the aggregate by category, except that if the
10 aggregate expenditures on behalf of the member of the local
11 governing body, staff of the local governing body, the local chief
12 executive, staff of the local chief executive, or a local government
13 officer or employee exceed \$25 per day, they shall be detailed
14 separately as to the name of the member of the local governing
15 body, member of the staff of the local governing body, the local
16 chief executive, member of the staff of the local chief executive, or
17 a local government officer or employee, date and type of
18 expenditure, amount of expenditure and to whom paid. Where the
19 aggregate expenditures for the purpose of communication with or
20 providing benefits to any one member of the local governing body,
21 member of the staff of the local governing body, the local chief
22 executive, member of the staff of the local chief executive, or a
23 local government officer or employee exceed \$200 per year, the
24 expenditures, together with the name of the intended recipient of
25 the communication or benefits, shall be stated in detail including
26 the type of each expenditure, amount of expenditure and to whom
27 paid. Where those expenditures in the aggregate, or where the
28 aggregate expenditures for the purpose of communication with the
29 general public, with respect to any specific occasion are in excess of
30 \$100, the report shall include the date and type of expenditure,
31 amount of expenditure and to whom paid. The Election Law
32 Enforcement Commission may, in its discretion, permit joint reports
33 by governmental affairs agents. No governmental affairs agent
34 shall be required to file a report unless all moneys, loans, paid
35 personal services or other things of value contributed to it for the
36 purpose of communication with or making expenditures providing a
37 benefit to a member of the local governing body, staff of the local
38 governing body, the local chief executive, staff of the local chief
39 executive, or a local government officer or employee or for the
40 purpose of communication with the general public exceed \$2,500 in
41 any year or unless all expenditures made, incurred or authorized by
42 it for the purpose of communication with or providing benefits to a
43 member of the local governing body, staff of the local governing
44 body, the local chief executive, staff of the local chief executive, or
45 a local government officer or employee or for the purpose of
46 communication with the general public exceed \$2,500 in any year.

47 Any lobbyist who receives contributions or makes expenditures
48 to influence a local measure or local regulation shall be required to

1 file and certify the correctness of a report of such contributions or
2 expenditures if the contributions or expenditures made, incurred or
3 authorized by it for the purpose of communication with or providing
4 benefits to a member of the local governing body, staff of the local
5 governing body, the local chief executive, staff of the local chief
6 executive, or a local government officer or employee exceed, in the
7 aggregate, \$2,500 in any year. Any lobbyist required to file a report
8 pursuant to this section may designate a governmental affairs agent
9 in its employ or otherwise engaged or used by it to file a report on
10 its behalf; provided such designation is made in writing by the
11 lobbyist, is acknowledged in writing by the designated
12 governmental affairs agent and is filed with the Election Law
13 Enforcement Commission on or before the date on which the report
14 of the lobbyist is due for filing, and further provided that any
15 violation of this act shall subject both the lobbyist and the
16 designated governmental affairs agent to the penalties provided in
17 this act.

18 Any person other than a governmental affairs agent or lobbyist
19 who receives contributions or makes expenditures for the purpose
20 of communication with the general public shall be required to file
21 and certify the correctness of a report of such contributions or
22 expenditures in the same manner as governmental affairs agents
23 under the provisions of this section if the contributions or
24 expenditures made, incurred, or authorized by the person for the
25 purpose of communication with the general public exceed in the
26 aggregate \$2,500 in any year.

27 This section shall not be construed to authorize any person to
28 make or authorize, or to cause to be made or authorized, any
29 expenditure providing a benefit, or to provide a benefit, the
30 provision or receipt of which is prohibited under any current law or
31 any code of ethics promulgated thereunder, or under any other
32 order, rule, or regulation.

33
34 14. A person who is registered as a governmental affairs agent
35 and who serves or shall serve as a member of any independent State
36 authority, county improvement authority or municipal utilities
37 authority, or as a member from New Jersey on an inter-state or bi-
38 state authority, or as a member of any board or commission
39 established by statute or resolution or by executive order of the
40 Governor or by the Legislature or by any agency, department or
41 other instrumentality of the State, or established by a local
42 governing body or local chief executive, shall disclose such service,
43 including the name of the authority, board or commission and the
44 date upon which his term as a member thereof expires, in the annual
45 report required to be made under section 13 of
46 P.L. , c. (C.) (pending before the Legislature as this bill).

1 15. a. Each governmental affairs agent and lobbyist shall
2 provide to each member of the local governing body, staff of the
3 local governing body, the local chief executive, staff of the local
4 chief executive, or a local government officer or employee who
5 receives a benefit that is required to be reported to the commission
6 pursuant to section 13 of P.L. , c. (C.) (pending before the
7 Legislature as this bill), a full written and certified report describing
8 the benefit, including a description of the benefit, the amount of the
9 benefit, the date it was provided and to whom it was paid.

10 b. The reports shall be transmitted to the member of the local
11 governing body, staff of the local governing body, the local chief
12 executive, staff of the local chief executive, or the local government
13 officer or employee by each governmental affairs agent or lobbyist
14 no later than February 1 of each year and shall cover benefits
15 provided in the immediately preceding calendar year. In the event
16 that a governmental affairs agent or lobbyist provides more than
17 one benefit to a member of the local governing body, staff of the
18 local governing body, the local chief executive, staff of the local
19 chief executive, or a local government officer or employee during a
20 calendar year, the reports describing those benefits required
21 pursuant to subsection a. of this section may be combined into one
22 report or filed as separate reports.

23

24 16. The commission shall:

25 a. permit public inspection of all statements filed pursuant to
26 this act, P.L. , c. (C.) (pending before the Legislature as this
27 bill);

28 b. compile and summarize information contained in statements
29 filed pursuant to this act, and report the same to the Legislature and
30 the Governor;

31 c. ascertain whether any persons have failed to file statements
32 as required by this act, or have filed incomplete or inaccurate
33 statements, and give notice to such persons to file such statements
34 as will conform to the requirements of this act;

35 d. investigate violations of this act, report to the Legislature
36 and the Governor thereon, and notify the Attorney General of any
37 possible criminal violations of this act, that may warrant further
38 investigation and action;

39 e. make such recommendations to the Legislature and the
40 Governor as will tend to further the objectives of this act, and take
41 such other action as shall be necessary and proper to effectuate the
42 purposes of this act;

43 f. report to the Legislature and the Governor annually on the
44 administration of this act;

45 g. develop and prescribe methods and forms for statements
46 required to be filed by this act, and require the use of such forms by
47 persons subject to this act;

1 h. compile and publish quarterly a list of all governmental
2 affairs agents then registered, together with the information
3 contained in their notices of representation and last quarterly report,
4 which compilation shall be distributed to all members of the
5 Legislature and the Governor, and published in the New Jersey
6 Register;

7 i. prepare and publish a summary and explanation of the
8 registration and reporting requirements of this act, for the use and
9 guidance of those persons who may be required to file statements
10 under this act;

11 j. in accordance with a fee schedule adopted by the
12 commission as a rule or regulation, establish and charge reasonable
13 fees for the filing of notices of representation and quarterly and
14 annual reports pursuant to this act, provided that such fees shall not
15 apply to the organizations which qualify under subsection (b) of
16 section 9 of chapter 30 of the laws of 1966, as amended (C.54:32B-
17 9), and provided further that the amount of such fees shall not
18 exceed the cost to the commission of processing and maintaining
19 those notices and reports and of compiling, summarizing and
20 publishing the information contained therein as prescribed by this
21 act; and

22 k. during periods when the Legislature is in session, report
23 monthly to the members of the Legislature and the Governor and
24 his staff all new notices of representation, notices of termination
25 and other notices filed pursuant to this act, during the preceding
26 month.

27
28 17. In addition to any fee collected pursuant to subsection j. of
29 section 16 of P.L. , c. (C.) (pending before the Legislature as
30 this bill), the commission shall establish and collect no later than
31 January 31 of each year a fee from each governmental affairs agent,
32 in an amount to be set by the commission through regulation, for
33 deposit into the General Fund. Such moneys shall be allocated
34 annually by the Legislature for use by the commission.

35
36 18. Upon receiving evidence of any violation of P.L. , c. (C.)
37 (pending before the Legislature as this bill), the commission shall
38 have power to bring complaint proceedings, to issue subpoenas for
39 the production of witnesses and documents, and to hold or to cause
40 to be held by the Office of Administrative Law, hearings upon such
41 complaint. In addition to any other penalty provided by law, any
42 person who is found to have committed such a violation shall be
43 liable for a civil penalty not in excess of \$1,000, which penalty may
44 be collected in a summary proceeding pursuant to the "Penalty
45 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

1 19. Any person engaged in activity which makes him subject to
2 filing a statement under this act, P.L. , c. (C.) (pending before
3 the Legislature as this bill), shall keep and preserve all records of
4 his receipts, disbursements, and other financial transactions in the
5 course of and as a part of his activities as a governmental affairs
6 agent. Such records shall be preserved for a period of three calendar
7 years next succeeding the calendar year in which they were made.
8 The provisions of this section shall not apply to any governmental
9 affairs agent with respect to any quarterly period within which the
10 total of his compensation including reimbursement of expenses is
11 less than \$500.00.

12 The commission shall conduct random audits of records kept and
13 preserved pursuant to this section.
14

15 20. a. Every governmental affairs agent shall file a notice of
16 termination report within 30 days after his activity shall cease, on
17 such form as the commission shall prescribe, and any person who
18 engages a governmental affairs agent may file a notice of
19 termination after such agent ceases to represent such person.

20 b. A governmental affairs agent who receives or agrees to
21 receive compensation for acting as such from any person not named
22 in the notice of representation filed pursuant to section 4 of
23 P.L. , c. (C.) (pending before the Legislature as this bill) shall,
24 within 15 days of receiving or agreeing to receive such
25 compensation, file an appropriate notification thereof in writing
26 with the commission.

27 c. A governmental affairs agent shall notify the commission in
28 writing of any material change in the information supplied by him
29 in the notice of representation filed pursuant to section 4 of
30 P.L. , c. (C.) (pending before the Legislature as this bill) within
31 15 days of the effective date of such change.
32

33 21. The statements required by this act,
34 P.L. , c. (C.) (pending before the Legislature as this bill), to be
35 filed with the commission shall constitute part of the public records
36 of the office of the commission and shall be available for public
37 inspection; and shall be preserved by the commission for a period of
38 five years from the date of filing.
39

40 22. This act shall not apply to the following activities:

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

- 1 b. acts of an officer or employee of the Government of this
2 State or any of its political subdivisions, or of the Government of
3 the United States or of any state or territory thereof or any of their
4 political subdivisions, in carrying out the duties of their public
5 office or employment, except as provided in section 10 of P.L.2009,
6 c.308 (C.18A:3B-55);
- 7 c. acts of bona fide religious groups acting solely for the
8 purpose of protecting the public right to practice the doctrines of
9 such religious groups;
- 10 d. acts of a duly organized national, State or local committee of
11 a political party;
- 12 e. acts of a person in testifying before a local governing body,
13 at a public hearing duly called by the local chief executive on a
14 local measure, or before any officer or body empowered by law to
15 issue, promulgate, or adopt administrative rules and regulations in
16 behalf of a nonprofit organization incorporated as such in this State
17 who receives no compensation therefor beyond the reimbursement
18 of necessary and actual expenses, and who makes no other
19 communication with a member of the local governing body, staff of
20 the local governing body, the local chief executive, staff of the local
21 chief executive, or a local government officer or employee in
22 connection with the subject of his testimony;
- 23 f. acts of a person in communicating with or providing benefits
24 to a member of the local governing body, staff of the local
25 governing body, the local chief executive, staff of the local chief
26 executive, or a local government officer or employee if such
27 communication or provision of benefits is undertaken by him as a
28 personal expression and not incident to his employment, even if it is
29 upon a matter relevant to the interests of a person by whom or
30 which he is employed, and if he receives no additional
31 compensation or reward, in money or otherwise, for or as a result of
32 such communication or provision of benefits;
- 33 g. with regard to influencing local governmental processes as
34 defined in subsections s. and t. of section 3 of P.L. , c. (C.)
35 (pending before the Legislature as this bill), any communications,
36 matters or acts of an attorney falling within the attorney-client
37 privilege while engaging in the practice of law to the extent that
38 confidentiality is required in order for the attorney to exercise his
39 ethical duties as a lawyer; and
- 40 h. with regard to influencing governmental processes as
41 defined in subsections s. and t. of section 3 of P.L. , c. (C.)
42 (pending before the Legislature as this bill), any communications,
43 matters or acts involving collective negotiations, or the
44 interpretation or violation of collective negotiation agreements, of a
45 labor organization of any kind which exists or is constituted for the
46 purpose, in whole or in part, of collective bargaining, or of dealing
47 with employers concerning the grievances, terms or conditions of

1 employment, or of other mutual aid or protection in connection with
2 employment.

3

4 23. Every governmental affairs agent who, for the purpose of
5 influencing a local measure, is in a public building or other location
6 when and where an authorized meeting of a local governing body is
7 being held shall at all times wear a descriptive name tag of a type
8 prescribed by the commission.

9

10 24. All staff, assistants and employees of the local governing
11 body who receive for their services a stated salary or similar
12 compensation from public funds are forbidden to act as
13 governmental affairs agents, or to seek, receive or agree to receive,
14 directly or indirectly, compensation, in money or any thing of
15 value, for influencing or purporting to influence a local measure,
16 local regulation, or local governmental process of the municipality,
17 county, authority, or school district in which the office or
18 employment is held. Whoever violates this section is guilty of a
19 crime of the fourth degree.

20

21 25. Any person who knowingly and willfully falsifies all or any
22 part of any statement, notice or report under this act,
23 P.L. , c. (C.) (pending before the Legislature as this bill), shall,
24 upon conviction, be guilty of a crime of the fourth degree.

25

26 26. Any person who shall transmit, utter or publish to the local
27 governing body or the local chief executive or his staff any
28 communication relating to any local measure or be a party to the
29 preparation thereof, knowing such communication or any signature
30 thereto is false, forged, counterfeit, or fictitious, shall upon
31 conviction, be guilty of a crime of the fourth degree.

32

33 27. Upon the failure to comply with any provisions of this act,
34 P.L. , c. (C.) (pending before the Legislature as this bill), by
35 any person subject thereto the commission may institute a civil
36 action to enjoin such person from engaging in activity covered by
37 this act until such time as he shall perform any duty imposed
38 thereby and to require him to file any statement required by this act,
39 as amended and supplemented, for the period he acted in violation
40 thereof. The court may proceed in a summary manner for such civil
41 action.

42

43 28. Any governmental affairs agent required to file a notice of
44 representation or report or maintain any record under this act,
45 P.L. , c. (C.) (pending before the Legislature as this bill), who
46 fails to file such a notice or report or maintain such record shall,
47 upon conviction, be guilty of a crime of the fourth degree.

1 29. Every officer, or person performing the functions of an
2 officer, of any person required by this act to file any statement shall
3 be under obligation to cause such person to file such statement
4 within the time prescribed by this act, P.L. , c. (C.) (pending
5 before the Legislature as this bill).

6 The obligation of any person to file any statement required by
7 this act shall continue from day to day, and discontinuance of the
8 activity out of which the obligation arises shall not relieve any
9 person from the obligation to file any statement required for any
10 period of time prior to such discontinuance.

11

12 30. The commission shall make provision to accept statements
13 similar to statements required by this act, P.L. , c. (C.)
14 (pending before the Legislature as this bill), from persons who are
15 not required by law to file such statements but who choose to make
16 reports upon their activities in influencing local measures. The
17 commission shall have full discretion in prescribing the form and
18 detail of such voluntary statements and may by general rules delimit
19 classes of voluntary filings which it will or will not accept in order
20 to further the purposes of this act, and the efficient administration
21 thereof. The information contained in such voluntary statements as
22 are accepted by the commission shall be included in the periodic
23 reports and summaries which it is required to make.

24

25 31. a. When it shall appear to the commission that a person
26 required to file any statement under this act,
27 P.L. , c. (C.) (pending before the Legislature as this bill), has
28 failed to file such required statement, or has filed a statement false,
29 inaccurate or incomplete in any material matter, or has otherwise
30 violated the provisions of this act, or when the commission believes
31 it to be in the public interest that an investigation should be made to
32 ascertain whether a person has in fact violated any of the provisions
33 of this act, it may apply to the Superior Court for an order or orders
34 directing:

35 (1) that any such person or persons make available to the
36 commission's inspection, or to the inspection of any of its
37 authorized deputies or agents, such records as are required to be
38 kept by that person pursuant to section 19 of P.L. , c. (C.)
39 (pending before the Legislature as this bill); or

40 (2) that any such person file a statement or report in writing
41 under oath concerning the facts and circumstances upon which the
42 commission's belief in the necessity of an investigation is based; or

43 (3) that any person submit to examination under oath by the
44 commission in connection with said circumstances, and produce any
45 and all records, books and other documents which may be specified
46 by order of the court; or

47 (4) that the commission may impound any record, book or other
48 documents specified by order of the court.

1 b. Such application by the commission shall set forth all the
2 facts and circumstances upon which its belief in the necessity of an
3 investigation is based. The court may proceed on such application
4 in a summary manner; and if the court determines that from the
5 evidence submitted it appears that a person required to file any
6 statement under this act, has failed to file such statement, or has
7 filed a statement false, inaccurate or incomplete in any material
8 respect, or has otherwise violated any of the provisions of this act,
9 or that it is in the public interest that an investigation be held to
10 determine whether such violation has occurred, the court shall issue
11 such order pursuant to subsection a. of this section as it may deem
12 necessary and proper.

13 c. The commission shall hold as confidential all statements,
14 books, records, testimony and other information or sources of
15 information coming into its possession or knowledge as a result of
16 an investigation pursuant to this section and shall not disclose or
17 divulge any such materials or information to anyone except the
18 court under whose order such material or information comes into its
19 knowledge or possession, unless the court shall order its disclosure
20 to a grand jury of this State or other appropriate authorities for the
21 purposes of enforcing the provisions of this act, or any other law.

22 d. If any person shall refuse to testify or produce any book,
23 paper or other document in any proceeding under this section as
24 ordered by the court on the grounds that the testimony or evidence,
25 documentary or otherwise, which is required of him may tend to
26 incriminate him, convict him of a crime, or subject him to a penalty
27 or forfeiture, and shall, notwithstanding, be directed to testify or to
28 produce such book, paper or document, he shall comply with such
29 direction. A person who is entitled by law to assert such privilege,
30 and does so assert, and thereafter complies with such direction,
31 shall not thereafter be prosecuted or subjected to any penalty or
32 forfeiture in any criminal proceeding which arises out of and relates
33 to the subject matter of the proceeding. No person so testifying
34 shall be exempt from prosecution or punishment for perjury on false
35 swearing committed by him in giving such testimony.

36 e. In any action brought under this section, the court may
37 award to the State all costs of investigation and trial, including a
38 reasonable attorney's fee to be fixed by the court. If costs are
39 awarded in such an action brought against a governmental affairs
40 agent, the judgment may be awarded against the governmental
41 affairs agent, and the governmental affairs agent's employer or
42 employers joined as defendants, jointly, severally, or both. If the
43 defendant prevails, he shall be awarded all costs of trial, and may be
44 awarded a reasonable attorney's fee to be fixed by the court and
45 paid by the State of New Jersey.

1 32. The commission shall adopt such rules and regulations as
2 may be necessary to effectuate the purposes of this act,
3 P.L. , c. (C.) (pending before the Legislature as this bill).

4
5 33. This act shall take effect immediately.

6
7
8 STATEMENT

9
10 This bill extends the same disclosure, reporting, and other
11 requirements that govern the activities of governmental affairs
12 agents to their activities with respect to all local government levels,
13 and applies the reporting requirements to governmental affairs
14 agents who engage in their activities at the local level for more than
15 one hour in a calendar year.

16 Under the bill, a governmental affairs agent acting on behalf of a
17 lobbyist who seeks to influence a local measure, local regulations,
18 the local governmental process, or to provide a benefit to certain
19 local officials, and undertakes activities for more than one hour in a
20 calendar year, would be required to file a statement of
21 representation with the Election Law Enforcement Commission
22 (ELEC) prior to attempting to exercise such influence or provide
23 such benefit. These activities would include communications with:
24 (1) the local governing body of a municipality, a county, a local
25 authority, or a school district, including a charter school; (2) the
26 local chief executive of the municipality, county, authority, or
27 school district; (3) their respective staffs, as defined in the bill,
28 which includes the heads of principal local government departments
29 and agencies; and (4) local government officers and employees,
30 which includes the deputy heads of principal local government
31 departments and agencies.

32 The bill defines a “local measure” as including all ordinances,
33 resolutions, amendments, nominations and appointments pending or
34 proposed in a local governing body, and all ordinances and
35 resolutions which having been approved by the local governing
36 body are pending implementation. A “local regulation” includes
37 any local administrative rule or regulation affecting the rights,
38 privileges, benefits, duties, obligations, or liabilities of any one or
39 more persons subject by law to regulation as a class, but does not
40 include a local administrative action (1) to issue, renew or deny, or,
41 in an adjudicative action, to suspend or revoke, a license, order,
42 permit or waiver under any law or administrative rule or regulation,
43 (2) to impose a penalty, or (3) to effectuate an administrative
44 reorganization within a single local government department or
45 agency. The “local governmental process” includes the
46 promulgation of local administrative orders; rate setting; the
47 development, negotiation, award, modification or cancellation of
48 public contracts; issuance, denial, modification, renewal, revocation

1 or suspension of permits, licenses or waivers; procedures for
2 bidding; imposition or modification of fines and penalties;
3 procedures for purchasing; rendition of local administrative
4 determinations; and the award, denial, modification, renewal or
5 termination of financial assistance, grants and loans.

6 Among other provisions, the bill:

7 (1) requires a governmental affairs agent to file with ELEC a
8 statement or signed notice of representation prior to any
9 communication with, or providing a benefit to, a member of the
10 local governing body, staff of the local governing body, the local
11 chief executive, staff of the local chief executive, or a local
12 government officer or employee. The statement must disclose,
13 among other information, the name and address of the governmental
14 affairs agent, the lobbyist retaining the services of that agent, and
15 the specific or general types of local measures, local regulations, or
16 local governmental processes that the agent is employed to
17 influence (section 4);

18 (2) prohibits a lobbyist or a governmental affairs agent from
19 offering or giving or agreeing to offer or give, directly or indirectly,
20 any compensation, reward, employment, gift, honorarium or other
21 thing of value to a local government officer or employee or a
22 member of the local governing body or staff of the local governing
23 body, totaling more than \$250 in a calendar year. This prohibition
24 also applies with respect to each member of the immediate family
25 of a member of the local governing body, which means a spouse,
26 child, parent, or sibling of the member residing in the same
27 household as the member of the local governing body. The bill also
28 provides for certain exemptions (section 6);

29 (3) prohibits a member of the local governing body, the local
30 chief executive, or the head of a principal local government
31 department or agency from acting as a governmental affairs agent
32 with respect to any local measure, local regulation, or local
33 governmental process of the municipality, county, authority, or
34 school district with which the person holds office or is employed
35 and for one year next subsequent to the termination of the office or
36 employment of the person (section 10);

37 (4) requires the governmental affairs agent to file with ELEC
38 quarterly reports of his or her activities (section 12); and requires
39 the governmental affairs agent or lobbyist to file a full annual report
40 of the moneys or other things of value received for, and of those
41 amounts expended in, communications with or the awarding of
42 benefits to intended recipients, governmental affairs agents or
43 lobbyists, and the general public or publisher of the communication,
44 when the annual amounts either received or expended exceed
45 \$2,500 in any year (section 13);

46 (5) requires each governmental affairs agent or lobbyist to
47 provide each recipient of benefits a full written and certified report
48 describing the benefit, including a description of the benefit, the

1 amount of the benefit, the date it was provided and to whom it was
2 paid by February 1 of each year (section 15);

3 (6) empowers ELEC with specific powers and duties for its
4 implementation of the various requirements in the bill, including the
5 ability to establish and collect reasonable fees for the filing of
6 statements of representation and quarterly and annual reports, and
7 an annual fee to be paid by each governmental affairs agent for
8 allocation to ELEC; and

9 (7) establishes the due process to be followed to prosecute
10 violations of this bill, including the penalties for violations.

11 This bill is modeled upon the “Legislative and Governmental
12 Process Activities Disclosure Act,” P.L.1971, c.183 (C.52:13C-
13 18 et seq.), which governs the activities and disclosures of
14 governmental affairs agents and lobbyists who seek to influence
15 legislation, regulations, and governmental processes at the State
16 government level. The intent of this bill is to impose the same or
17 substantially the same provisions of current law on governmental
18 affairs agents and lobbyists who seek to influence local measures,
19 regulations, and governmental processes at the county,
20 municipality, local authority, and school district level. In addition,
21 this bill seeks to enhance transparency by requiring disclosure of
22 governmental affairs agent activities at the local level undertaken
23 for more than one hour in a calendar year (ELEC regulations
24 require reporting of activities at the State level if undertaken for
25 more than 20 hours in a calendar year).