

ASSEMBLY, No. 186

STATE OF NEW JERSEY

221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Assemblywoman DAWN FANTASIA

District 24 (Morris, Sussex and Warren)

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District 24 (Morris, Sussex and Warren)

SYNOPSIS

Establishes "Local Governmental Process Activities Disclosure Act."

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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2

1 AN ACT establishing the "Local Governmental Process Activities
2 Disclosure Act" and supplementing Title 52 of the New Jersey
3 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-1 et
22 seq.), as the governing body is defined in the form of government
23 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;

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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 the
11 local chief executive," "with staff of the local chief executive," or
12 "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 part
23 thereof which in its original form was not a communication under
24 this subsection and shall cause such excerpt or reproduction to be
25 addressed, delivered, distributed or disseminated to a member of the
26 local governing body, to staff of the local governing body, to the
27 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, by direct or indirect communication
41 with, or by making or authorizing, or causing to be made or
42 authorized, any expenditures providing a benefit to, a member of
43 the local governing body, staff of the local governing body, the
44 local chief executive, staff of the local chief executive, or any local
45 government officer or employee, or who holds himself out as
46 engaging in the business of influencing local measures, local
47 regulations or local governmental processes, by such means, or who
48 incident to his regular employment engages in influencing local

1 measures, local regulations or local governmental processes, by
2 such means; provided, however, that a person shall not be deemed a
3 governmental affairs agent who, in relation to the duties or interests
4 of his employment or at the request or suggestion of his employer,
5 communicates with a member of the local governing body, staff of
6 the local governing body, the local chief executive, staff of the local
7 chief executive, or a local government officer or employee
8 concerning any local measure, local regulation or local
9 governmental process, if such communication is an isolated,
10 exceptional or infrequent activity in relation to the usual duties of
11 his employment.

12 h. The term "influence a local measure" means to make any
13 attempt, whether successful or not, to secure or prevent the
14 initiation of any local measure, or to secure or prevent the passage,
15 defeat, amendment or modification thereof by the local governing
16 body, or the approval, amendment or disapproval thereof by the
17 local chief executive in accordance with his authority.

18 i. The term "statement" includes a notice of representation or a
19 report required by this act.

20 j. The term "member of the local governing body" includes
21 any member or member-elect of, or any person who shall have been
22 selected to fill a vacancy in, the local governing body, and any other
23 person who is a member or member-designate of any committee or
24 commission established by the local governing body.

25 k. The term "staff of the local governing body" includes all
26 staff, assistants and employees of the local governing body or any
27 of its members in the member's official capacity, whether or not
28 they receive compensation from public funds.

29 l. The term "staff of the local chief executive" includes the
30 heads of principal local government departments and agencies, the
31 secretary to the local chief executive, the counsel to the local chief
32 executive, and all professional employees in the office of the
33 counsel to the local chief executive, and all other employees of the
34 office of the local chief executive.

35 m. The term "local government officer or employee" means any
36 assistant or deputy heads of principal local government departments
37 or agencies, and any officer of a local government department or
38 agency who is not included among the foregoing or among the staff
39 of the local chief executive who is empowered by law to issue,
40 promulgate or adopt local administrative rules and regulations or to
41 administer local governmental processes, and any person employed
42 in the office of such an officer who is involved with the
43 development, issuance, promulgation or adoption of such local rules
44 and regulations or administration of local governmental processes
45 in the regular course of employment.

46 n. The term "local regulation" includes any local administrative
47 rule or regulation affecting the rights, privileges, benefits, duties,
48 obligations, or liabilities of any one or more persons subject by law

1 to regulation as a class, but does not include a local administrative
2 action (1) to issue, renew or deny, or, in an adjudicative action, to
3 suspend or revoke, a license, order, permit or waiver under any law
4 or administrative rule or regulation, (2) to impose a penalty, or (3)
5 to effectuate an administrative reorganization within a single local
6 government department or agency.

7 o. The term "influence local regulation" means to make any
8 attempt, whether successful or not, to secure or prevent the proposal
9 of any local regulation or to secure or prevent the consideration,
10 amendment, issuance, promulgation, adoption or rejection thereof
11 by an officer or any local government department or agency
12 empowered by law to issue, promulgate or adopt local
13 administrative rules and regulations.

14 p. The term "expenditures providing a benefit" or
15 "expenditures providing benefits" means any expenditures for
16 entertainment, food and beverage, travel and lodging, honoraria,
17 loans, gifts or any other thing of value, except for (1) any money or
18 thing of value paid for past, present, or future services in regular
19 employment, whether in the form of a fee, expense, allowance,
20 forbearance, forgiveness, interest, dividend, royalty, rent, capital
21 gain, or any other form of recompense, or any combination thereof,
22 or (2) any dividends or other income paid on investments, trusts,
23 and estates.

24 q. The term "commission" means the Election Law
25 Enforcement Commission established pursuant to section 5 of
26 P.L.1973, c.83 (C.19:44A-5).

27 r. The term "communication with the general public" means
28 any communication:

29 (1) disseminated to the general public through direct mail or in
30 the form of a paid advertisement in a newspaper, magazine, or other
31 printed publication of general circulation or aired on radio,
32 television, or other broadcast medium, and

33 (2) which explicitly supports or opposes a particular item or
34 items of a local measure or local regulation, or the content of which
35 can reasonably be understood, irrespective of whether the
36 communication is addressed to the general public or to persons in
37 public office or employment, as intended to influence a local
38 measure or to influence local regulation.

39 s. The terms "influence local governmental processes",
40 "influencing local governmental processes" or "influence local
41 governmental process" means to make any attempt, whether
42 successful or not, to assist a represented entity or group to engage in
43 communication with, or to secure information from, a local
44 government officer or employee, or any local government
45 department or agency, empowered by law to administer a local
46 governmental process or perform other functions that relate to such
47 processes.

48 t. The term "local governmental process" means:

1 promulgation of local administrative orders;
2 rate setting;
3 development, negotiation, award, modification or cancellation of
4 public contracts;
5 issuance, denial, modification, renewal, revocation or suspension
6 of permits, licenses or waivers;
7 procedures for bidding;
8 imposition or modification of fines and penalties;
9 procedures for purchasing;
10 rendition of local administrative determinations; and
11 award, denial, modification, renewal or termination of financial
12 assistance, grants and loans.

13 u. The term "public contract" means a contract the cost or price
14 of which is to be paid with or out of public funds or the funds of an
15 independent local authority.

16

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

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

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

36 (3) (a) the name, business address and occupation or principal
37 business of any person in whose interest he acts as a governmental
38 affairs agent in consideration of the aforesaid compensation, if such
39 person is other than the person from whom said compensation is
40 received; and

41 (b) if a person, identified under paragraph (2) of this subsection
42 as one from whom the governmental affairs agent receives
43 compensation, is a membership organization or corporation whose
44 name or occupation so identified does not, either explicitly or by
45 virtue of the nature of the principal business in which the
46 organization or its members, or the corporation or its shareholders,
47 is commonly known to be engaged, clearly reveal the primary
48 specific economic, social, political, or other interest which the

1 organization or corporation may reasonably be understood to seek
2 to advance or protect through its employment, retainer, or
3 engagement of the governmental affairs agent, a description of that
4 primary economic, social, political, or other interest and a list of the
5 persons having organizational or financial control of the
6 organization or corporation, including the names, mailing addresses
7 and occupations, respectively, of those persons. The commission
8 shall promulgate rules and regulations to govern the content of any
9 information required to be disclosed under this subparagraph and
10 shall take such steps as are reasonably necessary to ensure that all
11 such information is, in accordance with those rules and regulations,
12 both accurate and complete.

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

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

28 (5) the length of time for which he will be receiving
29 compensation from the person aforesaid for acting as a
30 governmental affairs agent, if said length of time can be ascertained
31 at the time of filing; and

32 (6) the type of local measure, local regulation or local
33 governmental process or the particular local measure, local
34 regulation or local governmental process in relation to which he is
35 to act as governmental affairs agent in consideration of the
36 aforesaid compensation, and any particular local measure, local
37 regulation or local governmental process or type of local measure,
38 local regulation or local governmental process which he is to
39 promote or oppose.

40 b. Any governmental affairs agent who receives compensation
41 from more than one person for his services as a governmental
42 affairs agent shall file a separate notice of representation with
43 respect to each such person; except that a governmental affairs
44 agent whose fee for acting as such in respect to the same local
45 measure, local regulation or local governmental process or type of
46 local measure, local regulation or local governmental process is
47 paid or contributed to by more than one person may file a single
48 statement, in which he shall detail the name, business address and

1 occupation or principal business of each person so paying or
2 contributing.

3

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

11

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

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

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

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

3
4 7. Any person who knowingly employs another person to serve
5 as a governmental affairs agent who is not registered as required by
6 section 4 of this act, P.L. , c. (C.) (pending before the
7 Legislature as this bill), except upon the condition that such person
8 register as a governmental affairs agent as provided by law or who
9 continues to employ any such person who has not registered within
10 the time required by law, shall, upon conviction, be guilty of a
11 crime of the fourth degree.

12
13 8. Any governmental affairs agent who knowingly represents
14 an interest adverse to any of his employer's without first obtaining
15 such employer's written consent thereto, after full disclosure to such
16 employer of such adverse interest, shall, upon conviction, be guilty
17 of a crime of the fourth degree.

18
19 9. Any governmental affairs agent who knowingly causes,
20 influences, or otherwise secures the introduction of any local
21 measure or amendment thereto for the purpose of thereafter being
22 employed to prevent the passage thereof, shall upon conviction be
23 guilty of a crime of the fourth degree.

24
25 10. a. As used in this section, "person" means any member of
26 the local governing body, the local chief executive, or the head of a
27 principal local government department or agency.

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

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

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

46
47 11. A governmental affairs agent shall not enter into any
48 agreement, arrangement, or understanding under which the

1 governmental affairs agent's compensation, or any portion thereof,
2 is made contingent upon the success of any attempt to influence a
3 local measure, local regulation or local governmental process.

4
5 12. a. Every governmental affairs agent shall file with the
6 commission a signed quarterly report of his activity in attempting to
7 influence local measures, local regulations or local governmental
8 processes during each such quarter.

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

16 c. Each such quarterly report shall:

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

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

32
33 13. Each governmental affairs agent or lobbyist shall make and
34 certify the correctness of a full annual report to the Election Law
35 Enforcement Commission, of those moneys, loans, paid personal
36 services or other things of value contributed to it and those
37 expenditures made, incurred or authorized by it for the purpose of
38 communication with or providing benefits to any member of the
39 local governing body, staff of the local governing body, the local
40 chief executive, staff of the local chief executive, or a local
41 government officer or employee, or a communication with the
42 general public, during the previous year. The report shall include,
43 but not be limited to, the following expenditures which relate to
44 communication with, or providing benefits to, any a member of the
45 local governing body, staff of the local governing body, the local
46 chief executive, staff of the local chief executive, or a local
47 government officer or employee, or communication with the general
48 public: media, including advertising; entertainment; food and

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

45 Any lobbyist who receives contributions or makes expenditures
46 to influence a local measure or local regulation shall be required to
47 file and certify the correctness of a report of such contributions or
48 expenditures if the contributions or expenditures made, incurred or

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

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

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

31
32 14. A person who is registered as a governmental affairs agent
33 and who serves or shall serve as a member of any independent State
34 authority, county improvement authority or municipal utilities
35 authority, or as a member from New Jersey on an inter-state or bi-
36 state authority, or as a member of any board or commission
37 established by statute or resolution or by executive order of the
38 Governor or by the Legislature or by any agency, department or
39 other instrumentality of the State, or established by a local
40 governing body or local chief executive, shall disclose such service,
41 including the name of the authority, board or commission and the
42 date upon which his term as a member thereof expires, in the annual
43 report required to be made under section 13 of P.L. , c. (C.)
44 (pending before the Legislature as this bill).

45
46 15. a. Each governmental affairs agent and lobbyist shall
47 provide to each member of the local governing body, staff of the
48 local governing body, the local chief executive, staff of the local

1 chief executive, or a local government officer or employee who
2 receives a benefit that is required to be reported to the commission
3 pursuant to section 13 of P.L. , c. (C.) (pending before the
4 Legislature as this bill), a full written and certified report describing
5 the benefit, including a description of the benefit, the amount of the
6 benefit, the date it was provided and to whom it was paid.

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

21 16. The commission shall:

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

25 b. compile and summarize information contained in statements
26 filed pursuant to this act, and report the same to the Legislature and
27 the Governor;

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

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

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

40 f. report to the Legislature and the Governor annually on the
41 administration of this act;

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

45 h. compile and publish quarterly a list of all governmental
46 affairs agents then registered, together with the information
47 contained in their notices of representation and last quarterly report,
48 which compilation shall be distributed to all members of the

1 Legislature and the Governor, and published in the New Jersey
2 Register;

3 i. prepare and publish a summary and explanation of the
4 registration and reporting requirements of this act, for the use and
5 guidance of those persons who may be required to file statements
6 under this act;

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

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

23

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

31

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

42

43 19. The commission shall adopt such rules and regulations as
44 may be necessary to effectuate the purposes of this act, P.L. ,
45 c. (C.) (pending before the Legislature as this bill).

46

47 20. Any person engaged in activity which makes him subject to

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

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

13

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

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

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

30

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

37

38 23. This act shall not apply to the following activities:

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

45 b. acts of an officer or employee of the Government of this
46 State or any of its political subdivisions, or of the Government of
47 the United States or of any state or territory thereof or any of their
48 political subdivisions, in carrying out the duties of their public

1 office or employment, except as provided in section 10 of P.L.2009,
2 c.308 (C.18A:3B-55);

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

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

8 e. acts of a person in testifying before a local governing body,
9 at a public hearing duly called by the local chief executive on a
10 local measure, or before any officer or body empowered by law to
11 issue, promulgate or adopt administrative rules and regulations in
12 behalf of a nonprofit organization incorporated as such in this State
13 who receives no compensation therefor beyond the reimbursement
14 of necessary and actual expenses, and who makes no other
15 communication with a member of the local governing body, staff of
16 the local governing body, the local chief executive, staff of the local
17 chief executive, or a local government officer or employee in
18 connection with the subject of his testimony;

19 f. acts of a person in communicating with or providing benefits
20 to a member of the local governing body, staff of the local
21 governing body, the local chief executive, staff of the local chief
22 executive, or a local government officer or employee if such
23 communication or provision of benefits is undertaken by him as a
24 personal expression and not incident to his employment, even if it is
25 upon a matter relevant to the interests of a person by whom or
26 which he is employed, and if he receives no additional
27 compensation or reward, in money or otherwise, for or as a result of
28 such communication or provision of benefits;

29 g. with regard to influencing local governmental processes as
30 defined in subsections s. and t. of section 3 of P.L. , c. (C.)
31 (pending before the Legislature as this bill), any communications,
32 matters or acts of an attorney falling within the attorney-client
33 privilege while engaging in the practice of law to the extent that
34 confidentiality is required in order for the attorney to exercise his
35 ethical duties as a lawyer; and

36 h. with regard to influencing governmental processes as
37 defined in subsections s. and t. of section 3 of P.L. , c. (C.)
38 (pending before the Legislature as this bill), any communications,
39 matters or acts involving collective negotiations, or the
40 interpretation or violation of collective negotiation agreements, of a
41 labor organization of any kind which exists or is constituted for the
42 purpose, in whole or in part, of collective bargaining, or of dealing
43 with employers concerning the grievances, terms or conditions of
44 employment, or of other mutual aid or protection in connection with
45 employment.

46

47 24. Every governmental affairs agent who, for the purpose of
48 influencing a local measure, is in a public building or other location

1 when and where an authorized meeting of a local governing body is
2 being held shall at all times wear a descriptive name tag of a type
3 prescribed by the commission.
4

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

16 26. Any person who knowingly and willfully falsifies all or any
17 part of any statement, notice or report under this act, P.L. ,
18 c. (C.) (pending before the Legislature as this bill), shall, upon
19 conviction, be guilty of a crime of the fourth degree.
20

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

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

37 29. Any governmental affairs agent required to file a notice of
38 representation or report or maintain any record under this act,
39 P.L. , c. (C.) (pending before the Legislature as this bill), who
40 fails to file such a notice or report or maintain such record shall,
41 upon conviction, be guilty of a crime of the fourth degree.
42

43 30. Every officer, or person performing the functions of an
44 officer, of any person required by this act to file any statement shall
45 be under obligation to cause such person to file such statement
46 within the time prescribed by this act, P.L. , c. (C.) (pending
47 before the Legislature as this bill).

1 The obligation of any person to file any statement required by
2 this act shall continue from day to day, and discontinuance of the
3 activity out of which the obligation arises shall not relieve any
4 person from the obligation to file any statement required for any
5 period of time prior to such discontinuance.

6
7 31. The commission shall make provision to accept statements
8 similar to statements required by this act, P.L. , c. (C.)
9 (pending before the Legislature as this bill), from persons who are
10 not required by law to file such statements but who choose to make
11 reports upon their activities in influencing local measures. The
12 commission shall have full discretion in prescribing the form and
13 detail of such voluntary statements and may by general rules delimit
14 classes of voluntary filings which it will or will not accept in order
15 to further the purposes of this act, and the efficient administration
16 thereof. The information contained in such voluntary statements as
17 are accepted by the commission shall be included in the periodic
18 reports and summaries which it is required to make.

19
20 32. a. When it shall appear to the commission that a person
21 required to file any statement under this act, P.L. , c. (C.)
22 (pending before the Legislature as this bill), has failed to file such
23 required statement, or has filed a statement false, inaccurate or
24 incomplete in any material matter, or has otherwise violated the
25 provisions of this act, or when the commission believes it to be in
26 the public interest that an investigation should be made to ascertain
27 whether a person has in fact violated any of the provisions of this
28 act, it may apply to the Superior Court for an order or orders
29 directing:

30 (1) that any such person or persons make available to the
31 commission's inspection, or to the inspection of any of its
32 authorized deputies or agents, such records as are required to be
33 kept by that person pursuant to section 20 of P.L. , c. (C.)
34 (pending before the Legislature as this bill); or

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

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

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

44 b. Such application by the commission shall set forth all the
45 facts and circumstances upon which its belief in the necessity of an
46 investigation is based. The court may proceed on such application
47 in a summary manner; and if the court determines that from the
48 evidence submitted it appears that a person required to file any

1 statement under this act, has failed to file such statement, or has
2 filed a statement false, inaccurate or incomplete in any material
3 respect, or has otherwise violated any of the provisions of this act,
4 or that it is in the public interest that an investigation be held to
5 determine whether such violation has occurred, the court shall issue
6 such order pursuant to subsection a. of this section as it may deem
7 necessary and proper.

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

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

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

41

42 33. This act shall take effect immediately.

STATEMENT

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This bill extends the same disclosure, reporting, and other requirements that govern the activities of governmental affairs agents to their activities with respect to all local government levels.

Under the bill, a governmental affairs agent acting on behalf of a lobbyist who seeks to influence a local measure, local regulations, the local governmental process, or to provide a benefit to certain local officials, would be required to file a statement of representation with the Election Law Enforcement Commission (ELEC) prior to attempting to exercise such influence or provide such benefit. These activities would include communications with: (1) the local governing body of a municipality, a county, a local authority, or a school district, including a charter school; (2) the local chief executive of the municipality, county, authority, or school district; (3) their respective staffs, as defined in the bill, which includes the heads of principal local government departments and agencies; and (4) local government officers and employees, which includes the deputy heads of principal local government departments and agencies.

The bill defines a “local measure” as including all ordinances, resolutions, amendments, nominations and appointments pending or proposed in a local governing body, and all ordinances and resolutions which having been approved by the local governing body are pending implementation. A “local regulation” includes any local administrative rule or regulation affecting the rights, privileges, benefits, duties, obligations, or liabilities of any one or more persons subject by law to regulation as a class, but does not include a local administrative action (1) to issue, renew or deny, or, in an adjudicative action, to suspend or revoke, a license, order, permit or waiver under any law or administrative rule or regulation, (2) to impose a penalty, or (3) to effectuate an administrative reorganization within a single local government department or agency. The “local governmental process” includes the promulgation of local administrative orders; rate setting; the development, negotiation, award, modification or cancellation of public contracts; issuance, denial, modification, renewal, revocation or suspension of permits, licenses or waivers; procedures for bidding; imposition or modification of fines and penalties; procedures for purchasing; rendition of local administrative determinations; and the award, denial, modification, renewal or termination of financial assistance, grants and loans.

Among other provisions, the bill:
(1) requires a governmental affairs agent to file with ELEC a statement or signed notice of representation prior to any communication with, or providing a benefit to, a member of the local governing body, staff of the local governing body, the local chief executive, staff of the local chief executive, or a local

1 government officer or employee. The statement must disclose,
2 among other information, the name and address of the governmental
3 affairs agent, the lobbyist retaining the services of that agent, and
4 the specific or general types of local measures, local regulations, or
5 local governmental processes that the agent is employed to
6 influence (section 4);

7 (2) prohibits a lobbyist or a governmental affairs agent from
8 offering or giving or agreeing to offer or give, directly or indirectly,
9 any compensation, reward, employment, gift, honorarium or other
10 thing of value to a local government officer or employee or a
11 member of the local governing body or staff of the local governing
12 body, totaling more than \$250 in a calendar year. This prohibition
13 also applies with respect to each member of the immediate family
14 of a member of the local governing body, which means a spouse,
15 child, parent, or sibling of the member residing in the same
16 household as the member of the local governing body. The bill also
17 provides for certain exemptions (section 6);

18 (3) prohibits a member of the local governing body, the local
19 chief executive, or the head of a principal local government
20 department or agency from acting as a governmental affairs agent
21 with respect to any local measure, local regulation, or local
22 governmental process of the municipality, county, authority, or
23 school district with which the person holds office or is employed
24 and for one year next subsequent to the termination of the office or
25 employment of the person (section 10);

26 (4) requires the governmental affairs agent to file with ELEC
27 quarterly reports of his or her activities (section 12); and requires
28 the governmental affairs agent or lobbyist to file a full annual report
29 of the moneys or other things of value received for, and of those
30 amounts expended in, communications with or the awarding of
31 benefits to intended recipients, governmental affairs agents or
32 lobbyists, and the general public or publisher of the communication,
33 when the annual amounts either received or expended exceed
34 \$2,500 in any year (section 13);

35 (5) require each governmental affairs agent or lobbyist to
36 provide each recipient of benefits a full written and certified report
37 describing the benefit, including a description of the benefit, the
38 amount of the benefit, the date it was provided and to whom it was
39 paid by February 1 of each year (section 15);

40 (6) empower ELEC with specific power and duties for its
41 implementation of the various requirements in the bill, including the
42 ability to establish and collect reasonable fees for the filing of
43 statements of representation and quarterly and annual reports, and
44 an annual fee to be paid by each governmental affairs agent for
45 allocation to ELEC; and

46 (7) establish the due process to be followed to prosecute
47 violations of this bill, including the penalties for violations.

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1 This bill is modeled upon the “Legislative and Governmental
2 Process Activities Disclosure Act,” P.L.1971, c.183 (C.52:13C-18
3 et seq., which governs the activities and disclosures of
4 governmental affairs agents and lobbyists who seek to influence
5 legislation, regulations, and governmental processes at the State
6 government level. The intent of this bill is to impose the same or
7 substantially the same provisions of current law on governmental
8 affairs agents and lobbyists who seek to influence local measures,
9 regulations, and governmental processes at the county,
10 municipality, local authority, and school district level.