

19:34-42 ET SEQ.

LEGISLATIVE HISTORY CHECKLIST

NJSA 19:34-42; 19:34-42.1 and 19:34-42.2

Laws of 1975 Chapter 70

Bill No. A2759

Sponsor(s) Burstein & Others

Date Introduced September 9, 1974

Committee: Assembly State Gov't, Federal & Interstate Relations

Senate State Gov't, Federal & Interstate Relations

Amended during passage Yes ~~No~~ Amendments during passage denoted by asterisks

Date of passage: Assembly November 25, 1974

Senate February 27, 1975

Date of approval April 24, 1975

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

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10/4/76

ASSEMBLY, No. 2059

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 9, 1974

By Assemblymen BURSTEIN, BAIR, CONTILLO and NEWMAN

Referred to Committee on State Government, Federal and
Interstate Relations

AN ACT related to political contributions, supplementing P. L.
1973, c. 83 and amending R. S. 19:34-42.

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

1 1. (New section) No person or political committee otherwise
2 eligible to make political contributions in any election campaign
3 shall make any contribution or contributions in cash in the aggre-
4 gate in excess of \$100.00 to a candidate, his campaign treasurer or
5 deputy campaign treasurer, a State committee, county committee
6 or municipal committee of any political party, or to any other per-
7 son or committee, in aid of the candidacy of or in behalf of any
8 candidate within the definition of section 3 of P. L. 1973, c. 83
9 (C. 19:44A-3). No candidate within the definition of section 3 of
10 P. L. 1973, c. 83 (C. 19:44A-3), no campaign treasurer or deputy
11 campaign treasurer of any such candidate, and no political com-
12 mittee shall knowingly accept from any person or political com-
13 mittee in any election campaign any contribution or contributions
14 in cash in the aggregate in excess of \$100.00 in aid of the candidacy
15 of or in behalf of any such candidate.

1 2. R. S. 19:34-42 is amended to read as follows:

2 19:34-42. No holder of a public office or position [not filled by
3 election by voters] shall [contribute to the nomination or the elec-
4 tion of any person to public office or party position; but this pro-
5 hibition shall not apply to a person holding an appointive office or
6 position the term of which is fixed by law. No person shall] invite,
7 demand or [accept] *otherwise solicit* payment or contribution from
8 *another holder of a public office or position* [such persons] *for the*
9 *campaign purposes of any candidate or for the use of any political*
10 *party.*

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

A2059 (1974)

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1 3. (New section) The Secretary of State shall, during the week
2 of the third Monday in January of every year, send written notifi-
3 cation to each State employee and each county and municipal clerk
4 of the prohibitions of this act, and shall at the same time publicize
5 such written notification.

1 4. (New section) Section 1 of this act shall be subject to the
2 penalty provisions of sections 15 and 16 of P. L. 1974, c. 26
3 (C. 19:44A-40 and C. 19:44A-41), and section 2 of this act shall be
4 subject to the penalty provisions of R. S. 19:34-35, but no penalty
5 shall be imposed pursuant to any section of law enacted or amended
6 herein for violations occurring prior to the effective date of this
7 act.

1 5. This act shall take effect immediately.

STATEMENT

This bill prohibits the making or acceptance of cash political contributions exceeding \$100.00 in the aggregate in connection with any candidate's campaign or any political organization's operations. Cash contributions are one means of evading the disclosure requirements of The New Jersey Campaign Contributions and Expenditures Reporting Act, P. L. 1973, c. 83, and should be strictly limited in order to cleanse effectively the electoral process.

This bill also reorients the prohibitions of R. S. 19:34-42, which prohibits public employees from making any political contributions and which prohibits candidates from soliciting or accepting contributions from public employees. The goal of R. S. 19:34-42 is to prevent public employees from being coerced to support certain candidates at the risk of impairing their continued employment. This bill continues the existing statute's prohibition of public employees' soliciting contributions on behalf of political candidates from other State, county and municipal employees, and extends the prohibition to solicitations on behalf of political parties as well. This bill therefore continues the condemnation of patronage schemes. On the other hand, this bill fosters political independence by permitting such employees to exercise their First Amendment right of contributing voluntarily to any candidate or party of his or her own choice. The existing statute's prohibition of such political expression by public employees may violate the First Amendment, because a contribution is akin to speech itself. The existing statute's prohibitions go beyond the prohibitions of the Federal Hatch Act, considered by the United States Supreme Court in *United States Civil Service Commission v. National Association*

A2059 (1974)

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of Letter Carriers, 413 U.S. 548 (1973), or of the Oklahoma version of the Hatch Act, considered in *Broadrick v. Oklahoma*, 413 U.S. 601 (1973), since neither statute prohibits individual contributions. The existing statute's prohibition of political solicitation of State, county and municipal employees is unenforceable, particularly in view of mass mailing techniques being utilized by national candidates and parties. Indeed, only one prosecution has been reported under R. S. 19:34-42 since its passage in 1930.

Finally, this bill requires the Secretary of State to notify the public and State, county and municipal employees annually of the requirements of this bill, so as to minimize the chance of innocent violations of the bill's prohibitions. The penalty provisions referred to in the bill are part of existing law.

ASSEMBLY COMMITTEE AMENDMENTS TO
ASSEMBLY, No. 2059

STATE OF NEW JERSEY

ADOPTED SEPTEMBER 19, 1974

Amend page 1, section 2, line 6, delete "invite,".

Amend page 1, section 2, line 7, after "demand", omit "or"; omit
"otherwise solicit".

(OFFICIAL COPY REPRINT)
ASSEMBLY, No. 2059

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 9, 1974

By Assemblymen BURSTEIN, BAER, CONTILLO and NEWMAN

Referred to Committee on State Government, Federal and
Interstate Relations

AN ACT related to political contributions, supplementing P. L.
1973, c. 83 and amending R. S. 19:34-42.

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

1 1. (New section) No person or political committee otherwise
2 eligible to make political contributions in any election campaign
3 shall make any contribution or contributions in cash in the aggregate
4 in excess of \$100.00 to a candidate, his campaign treasurer or
5 deputy campaign treasurer, a State committee, county committee
6 or municipal committee of any political party, or to any other person
7 or committee, in aid of the candidacy of or in behalf of any
8 candidate within the definition of section 3 of P. L. 1973, c. 83
9 (C. 19:44A-3). No candidate within the definition of section 3 of
10 P. L. 1973, c. 83 (C. 19:44A-3), no campaign treasurer or deputy
11 campaign treasurer of any such candidate, and no political committee
12 shall knowingly accept from any person or political committee
13 in any election campaign any contribution or contributions
14 in cash in the aggregate in excess of \$100.00 in aid of the candidacy
15 of or in behalf of any such candidate.

1 2. R. S. 19:34-42 is amended to read as follows:

2 19:34-42. No holder of a public office or position [not filled by
3 election by voters] shall [contribute to the nomination or the election
4 of any person to public office or party position; but this prohibition
5 shall not apply to a person holding an appointive office or
6 position the term of which is fixed by law. No person shall]
7 *[invite,]* demand *[or]* [accept] *[otherwise solicit]* payment
8 or contribution from *another holder of a public office or*
9 *position* [such persons] for the campaign purposes of any candidate
10 *or for the use of any political party.*

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

1 3. (New section) The Secretary of State shall, during the week
2 of the third Monday in January of every year, send written notifi-
3 cation to each State employee and each county and municipal clerk
4 of the prohibitions of this act, and shall at the same time publicize
5 such written notification.

1 4. (New section) Section 1 of this act shall be subject to the
2 penalty provisions of sections 15 and 16 of P. L. 1974, c. 26
3 (C. 19:44A-40 and C. 19:44A-41), and section 2 of this act shall be
4 subject to the penalty provisions of R. S. 19:34-35, but no penalty
5 shall be imposed pursuant to any section of law enacted or amended
6 herein for violations occurring prior to the effective date of this
7 act.

1 5. This act shall take effect immediately.

ASSEMBLY AMENDMENTS TO
ASSEMBLY, No. 2059
[OFFICIAL COPY REPRINT]

—◆—
STATE OF NEW JERSEY
—◆—

ADOPTED OCTOBER 7, 1974

Amend page 1, section 1, lines 1-15, omit section one in its entirety.

Amend page 1-2, section 2-5, renumber sections 2. through 5. as sections 1, through 4.

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 2059

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 9, 1974

By Assemblymen BURSTEIN, BAER, CONTILLO and NEWMAN

Referred to Committee on State Government, Federal and
Interstate Relations

AN ACT related to political contributions, supplementing P. L.
1973, c. 83 and amending R. S. 19:34-42.

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2 *of New Jersey:*

1 **[1. (New section) No person or political committee otherwise
2 eligible to make political contributions in any election campaign
3 shall make any contribution or contributions in cash in the aggre-
4 gate in excess of \$100.00 to a candidate, his campaign treasurer or
5 deputy campaign treasurer, a State committee, county committee
6 or municipal committee of any political party, or to any other per-
7 son or committee, in aid of the candidacy of or in behalf of any
8 candidate within the definition of section 3 of P. L. 1973, c. 83
9 (C. 19:44A-3). No candidate within the definition of section 3 of
10 P. L. 1973, c. 83 (C. 19:44A-3), no campaign treasurer or deputy
11 campaign treasurer of any such candidate, and no political com-
12 mittee shall knowingly accept from any person or political com-
13 mittee in any election campaign any contribution or contributions
14 in cash in the aggregate in excess of \$100.00 in aid of the candidacy
15 of or in behalf of any such candidate.]**

1 **[2.]** *1.* R. S. 19:34-42 is amended to read as follows:
2 19:34-42. No holder of a public office or position [not filled by
3 election by voters] shall [contribute to the nomination or the elec-
4 tion of any person to public office or party position; but this pro-
5 hibition shall not apply to a person holding an appointive office or
6 position the term of which is fixed by law. No person shall]
7 *[invite,]* demand *[or]* [accept] *[otherwise solicit]* pay-
8 ment or contribution from *another holder of a public office or*
9 *position* [such persons] *for the campaign purposes of any candi-*
10 *date or for the use of any political party.*

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

1 **[3.]** **2.** (New section) The Secretary of State shall, dur-
2 ing the week of the third Monday in January of every year, send
3 written notification to each State employee and each county and
4 municipal clerk of the prohibitions of this act, and shall at the same
5 time publicize such written notification.

1 **[4.]** **3.** (New section) Section 1 of this act shall be sub-
2 ject to the penalty provisions of sections 15 and 16 of P. L. 1974, c. 26
3 (C. 19:44A-40 and C. 19:44A-41), and section 2 of this act shall be
4 subject to the penalty provisions of R. S. 19:34-35, but no penalty
5 shall be imposed pursuant to any section of law enacted or amended
6 herein for violations occurring prior to the effective date of this
7 act.

1 **[5.]** **4.** This act shall take effect immediately.

ASSEMBLY AMENDMENTS TO
ASSEMBLY, No. 2059
[SECOND OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED OCTOBER 15, 1974

Amend page 2, section 3, lines 2-4, delete "sections 15 and 16 of P. L. 1974, c. 26 (C. 19:44A-40 and C. 19:44A-41), and section 2 of this act shall be subject to the penalty provisions of".

Amend page 2, section 3, line 5, delete "enacted or".

SENATE STATE GOVERNMENT, FEDERAL AND
INTERSTATE RELATIONS COMMITTEE

STATEMENT TO
ASSEMBLY No. 2059

[THIRD OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: FEBRUARY 10, 1975

The purpose of this bill is to permit public employees to exercise the political right of making voluntary contributions for campaign purposes to candidates and political parties by amending R. S. 19:34-42 which prohibits such contributions. At the same time the bill amends R. S. 19:34-42 to prohibit holders of public office or position from coercing public employees to make contributions through a demand for financial support.

The bill also requires the Secretary of State to notify public employees of the State, counties and municipalities of the requirements of the bill. The penalty provisions referred to in the bill are part of existing law.

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CHAPTER 70
4-24-75

[THIRD OFFICIAL COPY REPRINT]

ASSEMBLY No. 2059

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 9, 1974

By Assemblymen BURSTEIN, BAER, CONTILLO and NEWMAN

Referred to Committee on State Government, Federal and
Interstate Relations

AN ACT related to political contributions, supplementing P. L.
1973, c. 83 and amending R. S. 19:34-42.

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

1 **[1. (New section) No person or political committee otherwise
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3 shall make any contribution or contributions in cash in the aggregate
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5 deputy campaign treasurer, a State committee, county committee
6 or municipal committee of any political party, or to any other person
7 or committee, in aid of the candidacy of or in behalf of any
8 candidate within the definition of section 3 of P. L. 1973, c. 83
9 (C. 19:44A-3). No candidate within the definition of section 3 of
10 P. L. 1973, c. 83 (C. 19:44A-3), no campaign treasurer or deputy
11 campaign treasurer of any such candidate, and no political committee
12 shall knowingly accept from any person or political committee
13 in any election campaign any contribution or contributions
14 in cash in the aggregate in excess of \$100.00 in aid of the candidacy
15 of or in behalf of any such candidate.]**

1 **[2.]** **1.** R. S. 19:34-42 is amended to read as follows:
2 19:34-42. No holder of a public office or position [not filled by
3 election by voters] shall [contribute to the nomination or the election
4 of any person to public office or party position; but this prohibition
5 shall not apply to a person holding an appointive office or position
6 the term of which is fixed by law. No person shall]
7 *[invite,]* demand *[or]* [accept] *[otherwise solicit]* payment
8 or contribution from another holder of a public office or
9 position [such persons] for the campaign purposes of any candidate
10 or for the use of any political party.

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

1 ****[3.]** **2.**** (New section) The Secretary of State shall, dur-
2 ing the week of the third Monday in January of every year, send
3 written notification to each State employee and each county and
4 municipal clerk of the prohibitions of this act, and shall at the same
5 time publicize such written notification.

1 ****[4.]** **3.**** (New section) Section 1 of this act shall be sub-
2 ject to the penalty provisions of ****[sections 15 and 16 of P. L. 1974,**
3 c. 26 (C. 19:44A-40 and C. 19:44A-41), and section 2 of this act
4 shall be subject to the penalty provisions of **]****** R. S. 19:34-35,** but
5 no penalty shall be imposed pursuant to any section of law
6 ****[enacted or]****** amended herein for violations occurring prior**
7 to the effective date of this act.

1 ****[5.]** **4.**** This act shall take effect immediately.