

ASSEMBLY, No. 3640

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

Assemblyman ERIK PETERSON

District 23 (Hunterdon, Somerset and Warren)

SYNOPSIS

Clarifies and strengthens disclosure requirements for certain complimentary tickets received by candidates, officeholders, political party officials, political committees and continuing political committees.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning certain tickets received by certain individuals
2 and committees, amending and supplementing P.L.1973, c.83
3 and supplementing P.L.1981, c.129 (C.19:44B-1 et seq.).
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7

8 1. Section 3 of P.L.1973, c.83 (C.19:44A-3) is amended to read
9 as follows:

10 3. As used in this act, unless a different meaning clearly
11 appears from the context:

12 a. (Deleted by amendment, P.L.1993, c.65.)

13 b. (Deleted by amendment, P.L.1993, c.65.)

14 c. The term "candidate" means: (1) an individual seeking
15 election to a public office of the State or of a county, municipality
16 or school district at an election; except that the term shall not
17 include an individual seeking party office; (2) an individual who
18 shall have been elected or failed of election to an office, other than
19 a party office, for which he sought election and who receives
20 contributions and makes expenditures for any of the purposes
21 authorized by section 17 of P.L.1993, c.65 (C.19:44A-11.2) during
22 the period of his service in that office; and (3) an individual who
23 has received funds or other benefits or has made payments solely
24 for the purpose of determining whether the individual should
25 become a candidate as defined in paragraphs (1) and (2) of this
26 subsection.

27 d. The terms "contributions" and "expenditures" include all
28 loans and transfers of money or other thing of value to or by any
29 candidate, candidate committee, joint candidates committee,
30 political committee, continuing political committee, independent
31 expenditure committee, political party committee or legislative
32 leadership committee, and all pledges or other commitments or
33 assumptions of liability to make any such transfer; and for purposes
34 of reports required under the provisions of this act shall be deemed
35 to have been made upon the date when such commitment is made or
36 liability assumed.

37 e. The term "election" means any election described in section
38 4 of this act.

39 f. The term "paid personal services" means personal, clerical,
40 administrative or professional services of every kind and nature
41 including, without limitation, public relations, research, legal,
42 canvassing, telephone, speech writing or other such services,
43 performed other than on a voluntary basis, the salary, cost or
44 consideration for which is paid, borne or provided by someone
45 other than the committee, candidate or organization for whom such

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 services are rendered. In determining the value, for the purpose of
2 reports required under this act, of contributions made in the form of
3 paid personal services, the person contributing such services shall
4 furnish to the treasurer through whom such contribution is made a
5 statement setting forth the actual amount of compensation paid by
6 said contributor to the individuals actually performing said services
7 for the performance thereof. But if any individual or individuals
8 actually performing such services also performed for the contributor
9 other services during the same period, and the manner of payment
10 was such that payment for the services contributed cannot readily
11 be segregated from contemporary payment for the other services,
12 the contributor shall in his statement to the treasurer so state and
13 shall either (1) set forth his best estimate of the dollar amount of
14 payment to each such individual which is attributable to the
15 contribution of his paid personal services, and shall certify the
16 substantial accuracy of the same, or (2) if unable to determine such
17 amount with sufficient accuracy, set forth the total compensation
18 paid by him to each such individual for the period of time during
19 which the services contributed by him were performed. If any
20 candidate is a holder of public office to whom there is attached or
21 assigned, by virtue of said office, any aide or aides whose services
22 are of a personal or confidential nature in assisting him to carry out
23 the duties of said office, and whose salary or other compensation is
24 paid in whole or part out of public funds, the services of such aide
25 or aides which are paid for out of public funds shall be for public
26 purposes only; but they may contribute their personal services, on a
27 voluntary basis, to such candidate for election campaign purposes.

28 g. (Deleted by amendment, P.L.1983, c.579.)

29 h. The term "political information" means any statement
30 including, but not limited to, press releases, pamphlets, newsletters,
31 advertisements, flyers, form letters, Internet or digital
32 advertisements, or radio or television programs or advertisements
33 which reflects the opinion of the members of the organization on
34 any candidate or candidates for public office, on any public
35 question, or which contains facts on any such candidate, or public
36 question whether or not such facts are within the personal
37 knowledge of members of the organization.

38 i. The term "political committee" means any two or more
39 persons acting jointly, or any corporation, partnership, or any other
40 incorporated or unincorporated association which is organized to, or
41 does, aid or promote the nomination, election or defeat of any
42 candidate or candidates for public office, or which is organized to,
43 or does, aid or promote the passage or defeat of a public question in
44 any election, if the persons, corporation, partnership or incorporated
45 or unincorporated association raises or expends \$2,400 or more to
46 so aid or promote the nomination, election or defeat of a candidate
47 or candidates or the passage or defeat of a public question; provided
48 that for the purposes of this act, the term "political committee" shall

1 not include a "continuing political committee," as defined by
2 subsection n. of this section, a "political party committee," as
3 defined by subsection p. of this section, a "candidate committee," as
4 defined by subsection q. of this section, a "joint candidates
5 committee," as defined by subsection r. of this section, a
6 "legislative leadership committee," as defined by subsection s. of
7 this section, or an "independent expenditure committee," as defined
8 by subsection t. of this section.

9 j. The term "public solicitation" means any activity by or on
10 behalf of any candidate, political committee, continuing political
11 committee, candidate committee, joint candidates committee,
12 legislative leadership committee, independent expenditure
13 committee, or political party committee whereby either (1)
14 members of the general public are personally solicited for cash
15 contributions not exceeding \$20.00 from each person so solicited
16 and contributed on the spot by the person so solicited to a person
17 soliciting or through a receptacle provided for the purpose of
18 depositing contributions, or (2) members of the general public are
19 personally solicited for the purchase of items having some tangible
20 value as merchandise, at a price not exceeding \$20.00 per item,
21 which price is paid on the spot in cash by the person so solicited to
22 the person so soliciting, when the net proceeds of such solicitation
23 are to be used by or on behalf of such candidate, political
24 committee, continuing political committee, candidate committee,
25 joint candidates committee, legislative leadership committee,
26 independent expenditure committee, or political party committee.

27 k. The term "testimonial affair" means an affair of any kind or
28 nature including, without limitation, cocktail parties, breakfasts,
29 luncheons, dinners, dances, picnics or similar affairs directly or
30 indirectly intended to raise campaign funds in behalf of a person
31 who holds, or who is or was a candidate for nomination or election
32 to a public office in this State, or directly or indirectly intended to
33 raise funds in behalf of any political party committee or in behalf of
34 a political committee, continuing political committee, candidate
35 committee, joint candidates committee, independent expenditure
36 committee, or legislative leadership committee.

37 l. The term "other thing of value" means any item of real or
38 personal property, tangible or intangible, but shall not be deemed to
39 include personal services other than paid personal services.

40 m. The term "qualified candidate" means:

41 (1) Joint candidates for election to the offices of Governor and
42 Lieutenant Governor whose names appear on the general election
43 ballot; who have deposited and expended \$150,000.00 pursuant to
44 section 7 of P.L.1974, c.26 (C.19:44A-32); and who, not later than
45 September 1 preceding a general election in which the offices of
46 Governor and Lieutenant Governor are to be filled, (a) notify the
47 Election Law Enforcement Commission in writing that the
48 candidates intend that application will be made on the candidates'

1 behalf for monies for general election campaign expenses under
2 subsection b. of section 8 of P.L.1974, c.26 (C.19:44A-33), and (b)
3 sign a statement of agreement, in a form to be prescribed by the
4 commission, to participate in interactive gubernatorial election
5 debates under the provisions of sections 9 through 11 of
6 P.L.1989, c.4 (C.19:44A-45 through C.19:44A-47); or

7 (2) Joint candidates for election to the offices of Governor and
8 Lieutenant Governor whose names do not appear on the general
9 election ballot; who have deposited and expended \$150,000.00
10 pursuant to section 7 of P.L.1974, c.26 (C.19:44A-32); and who,
11 not later than September 1 preceding a general election in which the
12 offices of Governor and Lieutenant Governor are to be filled, (a)
13 notify the Election Law Enforcement Commission in writing that
14 the candidates intend that application will be made on the
15 candidates' behalf for monies for general election campaign
16 expenses under subsection b. of section 8 of P.L.1974, c.26
17 (C.19:44A-33), and (b) sign a statement of agreement, in a form to
18 be prescribed by the commission, to participate in interactive
19 gubernatorial election debates under the provisions of sections 9
20 through 11 of P.L.1989, c.4 (C.19:44A-45 through C.19:44A-47);
21 or

22 (3) Any candidate for nomination for election to the office of
23 Governor whose name appears on the primary election ballot; who
24 has deposited and expended \$150,000.00 pursuant to section 7 of
25 P.L.1974, c.26 (C.19:44A-32); and who, not later than the last day
26 for filing petitions to nominate candidates to be voted upon in a
27 primary election for a general election in which the office of
28 Governor is to be filled, (a) notifies the Election Law Enforcement
29 Commission in writing that the candidate intends that application
30 will be made on the candidate's behalf for monies for primary
31 election campaign expenses under subsection a. of section 8 of
32 P.L.1974, c.26 (C.19:44A-33), and (b) signs a statement of
33 agreement, in a form to be prescribed by the commission, to
34 participate in two interactive gubernatorial primary debates under
35 the provisions of sections 9 through 11 of P.L.1989, c.4 (C.19:44A-
36 45 through C.19:44A-47); or

37 (4) Any candidate for nomination for election to the office of
38 Governor whose name does not appear on the primary election
39 ballot; who has deposited and expended \$150,000.00 pursuant to
40 section 7 of P.L.1974, c.26 (C.19:44A-32); and who, not later than
41 the last day for filing petitions to nominate candidates to be voted
42 upon in a primary election for a general election in which the office
43 of Governor is to be filled, (a) notifies the Election Law
44 Enforcement Commission in writing that the candidate intends that
45 application will be made on the candidate's behalf for monies for
46 primary election campaign expenses under subsection a. of section
47 8 of P.L.1974, c.26 (C.19:44A-33), and (b) signs a statement of
48 agreement, in a form to be prescribed by the commission, to

1 participate in two interactive gubernatorial primary debates under
2 the provisions of sections 9 through 11 of P.L.1989, c.4 (C.19:44A-
3 45 through C.19:44A-47).

4 n. The term "continuing political committee" means any group
5 of two or more persons acting jointly, or any corporation,
6 partnership, or any other incorporated or unincorporated
7 association, including a political club, political action committee,
8 civic association or other organization, which in any calendar year
9 contributes or expects to contribute at least \$5,500 to the aid or
10 promotion of the candidacy of an individual, or of the candidacies
11 of individuals, for elective public office, or the passage or defeat of
12 a public question or public questions, and which may be expected to
13 make contributions toward such aid or promotion or passage or
14 defeat during a subsequent election, provided that the group,
15 corporation, partnership, association or other organization has been
16 determined to be a continuing political committee under subsection
17 b. of section 8 of P.L.1973, c.83 (C.19:44A-8); provided that for the
18 purposes of this act, the term "continuing political committee" shall
19 not include a "political party committee," as defined by subsection
20 p. of this section, a "legislative leadership committee," as defined
21 by subsection s. of this section, or an "independent expenditure
22 committee," as defined by subsection t. of this section.

23 o. The term "statement of agreement" means a written
24 declaration, by a candidate for nomination for election to the office
25 of Governor, or by joint candidates for election to the offices of
26 Governor and Lieutenant Governor who intend that application will
27 be made on behalf of the candidate for the office of Governor to
28 receive monies for the primary election or on behalf of the
29 candidates for the office of Governor and the office of Lieutenant
30 Governor for general election campaign expenses under subsection
31 a. or subsection b., respectively, of section 8 of P.L.1974, c.26
32 (C.19:44A-33), that the candidates undertake to abide by the terms
33 of any rules established by any private organization sponsoring a
34 gubernatorial primary or general election debate, as appropriate, to
35 be held under the provisions of sections 9 through 11 of
36 P.L.1989, c.4 (C.19:44A-45 through C.19:44A-47) and in which the
37 candidates are to participate. The statement of agreement shall
38 include an acknowledgment of notice to the candidates who sign it
39 that failure on the candidates' part to participate in any of the
40 gubernatorial debates may be cause for the termination of the
41 payment of such monies on the candidates' behalf and for the
42 imposition of liability for the return to the commission of such
43 monies as may previously have been so paid.

44 p. The term "political party committee" means the State
45 committee of a political party, as organized pursuant to R.S.19:5-4,
46 any county committee of a political party, as organized pursuant to
47 R.S.19:5-3, or any municipal committee of a political party, as
48 organized pursuant to R.S.19:5-2.

1 q. The term "candidate committee" means a committee
2 established pursuant to subsection a. of section 9 of P.L.1973, c.83
3 (C.19:44A-9) for the purpose of receiving contributions and making
4 expenditures.

5 r. The term "joint candidates committee" means a committee
6 established pursuant to subsection a. of section 9 of P.L.1973, c.83
7 (C.19:44A-9) by at least two candidates for the same elective public
8 offices in the same election in a legislative district, county,
9 municipality or school district, but not more candidates than the
10 total number of the same elective public offices to be filled in that
11 election, for the purpose of receiving contributions and making
12 expenditures. For the purpose of this subsection: the offices of
13 member of the Senate and **members** member of the General
14 Assembly shall be deemed to be the same elective public offices in
15 a legislative district; the offices of member of the board of chosen
16 freeholders and county executive shall be deemed to be the same
17 elective public offices in a county; and the offices of mayor and
18 member of the municipal governing body shall be deemed to be the
19 same elective public offices in a municipality.

20 s. The term "legislative leadership committee" means a
21 committee established, authorized to be established, or designated
22 by the President of the Senate, the Minority Leader of the Senate,
23 the Speaker of the General Assembly or the Minority Leader of the
24 General Assembly pursuant to section 16 of P.L.1993, c.65
25 (C.19:44A-10.1) for the purpose of receiving contributions and
26 making expenditures.

27 t. The term "independent expenditure committee" means a
28 person organized under section 527 of the federal Internal Revenue
29 Code (26 U.S.C. s.527) or under paragraph (4) of subsection (c) of
30 section 501 of the federal Internal Revenue Code (26 U.S.C. s.501)
31 that does not fall within the definition of any other organization
32 subject to the provisions of P.L.1973, c.83 (C.19:44A-1 et seq.),
33 that engages in influencing or attempting to influence the outcome
34 of any election or the nomination, election, or defeat of any person
35 to any State or local elective public office, or the passage or defeat
36 of any public question, legislation, or regulation, or in providing
37 political information on any candidate or public question,
38 legislation, or regulation, and raises or expends \$3,000 or more in
39 the aggregate for any such purpose annually, but does not
40 coordinate its activities with any candidate or political party as
41 determined by the Election Law Enforcement Commission pursuant
42 to the provisions of section 11 of P.L.2019, c.124 (C.19:44A-3.1).

43 u. The term "electioneering communication" means any
44 communication made within the period beginning on January 1 of
45 an election year and the date of the election and refers to: (1) a
46 clearly identified candidate for office and promotes or supports a
47 candidate for that office or opposes a candidate for that office,
48 regardless of whether the communication expressly advocates a

1 vote for or against a candidate; or (2) a public question and
2 promotes or supports the passage or defeat of that question,
3 regardless of whether the communication expressly advocates a
4 vote for or against the passage of the question. The term includes
5 communications published in any newspaper or periodical;
6 broadcast on radio, television, or the Internet or digital media, or
7 any public address system; placed on any billboard, outdoor
8 facility, button, motor vehicle, window display, poster, card,
9 pamphlet, leaflet, flyer, or other circular; or contained in any direct
10 mailing, robotic phone calls, or mass e-mails.

11 v. The term "independent expenditure" means an expenditure
12 by a person expressly advocating, or the functional equivalent
13 thereof, the election or defeat of: (1) a clearly identified candidate
14 that is not made in concert or cooperation with or at the request or
15 suggestion of the candidate, the candidate's committee, a political
16 party committee, or an agent thereof; or (2) a public question,
17 legislation, or regulation, that is not made in concert or cooperation
18 with or at the request or suggestion of the sponsors, organizers, or
19 committee supporting or opposing the question, legislation, or
20 regulation, a political party, or agents thereof. The "functional
21 equivalent" of expressly advocating means specific advocacy that
22 can be interpreted by a reasonable person as advocating the election
23 or defeat of a candidate, or the passage or defeat of a public
24 question, legislation, or regulation, taking into account whether the
25 communication involved mentions a candidate, a political party, or
26 a challenger to a candidate, or takes a position on a candidate's
27 character, qualifications, or fitness for office, or that can be
28 interpreted by a reasonable person as taking a position on the merits
29 of a public question, legislation, or regulation, or taking a position
30 in favor or against the passage or defeat of a public question,
31 legislation, or regulation.

32 w. The term "complimentary tickets" means, but is not limited
33 to, tickets, passes, tokens, chits, vouchers or other similar tangible
34 or intangible forms of authorization which are given without
35 monetary cost to the recipient and which give the holder thereof
36 license to either: (1) attend a dinner, party, reception, affair,
37 function or other event without monetary charge to that person; or
38 (2) have the use of an intangible benefit.

39 x. The term "officeholder" means any person who has been
40 elected to and holds a public office in this State as of the effective
41 date of this 1992 amendatory and supplementary act and any person
42 elected to and holding public office subsequent to the effective date
43 of this act.

44 y. The term "political party official" means, but is not limited
45 to, the chairman, vice-chairman, treasurer and secretary of the State
46 committee of a political party, as organized pursuant to R.S.19:5-4;
47 the chairman, vice-chairman, treasurer and secretary of any county
48 committee of a political party, as organized pursuant to R.S.19:5-3;

1 and the chairman, vice-chairman, treasurer and secretary of any
2 municipal committee of a political party, as organized pursuant to
3 R.S.19:5-2.

4 (cf: P.L.2019, c.124, s.1)

5
6 2. (New section) a. Any complimentary tickets for a political
7 fundraiser or event which are purchased by any person, association
8 or organization and given free of charge to a candidate,
9 officeholder, political party official or member of a political
10 committee or continuing political committee, and which are used
11 subsequently by that candidate, officeholder, official or member to
12 attend the fundraiser or event, shall be considered an in-kind
13 contribution to that candidate, officeholder, official or member from
14 the person, association or organization who gave the tickets to the
15 candidate, officeholder, official or member which shall be reported
16 to the commission if either the face value or purchase price of the
17 tickets is greater than \$200. The report shall be filed by the
18 candidate, officeholder, political party official or member of a
19 political committee or continuing political committee who uses such
20 tickets and shall include the name and mailing address of the
21 recipient, the name and mailing address of the sponsor of the
22 fundraiser or event and of its beneficiary, and the face value or
23 purchase price of each such ticket greater than \$200. The report
24 shall be filed with the commission no later than the next date
25 required by the provisions of P.L.1973, c.83 (C.19:44A-1 et seq.)
26 for a candidate, officeholder, political party official or member of a
27 political committee or continuing political committee to file any
28 reports of contributions or expenditures. A political party official
29 shall include the receipt and use of such a ticket in any report
30 required to be filed by the continuing political committee with
31 which that political party official is associated.

32 b. Any complimentary tickets to a political fundraiser or event
33 which are given to a candidate, officeholder, political party official
34 or member of a political committee or continuing political
35 committee and are not used by the recipient or, as far as the
36 candidate, officeholder, official or member knows, not used by any
37 other candidate, officeholder, official or member, shall not be
38 considered an in-kind contribution to the candidate, officeholder,
39 official or member who first received the tickets and need not be
40 reported to the commission by the recipient.

41 However, if any complimentary tickets to a political fundraiser
42 or event which were given originally to a candidate, officeholder,
43 political party official or member of a political committee or
44 continuing political committee are given thereby to another
45 candidate, officeholder, political party official or member of a
46 political committee or continuing political committee who uses the
47 tickets to attend the fundraiser or event, these users shall be
48 considered to have received an in-kind contribution from the

1 candidate, officeholder, official or member who gave the tickets to
2 the candidate, officeholder, official or member who used the tickets
3 to attend the fundraiser or event. Both the candidate, officeholder,
4 official or member who used the tickets and the candidate,
5 officeholder, official or member who gave the tickets to the users
6 thereof shall file a report with the commission if either the face
7 value or purchase price of each such ticket is greater than \$200.
8 The report shall include the name and mailing address of the giver
9 of the tickets, of the recipients thereof, and of the sponsor of the
10 fundraiser or event and of its beneficiary, and the face value or
11 purchase price of each such ticket greater than \$200. The report
12 shall be filed with the commission no later than the next date
13 required by the provisions of P.L.1973, c.83 (C.19:44A-1 et seq.)
14 for a candidate, officeholder, political party official or member of a
15 political committee or continuing political committee to file any
16 reports of contributions or expenditures. A political party official
17 shall include the donation or receipt and use of such a ticket in any
18 report required to be filed by the continuing political committee
19 with which that political party official is associated.

20
21 3. (New section) For the purposes of this act, the face value
22 displayed on a complimentary ticket or actual purchase price paid
23 for the ticket, whichever amount is greater, shall be the amount of
24 other thing of value which a candidate, officeholder, political party
25 official or member of a political committee or continuing political
26 committee will be considered to have received or given as an in-
27 kind contribution, as is appropriate, and which shall be reported to
28 the commission.

29
30 4. (New section) a. The receipt of complimentary tickets
31 from the sponsor of a political fundraiser or event by a candidate for
32 the office of Governor or a candidate for the office of member of
33 the Legislature which have a face value of greater than \$250 shall
34 not be considered a gift received by that person and shall not be
35 required to be reported by the recipient to the commission.

36 b. The receipt of complimentary tickets for a political
37 fundraiser or event which are purchased by any person, association
38 or organization and have a face value or purchase price of greater
39 than \$200 and are given free of charge to a candidate for the office
40 of Governor or a candidate for the office of member of the
41 Legislature for the personal use of that candidate shall be
42 considered a gift received by that person and shall be reported as
43 such to the commission pursuant to the provisions of
44 P.L.1981, c.129 (C.19:44B-1 et seq.).

45
46 5. This act shall take effect on January 1 following its
47 enactment.

1 STATEMENT

2

3 The purpose of this bill is to clarify and strengthen the disclosure
4 requirements for certain types of complimentary tickets received by
5 candidates, officeholders, political party officials and members of
6 political committees and continuing political committees.

7 Specifically, the bill is concerned with complimentary tickets to
8 political fundraisers or events which are purchased by a person,
9 organization or association and then given free of charge to a
10 candidate, officeholder, political party official or member of a
11 political committee or continuing political committee. In such a
12 situation, the recipients are required to report to ELEC the receipt
13 of complimentary tickets and they are to be considered in-kind
14 contributions to the candidate, officeholder, official or member of a
15 political committee or continuing political committee who uses the
16 tickets to attend a fundraiser or event if either the face value or
17 purchase price of each ticket is greater than \$200. Any such tickets
18 given to a candidate, officeholder, political party official or member
19 of a political committee or continuing political committee and not
20 used thereby need not be reported to ELEC. But if such tickets are
21 given by a candidate, officeholder, official or member to another
22 candidate, officeholder, official or member, the ultimate users of the
23 tickets shall be considered to have received a reportable in-kind
24 contribution from the candidate, officeholder, official or member
25 providing the tickets that were used.