

52:13C-20

LEGISLATIVE HISTORY CHECKLIST

(Legislative Disclosure Act--amend--require lobbyists to make certain quarterly reports)

NJSA 52:13C-20 et al.

LAWS 1981

CHAPTER 150

Bill No. S1396

Sponsor(s) Bedell

Date Introduced June 26, 1980

Committee: Assembly

Senate State Govt., Federal & Interstate Relations & Veterans Affairs

Amended during passage Yes

~~No~~ Amendments denoted by asterisks

according to Governor's recommendations:

Date of Passage: Assembly Feb. 9, 1981

Re-enacted 5-14-81

Senate Jan. 29, 1981

Re-enacted 5-4-81

Date of approval May 22, 1981

Following statements are attached if available:

Sponsor statement Yes ~~No~~

Committee Statement: Assembly Yes ~~No~~

Senate Yes ~~No~~

Fiscal Note Yes ~~No~~

Veto Message Yes ~~No~~

Message on signing Yes ~~No~~

Following were printed:

Reports Yes ~~No~~

Hearings Yes ~~No~~

974.90 New Jersey. Legislature. Senate. State Government,
L796 Federal & Interstate Relations and Veterans Affairs.
1980 Public hearing, held 10-23-80. Trenton, NJ, 1980.

(over)

6/22/81

N.J. Supreme Court Case (2-6-80)re: Campaign Contribution
Act (p.2 of public hearing):

New Jersey State Chamber of Commerce v. New Jersey Election
Law Enforcement Commission 82 NJ 57 (2-6-80)

150 5 22 81 81
[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 1396

STATE OF NEW JERSEY

INTRODUCED JUNE 26, 1980

By Senator BEDELL

Referred to Committee on State Government, Federal and
Interstate Relations and Veterans Affairs

AN ACT to amend and supplement "An act to require the public disclosure of certain information by certain persons seeking to influence legislation in this State, providing penalties for non-compliance, and repealing the 'Legislative Activities Disclosure Act', approved October 16, 1964 (P. L. 1964, c. 207)," approved June 2, 1971 (P. L. 1971, c. 183).

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 3 of P. L. 1971, c. 183 (C. 52:13C-20) is amended to
2 read as follows:

3 3. Definitions. For the purposes of this act, unless the context
4 clearly requires a different meaning:

5 a. The term "person" includes an individual, partnership, com-
6 mittee, association, corporation, and any other organization or
7 group of persons.

8 b. The term "legislation" includes all bills, resolutions, amend-
9 ments, nominations and appointments pending or proposed in
10 either House of the Legislature, and all bills and resolutions which,
11 having passed both Houses, are pending approval by the Governor.

12 c. The term "Legislature" includes the Senate and General
13 Assembly of the State of New Jersey, the members and members-
14 elect thereof and each of them, all committees and commissions
15 established by the Legislature or by either House and all members
16 of any such committee or commission, and all staff, assistants and
17 employees of the Legislature whether or not they receive com-
18 pensation from the State of New Jersey.

18A *****d. The term "lobbyist" means any person, partnership, com-***
18B ***mittee, association, corporation, labor union, or any other organi-***
18C ***zation that employs, engages or otherwise uses the services of any***
18D ***legislative agent to influence legislation.*****

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.**

19 **[d.]** **e.** The term "Governor or his staff" includes the
20 Governor or the Acting Governor, ***the members of the Governor's*
21 *Cabinet,*** the Secretary to the Governor, the Counsel to the Gov-
22 ernor, and all other employees of the Chief Executive's Office.

23 **[e.]** **f.** The term "communication to the Legislature" or
24 "to the Governor or his staff" means any communication, oral or in
25 writing or any other medium, addressed, delivered, distributed or
26 disseminated to the Legislature or the Governor or his staff or
27 to any part thereof or member thereof as distinguished from the
28 general public including but not limited to the Legislature or the
29 Governor or his staff. If any person shall obtain, reproduce or
30 except any communication or part thereof which in its original
31 form was not a communication to the Legislature or the Governor
32 or his staff and shall cause such excerpt or reproduction to be
33 addressed, delivered, distributed or disseminated to the Legis-
34 lature or the Governor or his staff or any part thereof or member
35 thereof, such communication, reproduction or excerpt shall be
36 deemed a communication to the Legislature or the Governor or
37 his staff by such person.

38 **[f.]** **g.** The term "legislative agent" means any person
39 who receives or agrees to receive, directly or indirectly, compensa-
40 tion, in money or anything of value including reimbursement of his
41 expenses where such reimbursement exceeds \$100.00 in any 3-
42 month period, to influence legislation by communication, personally
43 or through any intermediary, to the Legislature or the Governor
44 or his staff, or who holds himself out as engaging in the business
45 of influencing legislation by such means, or who incident to his regu-
46 lar employment engages in influencing legislation by such means;
47 provided, however, that a person shall not be deemed a legislative
48 agent who, in relation to the duties or interests of his employment
49 or at the request or suggestion of his employer, communicates to
50 the Legislature or the Governor or his staff concerning any legis-
51 lation, if such communication is an isolated, exceptional or infre-
52 quent activity in relation to the usual duties of his employment.
53 **[The Attorney General shall develop and promulgate reasonable
54 rules and guidelines for ascertaining whether a person's communi-
55 cation or communications are isolated, exceptional or infrequent
56 within the intent of this subsection, and shall include such rules and
57 guidelines in the summary and explanation of the registration and
58 reporting requirements of this act which he is required, under sub-
59 section i. of section 6 of this act, to prepare and publish for the use
60 and guidance of those persons who may be required to file state-
61 ments under this act.]**

62 **g.** *h.* The term “influence legislation” means to make
 63 any attempt, whether successful or not, to secure or prevent the
 64 initiation of any legislation, [or to secure or prevent the initiation
 65 of any legislation,] or to secure or prevent the passage, defeat,
 66 amendment or modification thereof by the Legislature, or the
 67 approval, amendment or disapproval thereof by the Governor in
 68 accordance with his constitutional authority.

69 **h.** *i.* The term “statement” includes a notice of rep-
 70 resentation or a report required by this act.

71 **i.** *j.* The phrase “direct, express and intentional com-
 72 munication with legislators undertaken for the specific purpose of
 73 affecting “legislation” means any communication initiated by a
 74 legislative agent to the Legislature or the Governor or his staff
 75 having the effect of transmitting information which reasonably can
 76 be said to be intended to influence legislation.

1 2. (New section) Each legislative agent *or lobbyist* shall
 2 make *and certify the correctness of* a full **quarterly**
 3 *annual* report **as an addendum to the quarterly reports re-**
 4 **quired under section 5 of the “Legislative Activities Disclosure Act**
 5 **of 1971” (P. L. 1971, c. 183), upon a form prescribed by the Attorney**
 6 **General** *to the Election Law Enforcement Commission*, of
 7 those moneys, loans, paid personal services or other things of value
 8 contributed to it and those expenditures made, incurred or autho-
 9 rized by it for the purpose of direct, express and intentional com-
 10 munication with legislators or the Governor or his staff undertaken
 11 for the specific purpose of affecting legislation during the previous
 12 **quarter** *year*. The **quarterly** report shall include
 12A **only that portion of** the following expenditures which relate
 12B to direct, express and intentional communication with legislators
 13 for the specific purpose of affecting legislation; media, including
 14 advertising; entertainment; food and beverage; travel and lodging;
 15 honoraria; loans; gifts; salary, fees, allowances or other com-
 16 pensation paid to a legislative agent. *The expenditures shall be*
 17 *reported whether made to a legislator, legislative agent or lobby-*
 18 *ist.* The expenditures shall be reported in the aggregate by
 19 category, except that if the expenditures aggregate on behalf of
 20 a legislator or the Governor or his staff exceed **\$50.00** *\$25.00*
 21 per day, they shall be detailed separately as to the name of the
 22 legislator or the Governor or his staff, date and type of expendi-
 23 ture, amount of expenditure and to whom paid. Where the ex-
 24 penditure in the aggregate on behalf of any one legislator or the
 25 Governor or his staff exceed \$200.00 per year, the expenditure,

26 together with the name of the legislator or the Governor or his
 27 staff, shall be stated in detail including the type of each expendi-
 28 ture, amount of expenditure and to whom paid. Where the expendi-
 29 tures in the aggregate with respect to any specific occasion are in
 30 excess of \$100.00, the report shall include the date and type of ex-
 31 penditure, amount of expenditure and to whom paid. The ****[At-**
 32 **torney General]**** ***Election Law Enforcement Commission***
 33 may, in ****[his]**** ***its*** discretion, permit joint reports by leg-
 34 islative agents. No legislative agent shall be required to file a
 35 ****[quarterly]**** report unless all moneys, loans, paid personal
 36 services or other things of value contributed to it for the purpose
 37 of direct, express and intentional communication with legislators
 38 or the Governor or his staff undertaken for the specific purpose
 39 of affecting legislation exceeds ****[\$1,000.00]**** ***\$2,500.00*** in
 40 any ****[one quarter]**** ***year*** or unless all expenditures made,
 41 incurred or authorized by it for the purpose of direct, express or
 42 intentional communication with legislators or the Governor or his
 43 staff undertaken for the specific purpose of affecting legislation
 44 exceeds ****[\$1,000.00]**** ***\$2,500.00*** in any ****[quarter]****
 44A ***year***.

45 ****[*Any partnership, committee, association, corporation or any**
 46 *other organization which engages in the activities of a legislative*
 47 *agent as defined in this amendatory and supplementary act shall be*
 48 *required to file a quarterly report when the expenditures made, in-*
 49 *curring or authorized by it for the purpose of direct, express or*
 50 *intentional communication with legislators or the Governor or his*
 51 *staff undertaken for the specific purpose of affecting legislation*
 52 *exceed, in the aggregate, \$1,000.00 in any quarter.*]*** ****Any**
 53 *lobbyist who receives contributions or makes expenditures to in-*
 54 *fluence legislation shall be required to file and certify the correct-*
 55 *ness of a report of such contributions or expenditures if the contri-*
 56 *butions or expenditures made, incurred or authorized by it for the*
 57 *purpose of direct, express or intentional communication with legis-*
 58 *lators or their staffs or the Governor or his staff undertaken for*
 59 *the specific purpose of affecting legislation exceed, in the aggregate,*
 60 *\$2,500.00 in any year. Any lobbyist required to file a report pur-*
 61 *suant to this section may designate a legislative agent in its employ*
 62 *or otherwise engaged or used by it to file a report on its behalf*
 63 *provided such designation is made in writing by the lobbyist, is*
 64 *acknowledged in writing by the designated legislative agent and is*
 65 *filed with the Election Law Enforcement Commission on or before*
 66 *the date on which the report of the lobbyist is due for filing; and*

67 further provided that any violation of this act shall be subject both
 68 the lobbyist and the designated legislative agent to the penalties
 69 provided in this act.**

1 *3. (New section) Upon receiving evidence of any violation of
 2 this act the **[Attorney General]** **Election Law Enforcement
 3 Commission** shall have power to bring complaint proceedings**,
 4 to issue subpoenas for the production of witnesses and documents**,
 5 and to hold or to cause to be held by the Office of Administrative
 6 Law, hearings upon such complaint. In addition to any other pen-
 7 alty provided by law, any person who is found to have violated this
 8 act shall be liable for civil penalty not in excess of \$1,000.00, which
 9 penalty may be collected in a summary proceeding pursuant to "the
 10 penalty enforcement law" (N. J. S. 2A:58-1 et seq.).*

1 **4. (New section) Any legislative agent or lobbyist not a resi-
 2 dent of this State, or not a corporation of this State or authorized
 3 to do business in this State, shall file with the Election Law En-
 4 forcement Commission, before attempting to influence legislation,
 5 its consent to service of process at an address within this State, or
 6 by regular mail at an address outside this State.

1 5. (New section) The Election Law Enforcement Commission
 2 shall adopt such rules and regulations as may be necessary to effec-
 3 tuate the purposes of this act.**

1 *~~3.~~ *~~4.~~ *6.** This act shall take effect immediately,
 2 but **[the quarterly report required under section 2 of this amend-
 3 atory and supplementary act shall be filed not later than the filing
 4 date for the quarterly report required by section 5 of P. L. 1971,
 5 c. 183.]** **the initial reports required by this act shall be filed not
 6 later than January 31, 1982 for the year 1981.**

33 or other things of value contributed to it for the purpose of direct,
 34 express and intentional communication with legislators or the
 35 Governor or his staff undertaken for the specific purpose of affect-
 36 ing legislation exceeds \$1,000.00 in any one quarter or unless all
 37 expenditures made, incurred or authorized by it for the purpose of
 38 direct, express or intentional communication with legislators or the
 39 Governor or his staff undertaken for the specific purpose of affect-
 40 ing legislation exceeds \$1,000.00 in any quarter.

1 3. This act shall take effect immediately, but the quarterly report
 2 required under section 2 of this amendatory and supplementary act
 3 shall be filed not later than the filing date for the quarterly report
 4 required by section 5 of P .L. 1971, c. 183.

STATEMENT

The purpose of this bill is to consolidate the responsibility for overseeing lobbying activities in the Office of the Attorney General, which traditionally has had the power to invoke certain limited reporting requirements.

The bill expands the Attorney General's existing powers by requiring legislative agents, commonly known as lobbyists, to report each quarter:

1. That portion of income received by a lobbyist to be used for direct lobbying activities.

2. All expenditures made by a lobbyist for direct lobbying activities.

3. A detailed accounting of all expenditures made by a legislative agent on behalf of a legislator or the Governor or his staff which exceed \$50.00 per day, \$200.00 per year or any one legislator, or \$100.00 per occasion.

The bill conforms to the recent New Jersey Supreme Court ruling by establishing a reasonable threshold before reporting requirements are invoked. This has the effect, as mandated by the Court, of exempting small organizations whose income or expenditures for lobbying activities do not exceed \$1,000.00 per quarter.

The existing quarterly report of lobbying activities regarding bills supported or opposed by legislative agents would continue in full force and effect.

A companion bill, Assembly No. 1610 of 1980, removes the responsibility for overseeing lobbying activities from the Election Law Enforcement Commission, whose primary responsibility is to govern campaign contributions and expenditures.

S1396 (1981)

SENATE STATE GOVERNMENT, FEDERAL AND
INTERSTATE RELATIONS AND VETERANS AFFAIRS
COMMITTEE

STATEMENT TO

SENATE, No. 1396

with Senate committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 10, 1980

The purpose of this bill is to consolidate the responsibility for overseeing lobbying activities in the Office of the Attorney General, which traditionally has had the power to invoke certain limited reporting requirements.

The bill expands the Attorney General's existing powers by requiring legislative agents, commonly known as lobbyists, to report each quarter:

1. That portion of income received by a lobbyist to be used for direct lobbying activities.
2. All expenditures made by a lobbyist for direct lobbying activities.
3. As originally drafted, the bill provided for an itemized account of all expenditures made by a legislative agent on behalf of a legislator or the Governor or his staff which exceed \$50.00 per day, \$200.00 per year on any one legislator, or \$100.00 per occasion.

In addition, the bill establishes a threshold before reporting requirements are invoked of \$1,000.00 of income or expenditures per quarter.

COMMITTEE AMENDMENTS

The committee amended the bill as follows:

1. It reduced the threshold at which per diem expenditures must be itemized from \$50.00 to \$25.00.
2. Another amendment stipulates that the \$1,000.00 expenditure threshold for quarterly reports is an *aggregate* figure when it is applied to partnerships, committees, associations, or corporations which engage in activities as legislative agents.
3. A civil penalty provision has been added to the bill.

March 23, 1981

SENATE BILL NO. 1396 (OCR)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 1396 (OCR) with my objections.

This bill would transfer the responsibility for reviewing the financial reports of legislative lobbyists from the Election Law Enforcement Commission to the Attorney General and impose reporting requirements less extensive than the Commission's recently enacted regulations.

I have previously expressed my opinion that the Commission's regulations do go too far in a legal and practical sense, particularly insofar as they require designation of a separate bank account for financial transactions related to lobbying, duplicative reporting by both lobbyist and principal, and reporting of "overhead" expenses. I asked the Commission to extend its March 15, 1981 deadline for initial reports so that the Legislature might consider amendments to this bill which would continue the Commission's responsibilities in this sensitive area but would permit the drafting of regulations better tailored to the realities of lobbyist activity. The Commission has extended its initial reporting date to March 30, 1981.

Accordingly, I am returning Senate Bill No. 1396 (OCR) with recommendations for amendment which would (1) continue the Commission's role in regulating lobbyist activity, (2) reestablish the financial threshold and periodic reporting requirements of the Commission's regulations but eliminate their unnecessarily onerous aspects and (3) clarify the substantive reporting requirements of the bill so that the expenses of lobbyists on entertainment for legislators, for example, would be reportable although made only in relation to, rather than expressly for, a "direct, express and intentional communication with legislators." My recommendations are as follows:

Page 1, Section 1, after Line 18: Add "d. The term "lobbyist" means any person, partnership, committee, association, corporation, labor union, or any other organization that employs, engages or otherwise uses the services of any legislative agent to influence legislation."

Page 1, Section 1, Line 19: Delete "d" and insert "e"

Page 1, Section 1, Line 20: After "Acting Governor," insert "the members of the Governor's Cabinet,"

Page 2, Section 1, Line 23: Delete "e" and insert "f"

Page 2, Section 1, Line 38: Delete "f" and insert "g"

Page 2, Section 1, Lines 52 through 61: After "." delete in their entirety

Page 3, Section 2, Line 1: After "agent" insert "or lobbyist"; after "make" insert "and certify the correctness of"

Page 3, Section 2, at the beginning of Line 2: Delete "quarterly" and insert "annual"

Page 3, Section 2, Lines 2 through 4: After "report" delete in their entirety

Page 3, Section 2, Line 5: Delete "General" and insert "to the Election Law Enforcement Commission"

Page 3, Section 2, Line 10: Delete "quarter" and insert "year"; delete "quarterly"

Page 3, Section 2, Line 11: Delete "only that portion of"

Page 3, Section 2, Line 16: After "." insert "The expenditures shall be reported whether made to a legislator, legislative agent or lobbyist."

Page 3, Section 2, Line 30: Delete "Attorney General" and insert "Election Law Enforcement Commission"; delete "his" and insert "its"

Page 3, Section 2, Line 32: Delete "quarterly"

Page 4, Section 2, Line 36: Delete "\$1,000.00" and insert "\$2,500.00"; delete "one quarter" and insert "year"

Page 4, Section 2, Line 40: Delete "\$1,000.00" and insert "\$2,500.00"; delete "quarter" and insert "year"

Page 4, Section 2, Lines 40 through 48: After "." delete in their entirety and insert "Any lobbyist who receives contributions or makes expenditures to influence legislation shall be required to file and certify the correctness of a report of such contributions or expenditures if the contributions or expenditures made, incurred or authorized by it for the purpose of direct, express or intentional communication with legislators or their staffs or the Governor or his staff undertaken for the specific purpose of affecting legislation exceed, in the aggregate, \$2,500.00 in any year. Any lobbyist required to file a report pursuant to this section may designate a legislative agent in its employ or otherwise engaged or used by it to file a report on its behalf provided such designation is made in writing by the lobbyist, is acknowledged in writing by the designated legislative agent and is filed with the Election Law Enforcement Commission on or before the date on which the report of the lobbyist is due for filing; and further provided that any violation of this act shall subject both the lobbyist and the designated legislative agent to the penalties provided in this act."

Page 4, Section 3, Line 2: Delete "Attorney General" and insert "Election Law Enforcement Commission"

Page 4, Section 3, Line 3: After "proceedings" insert ", to issue subpoenas for the production of witnesses and documents,"

Page 4, Section 3, after line 9: Insert "4. (New Section) Any legislative agent or lobbyist not a resident of this State, or not a corporation of this State or authorized to do business in this State, shall file with the Election Law Enforcement Commission, before attempting to influence legislation, its consent to service of process at an address within this State, or by regular mail at an address outside this State.

5. (New Section) The Election Law Enforcement Commission shall adopt such rules and regulations as may be necessary to effectuate the purposes of this act."

Page 4, Section 4, Lines 1 through 4: After "but" delete in their entirety and insert "the initial reports required by this act shall be filed no later than January 31, 1982 for the year 1981."

Respectfully,

/s/ Brendan Byrne

GOVERNOR

[seal]

Attest:

/s/ Harold L. Hodes

CHIEF OF STAFF, SECRETARY