

ASSEMBLY, No. 439

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Assemblyman GREGORY P. MCGUCKIN
District 10 (Ocean)

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.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning certain acts of bribery in official and political
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:

8 2C:27-2. Bribery in Official and Political Matters. A person is
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 a. Any benefit as consideration for a decision, opinion,
13 recommendation, vote or exercise of discretion of a public servant,
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

19 c. Any benefit as consideration for a violation of an official
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

26 "Public servant" shall, in addition to the definition set forth in
27 subsection g. of N.J.S.2C:27-1, be deemed to mean any person who
28 is a candidate for public office as defined under subsection c. of
29 section 3 of P.L.1973, c.83 (C.19:44A-3), whose activities are
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.

45 The provisions of this section concerning a solicitation,
46 acceptance, or agreement to accept a benefit as consideration for

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 influencing shall not be deemed to apply to any public or general
2 campaign speech, advertisement, or other campaign activity used to
3 generate lawful campaign contributions in accordance with
4 applicable State and federal law, including “The New Jersey
5 Campaign Contributions and Expenditures Reporting Act,”
6 P.L.1973, c.83 (C.19:44A-1 et seq.).

7 Any offense proscribed by this section is a crime of the second
8 degree. If the benefit offered, conferred, agreed to be conferred,
9 solicited, accepted or agreed to be accepted is of the value of
10 \$200.00 or less, any offense proscribed by this section is a crime of
11 the third degree.

12 (cf: P.L.1979, c.178, s.48)

13
14 2. This act shall take effect immediately.

15 16 17 STATEMENT

18
19 This bill concerns the act of bribery in official and political
20 matters. It establishes that a person would be guilty of such bribery
21 if the person acted to solicit, accept, or agree to accept a benefit
22 from another as consideration for taking future action, specifically
23 on behalf of that benefit provider, even though the person had not
24 yet assumed the public or political position needed to act or was not
25 yet otherwise qualified to act. To clarify its application with
26 respect to any candidates for elective public office, the bill expands
27 the definition of “public servant,” a term used periodically under
28 existing bribery laws, to include not just current officeholders, but
29 any person who is a candidate for public office as defined under
30 subsection c. of section 3 of P.L.1973, c.83 (C.19:44A-3), whose
31 activities are subject to regulatory oversight by the Election Law
32 Enforcement Commission, and any person elected but who has not
33 yet assumed office.

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

1 campaign speech, advertisement, or other campaign activity used to
2 generate lawful campaign contributions.”

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

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