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P.L. 2004, CHAPTER 20, *approved June 16, 2004*
Senate Committee Substitute for
Senate, Nos. 4 and 631

1 **AN ACT** concerning the financial disclosure of lobbying activities
2 conducted through advertisements and direct mail and amending
3 P.L.1971, c.183 and P.L.1981, c.150.

4

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

7

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

10 3. For the purposes of this act, as amended and supplemented,
11 unless the context clearly requires a different meaning:

12 a. The term "person" includes an individual, partnership,
13 committee, association, corporation, and any other organization or
14 group of persons.

15 b. The term "legislation" includes all bills, resolutions,
16 amendments, nominations and appointments pending or proposed in
17 either House of the Legislature, and all bills and resolutions which,
18 having passed both Houses, are pending approval by the Governor.

19 c. The term "Legislature" includes the Senate and General
20 Assembly of the State of New Jersey and all committees and
21 commissions established by the Legislature or by either House thereof.

22 d. The term "lobbyist" means any person, partnership, committee,
23 association, corporation, labor union or any other organization that
24 employs, engages or otherwise uses the services of any legislative
25 agent to influence legislation or regulation.

26 e. The term "Governor" includes the Governor or the Acting
27 Governor.

28 f. The term "communication with a member of the Legislature,
29 "with legislative staff," "with the Governor," "with the Governor's
30 staff," or "with an officer or staff member of the Executive Branch"
31 means any communication, oral or in writing or any other medium,
32 addressed, delivered, distributed or disseminated, respectively, to a
33 member of the Legislature, to legislative staff, to the Governor, to the
34 Governor's staff, or to an officer or staff member of the Executive
35 Branch, as distinguished from communication to the general public
36 including but not limited to a member of the Legislature, legislative
37 staff, the Governor, the Governor's staff, or an officer or staff member
38 of the Executive Branch. If any person shall obtain, reproduce or
39 excerpt any communication or part thereof which in its original form
40 was not a communication under this subsection and shall cause such

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

Matter underlined thus is new matter.

1 excerpt or reproduction to be addressed, delivered, distributed or
2 disseminated to a member of the Legislature, to legislative staff, to the
3 Governor, to the Governor's staff, or to an officer or staff member of
4 the Executive Branch, such communication, reproduction or excerpt
5 shall be deemed a communication with the member of the Legislature,
6 with legislative staff, with the Governor, with the Governor's staff, or
7 with an officer or staff member of the Executive Branch by such
8 person.

9 g. The term "legislative agent" means any person who receives or
10 agrees to receive, directly or indirectly, compensation, in money or
11 anything of value including reimbursement of his expenses where such
12 reimbursement exceeds \$100.00 in any three-month period, to
13 influence legislation or to influence regulation, or both, by direct or
14 indirect communication, or by making or authorizing, or causing to be
15 made or authorized, any expenditures providing a benefit, to a member
16 of the Legislature, legislative staff, the Governor, the Governor's staff,
17 or any officer or staff member of the Executive Branch, or who holds
18 himself out as engaging in the business of influencing legislation or
19 regulation by such means, or who incident to his regular employment
20 engages in influencing legislation or regulation by such means;
21 provided, however, that a person shall not be deemed a legislative
22 agent who, in relation to the duties or interests of his employment or
23 at the request or suggestion of his employer, communicates with a
24 member of the Legislature, with legislative staff, with the Governor,
25 with the Governor's staff, or with an officer or staff member of the
26 Executive Branch concerning any legislation or regulation, if such
27 communication is an isolated, exceptional or infrequent activity in
28 relation to the usual duties of his employment.

29 h. The term "influence legislation" means to make any attempt,
30 whether successful or not, to secure or prevent the initiation of any
31 legislation, or to secure or prevent the passage, defeat, amendment or
32 modification thereof by the Legislature, or the approval, amendment
33 or disapproval thereof by the Governor in accordance with his
34 constitutional authority.

35 i. The term "statement" includes a notice of representation or a
36 report required by this act, as amended and supplemented.

37 j. (Deleted by amendment, P.L.1991, c.243).

38 k. The term "member of the Legislature" includes any member or
39 member-elect of, or any person who shall have been selected to fill a
40 vacancy in, the Senate or General Assembly, and any other person who
41 is a member or member-designate of any committee or commission
42 established by the Legislature or by either House thereof.

43 l. The term "legislative staff" includes all staff, assistants and
44 employees of the Legislature or any of its members in the member's
45 official capacity, whether or not they receive compensation from the
46 State of New Jersey.

1 m. The term "Governor's staff" includes the members of the
2 Governor's Cabinet, the Secretary to the Governor, the Counsel to the
3 Governor and all professional employees in the office of the Counsel
4 to the Governor, and all other employees of the Office of the
5 Governor.

6 n. The term "officer or staff member of the Executive Branch"
7 means any assistant or deputy head of a principal department in the
8 Executive Branch of State Government, including all assistant and
9 deputy commissioners; the members and chief executive officer of any
10 authority, board, commission or other agency or instrumentality in or
11 of such a principal department; and any officer of the Executive
12 Branch of State Government other than the Governor who is not
13 included among the foregoing or among the Governor's staff, but who
14 is empowered by law to issue, promulgate or adopt administrative
15 rules and regulations, and any person employed in the office of such
16 an officer who is involved with the development, issuance,
17 promulgation or adoption of such rules and regulations in the regular
18 course of employment.

19 o. The term "regulation" includes any administrative rule or
20 regulation affecting the rights, privileges, benefits, duties, obligations,
21 or liabilities of any one or more persons subject by law to regulation
22 as a class, but does not include an administrative action (1) to issue,
23 renew or deny, or, in an adjudicative action, to suspend or revoke, a
24 license, order, permit or waiver under any law or administrative rule
25 or regulation, (2) to impose a penalty, or (3) to effectuate an
26 administrative reorganization within a single principal department of
27 the Executive Branch of State Government.

28 p. The term "influence regulation" means to make any attempt,
29 whether successful or not, to secure or prevent the proposal of any
30 regulation or to secure or prevent the consideration, amendment,
31 issuance, promulgation, adoption or rejection thereof by an officer or
32 any authority, board, commission or other agency or instrumentality
33 in or of a principal department of the Executive Branch of State
34 Government empowered by law to issue, promulgate or adopt
35 administrative rules and regulations.

36 q. The term "expenditures providing a benefit" or "expenditures
37 providing benefits" means any expenditures for entertainment, food
38 and beverage, travel and lodging, honoraria, loans, gifts or any other
39 thing of value, except for (1) any money or thing of value paid for
40 past, present, or future services in regular employment, whether in the
41 form of a fee, expense, allowance, forbearance, forgiveness, interest,
42 dividend, royalty, rent, capital gain, or any other form of recompense,
43 or any combination thereof, or (2) any dividends or other income paid
44 on investments, trusts, and estates.

45 r. The term "commission" means the Election Law Enforcement
46 Commission established pursuant to section 5 of P.L.1973, c.83

1 (C.19:44A-5).

2 s. The term "communication with the general public" means any
3 communication:

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

8 (2) which explicitly supports or opposes a particular item or items
9 of legislation or regulation, or the content of which can reasonably be
10 understood, irrespective of whether the communication is addressed
11 to the general public or to persons in public office or employment, as
12 intended to influence legislation or to influence regulation.

13 (cf: P.L.1991, c.244, s.1)

14

15 2. Section 2 of P.L.1981, c.150 (C.52:13C-22.1) is amended to
16 read as follows:

17 2. Each legislative agent or lobbyist shall make and certify the
18 correctness of a full annual report to the Election Law Enforcement
19 Commission, of those moneys, loans, paid personal services or other
20 things of value contributed to it and those expenditures made, incurred
21 or authorized by it for the purpose of communication with or
22 providing benefits to any member of the Legislature, legislative staff,
23 the Governor, the Governor's staff, or an officer or staff member of
24 the Executive Branch, or communication with the general public,
25 during the previous year. The report shall include, but not be limited
26 to, the following expenditures which relate to communication with, or
27 providing benefits to, any member of the Legislature, legislative staff,
28 the Governor, the Governor's staff, or an officer or staff member of
29 the Executive Branch, or communication with the general public:
30 media, including advertising; entertainment; food and beverage; travel
31 and lodging; honoraria; loans; gifts; and salary, fees, allowances or
32 other compensation paid to a legislative agent. The expenditures shall
33 be reported whether made to the intended recipient of the
34 communication or benefit [or], to a legislative agent or a lobbyist, or
35 in the case of a communication to the general public, to the publisher
36 of that communication. The expenditures shall be reported in the
37 aggregate by category, except that if the aggregate expenditures on
38 behalf of a member of the Legislature, legislative staff, the Governor,
39 the Governor's staff, or an officer or staff member of the Executive
40 Branch exceed \$25.00 per day, they shall be detailed separately as to
41 the name of the member of the Legislature, member of legislative staff,
42 the Governor, member of the Governor's staff, or officer or staff
43 member of the Executive Branch, date and type of expenditure,
44 amount of expenditure and to whom paid. Where the aggregate
45 expenditures for the purpose of communication with or providing
46 benefits to any one member of the Legislature, member of legislative

1 staff, the Governor, the Governor's staff, or officer or staff member of
2 the Executive Branch exceed \$200.00 per year, the expenditures,
3 together with the name of the intended recipient of the communication
4 or benefits, shall be stated in detail including the type of each
5 expenditure, amount of expenditure and to whom paid. Where [the]
6 those expenditures in the aggregate, or where the aggregate
7 expenditures for the purpose of communication with the general
8 public, with respect to any specific occasion are in excess of \$100.00,
9 the report shall include the date and type of expenditure, amount of
10 expenditure and to whom paid. The Election Law Enforcement
11 Commission may, in its discretion, permit joint reports by legislative
12 agents. No legislative agent shall be required to file a report unless all
13 moneys, loans, paid personal services or other things of value
14 contributed to it for the purpose of communication with or making
15 expenditures providing a benefit to a member of the Legislature,
16 legislative staff, the Governor, the Governor's staff, or officer or staff
17 member of the Executive Branch or for the purpose of communication
18 with the general public exceed \$2,500.00 in any year or unless all
19 expenditures made, incurred or authorized by it for the purpose of
20 communication with or providing benefits to a member of the
21 Legislature, legislative staff, the Governor, the Governor's staff, or
22 officer or staff member of the Executive Branch or for the purpose of
23 communication with the general public exceed \$2,500.00 in any year.

24 Any lobbyist who receives contributions or makes expenditures to
25 influence legislation or regulation shall be required to file and certify
26 the correctness of a report of such contributions or expenditures if the
27 contributions or expenditures made, incurred or authorized by it for
28 the purpose of communication with or providing benefits to a member
29 of the Legislature, legislative staff, the Governor, the Governor's staff,
30 or an officer or staff member of the Executive Branch exceed, in the
31 aggregate, \$2,500.00 in any year. Any lobbyist required to file a
32 report pursuant to this section may designate a legislative agent in its
33 employ or otherwise engaged or used by it to file a report on its
34 behalf; provided such designation is made in writing by the lobbyist,
35 is acknowledged in writing by the designated legislative agent and is
36 filed with the Election Law Enforcement Commission on or before the
37 date on which the report of the lobbyist is due for filing, and further
38 provided that any violation of this act shall subject both the lobbyist
39 and the designated legislative agent to the penalties provided in this
40 act.

41 Any person other than a legislative agent or lobbyist who receives
42 contributions or makes expenditures for the purpose of communication
43 with the general public shall be required to file and certify the
44 correctness of a report of such contributions or expenditures in the
45 same manner as legislative agents under the provisions of this section
46 if the contributions or expenditures made, incurred or authorized by

1 the person for the purpose of communication with the general public
2 exceed in the aggregate \$2,500 in any year.

3 This section shall not be construed to authorize any person to
4 make or authorize, or to cause to be made or authorized, any
5 expenditure providing a benefit, or to provide a benefit, the provision
6 or receipt of which is prohibited under the "New Jersey Conflicts of
7 Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.) or any code of
8 ethics promulgated thereunder, or under any other law or any
9 executive order, rule or regulation.

10 (cf: P.L.1991, c.243, s.5)

11

12 3. Section 10 of P.L.1971, c.183 (C.52:13C-27) is amended to
13 read as follows:

14 10. This act shall not apply to the following activities:

15 a. the publication or dissemination, in the ordinary course of
16 business, of news items, advertising which does not constitute
17 communication with the general public, editorials or other comments
18 by a newspaper, book publisher, regularly published periodical, or
19 radio or television station, including an owner, editor or employee
20 thereof;

21 b. acts of an officer or employee of the Government of this State
22 or any of its political subdivisions, or of the Government of the United
23 States or of any State or territory thereof or any of their political
24 subdivisions, in carrying out the duties of their public office or
25 employment;

26 c. acts of bona fide religious groups acting solely for the purpose
27 of protecting the public right to practice the doctrines of such religious
28 groups;

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

31 e. acts of a person in testifying before a legislative committee or
32 commission, at a public hearing duly called by the Governor on
33 legislative proposals or on legislation passed and pending his approval,
34 or before any officer or body empowered by law to issue, promulgate
35 or adopt administrative rules and regulations in behalf of a nonprofit
36 organization incorporated as such in this State who receives no
37 compensation therefor beyond the reimbursement of necessary and
38 actual expenses, and who makes no other communication with a
39 member of the Legislature, legislative staff, the Governor, the
40 Governor's staff, or an officer or staff member of the Executive Branch
41 in connection with the subject of his testimony; and

42 f. acts of a person in communicating with or providing benefits to
43 a member of the Legislature, legislative staff, the Governor, the
44 Governor's staff, or an officer or staff member of the Executive Branch
45 if such communication or provision of benefits is undertaken by him
46 as a personal expression and not incident to his employment, even if

1 it is upon a matter relevant to the interests of a person by whom or
2 which he is employed, and if he receives no additional compensation
3 or reward, in money or otherwise, for or as a result of such
4 communication or provision of benefits.

5 (cf: P.L.1991, c.243, s.6)

6

7 4. This act shall take effect immediately.

8

9

10

11

12 Extends certain financial disclosure requirements to lobbying
13 conducted through advertisements and direct mail to general public.

SENATE, No. 4

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED JUNE 7, 2004

Sponsored by:

Senator JOHN H. ADLER

District 6 (Camden)

Co-Sponsored by:

Senator T. Kean

SYNOPSIS

Extends certain financial disclosure requirements to lobbying conducted through advertisements and direct mail to general public.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning the financial disclosure of lobbying activities
2 conducted through advertisements and direct mail and amending
3 P.L.1971, c.183 and P.L.1981, c.150.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 3 of P.L.1971, c.183 (C.52:13C-20) is amended to read
9 as follows:

10 3. For the purposes of this act, as amended and supplemented,
11 unless the context clearly requires a different meaning:

12 a. The term "person" includes an individual, partnership,
13 committee, association, corporation, and any other organization or
14 group of persons.

15 b. The term "legislation" includes all bills, resolutions,
16 amendments, nominations and appointments pending or proposed in
17 either House of the Legislature, and all bills and resolutions which,
18 having passed both Houses, are pending approval by the Governor.

19 c. The term "Legislature" includes the Senate and General
20 Assembly of the State of New Jersey and all committees and
21 commissions established by the Legislature or by either House thereof.

22 d. The term "lobbyist" means any person, partnership, committee,
23 association, corporation, labor union or any other organization that
24 employs, engages or otherwise uses the services of any legislative
25 agent to influence legislation or regulation.

26 e. The term "Governor" includes the Governor or the Acting
27 Governor.

28 f. The term "communication with a member of the Legislature,
29 "with legislative staff," "with the Governor," "with the Governor's
30 staff," or "with an officer or staff member of the Executive Branch"
31 means any communication, oral or in writing or any other medium,
32 addressed, delivered, distributed or disseminated, respectively, to a
33 member of the Legislature, to legislative staff, to the Governor, to the
34 Governor's staff, or to an officer or staff member of the Executive
35 Branch, as distinguished from communication to the general public
36 including but not limited to a member of the Legislature, legislative
37 staff, the Governor, the Governor's staff, or an officer or staff member
38 of the Executive Branch. If any person shall obtain, reproduce or
39 excerpt any communication or part thereof which in its original form
40 was not a communication under this subsection and shall cause such
41 excerpt or reproduction to be addressed, delivered, distributed or
42 disseminated to a member of the Legislature, to legislative staff, to the
43 Governor, to the Governor's staff, or to an officer or staff member of

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

Matter underlined thus is new matter.

1 the Executive Branch, such communication, reproduction or excerpt
2 shall be deemed a communication with the member of the Legislature,
3 with legislative staff, with the Governor, with the Governor's staff, or
4 with an officer or staff member of the Executive Branch by such
5 person.

6 g. The term "legislative agent" means any person who receives or
7 agrees to receive, directly or indirectly, compensation, in money or
8 anything of value including reimbursement of his expenses where such
9 reimbursement exceeds \$100.00 in any three-month period, to
10 influence legislation or to influence regulation, or both, by direct or
11 indirect communication, or by making or authorizing, or causing to be
12 made or authorized, any expenditures providing a benefit, to a member
13 of the Legislature, legislative staff, the Governor, the Governor's staff,
14 or any officer or staff member of the Executive Branch, or who holds
15 himself out as engaging in the business of influencing legislation or
16 regulation by such means, or who incident to his regular employment
17 engages in influencing legislation or regulation by such means;
18 provided, however, that a person shall not be deemed a legislative
19 agent who, in relation to the duties or interests of his employment or
20 at the request or suggestion of his employer, communicates with a
21 member of the Legislature, with legislative staff, with the Governor,
22 with the Governor's staff, or with an officer or staff member of the
23 Executive Branch concerning any legislation or regulation, if such
24 communication is an isolated, exceptional or infrequent activity in
25 relation to the usual duties of his employment.

26 h. The term "influence legislation" means to make any attempt,
27 whether successful or not, to secure or prevent the initiation of any
28 legislation, or to secure or prevent the passage, defeat, amendment or
29 modification thereof by the Legislature, or the approval, amendment
30 or disapproval thereof by the Governor in accordance with his
31 constitutional authority.

32 i. The term "statement" includes a notice of representation or a
33 report required by this act, as amended and supplemented.

34 j. (Deleted by amendment, P.L.1991, c.243).

35 k. The term "member of the Legislature" includes any member or
36 member-elect of, or any person who shall have been selected to fill a
37 vacancy in, the Senate or General Assembly, and any other person who
38 is a member or member-designate of any committee or commission
39 established by the Legislature or by either House thereof.

40 l. The term "legislative staff" includes all staff, assistants and
41 employees of the Legislature or any of its members in the member's
42 official capacity, whether or not they receive compensation from the
43 State of New Jersey.

44 m. The term "Governor's staff" includes the members of the
45 Governor's Cabinet, the Secretary to the Governor, the Counsel to the
46 Governor and all professional employees in the office of the Counsel

1 to the Governor, and all other employees of the Office of the
2 Governor.

3 n. The term "officer or staff member of the Executive Branch"
4 means any assistant or deputy head of a principal department in the
5 Executive Branch of State Government, including all assistant and
6 deputy commissioners; the members and chief executive officer of any
7 authority, board, commission or other agency or instrumentality in or
8 of such a principal department; and any officer of the Executive
9 Branch of State Government other than the Governor who is not
10 included among the foregoing or among the Governor's staff, but who
11 is empowered by law to issue, promulgate or adopt administrative
12 rules and regulations, and any person employed in the office of such
13 an officer who is involved with the development, issuance,
14 promulgation or adoption of such rules and regulations in the regular
15 course of employment.

16 o. The term "regulation" includes any administrative rule or
17 regulation affecting the rights, privileges, benefits, duties, obligations,
18 or liabilities of any one or more persons subject by law to regulation
19 as a class, but does not include an administrative action (1) to issue,
20 renew or deny, or, in an adjudicative action, to suspend or revoke, a
21 license, order, permit or waiver under any law or administrative rule
22 or regulation, (2) to impose a penalty, or (3) to effectuate an
23 administrative reorganization within a single principal department of
24 the Executive Branch of State Government.

25 p. The term "influence regulation" means to make any attempt,
26 whether successful or not, to secure or prevent the proposal of any
27 regulation or to secure or prevent the consideration, amendment,
28 issuance, promulgation, adoption or rejection thereof by an officer or
29 any authority, board, commission or other agency or instrumentality
30 in or of a principal department of the Executive Branch of State
31 Government empowered by law to issue, promulgate or adopt
32 administrative rules and regulations.

33 q. The term "expenditures providing a benefit" or "expenditures
34 providing benefits" means any expenditures for entertainment, food
35 and beverage, travel and lodging, honoraria, loans, gifts or any other
36 thing of value, except for (1) any money or thing of value paid for
37 past, present, or future services in regular employment, whether in the
38 form of a fee, expense, allowance, forbearance, forgiveness, interest,
39 dividend, royalty, rent, capital gain, or any other form of recompense,
40 or any combination thereof, or (2) any dividends or other income paid
41 on investments, trusts, and estates.

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

45 s. The term "communication with the general public" means any
46 communication:

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

5 (2) which explicitly supports or opposes a particular item or items
6 of legislation or regulation, or the content of which can reasonably be
7 understood, irrespective of whether the communication is addressed
8 to the general public or to persons in public office or employment, as
9 intended to influence legislation or to influence regulation.

10 (cf: P.L.1991, c.244, s.1)

11
12 2. Section 2 of P.L.1981, c.150 (C.52:13C-22.1) is amended to
13 read as follows:

14 2. Each legislative agent or lobbyist shall make and certify the
15 correctness of a full annual report to the Election Law Enforcement
16 Commission, of those moneys, loans, paid personal services or other
17 things of value contributed to it and those expenditures made, incurred
18 or authorized by it for the purpose of communication with or
19 providing benefits to any member of the Legislature, legislative staff,
20 the Governor, the Governor's staff, or an officer or staff member of
21 the Executive Branch, or communication with the general public,
22 during the previous year. The report shall include, but not be limited
23 to, the following expenditures which relate to communication with, or
24 providing benefits to, any member of the Legislature, legislative staff,
25 the Governor, the Governor's staff, or an officer or staff member of
26 the Executive Branch, or communication with the general public:
27 media, including advertising; entertainment; food and beverage; travel
28 and lodging; honoraria; loans; gifts; and salary, fees, allowances or
29 other compensation paid to a legislative agent. The expenditures shall
30 be reported whether made to the intended recipient of the
31 communication or benefit [or], to a legislative agent or a lobbyist, or
32 in the case of a communication to the general public, to the publisher
33 of that communication. The expenditures shall be reported in the
34 aggregate by category, except that if the aggregate expenditures on
35 behalf of a member of the Legislature, legislative staff, the Governor,
36 the Governor's staff, or an officer or staff member of the Executive
37 Branch exceed \$25.00 per day, they shall be detailed separately as to
38 the name of the member of the Legislature, member of legislative staff,
39 the Governor, member of the Governor's staff, or officer or staff
40 member of the Executive Branch, date and type of expenditure,
41 amount of expenditure and to whom paid. Where the aggregate
42 expenditures for the purpose of communication with or providing
43 benefits to any one member of the Legislature, member of legislative
44 staff, the Governor, the Governor's staff, or officer or staff member of
45 the Executive Branch exceed \$200.00 per year, the expenditures,
46 together with the name of the intended recipient of the communication

1 or benefits, shall be stated in detail including the type of each
2 expenditure, amount of expenditure and to whom paid. Where [the]
3 those expenditures in the aggregate, or where the aggregate
4 expenditures for the purpose of communication with the general
5 public, with respect to any specific occasion are in excess of \$100.00,
6 the report shall include the date and type of expenditure, amount of
7 expenditure and to whom paid. The Election Law Enforcement
8 Commission may, in its discretion, permit joint reports by legislative
9 agents. No legislative agent shall be required to file a report unless all
10 moneys, loans, paid personal services or other things of value
11 contributed to it for the purpose of communication with or making
12 expenditures providing a benefit to a member of the Legislature,
13 legislative staff, the Governor, the Governor's staff, or officer or staff
14 member of the Executive Branch or for the purpose of communication
15 with the general public exceed \$2,500.00 in any year or unless all
16 expenditures made, incurred or authorized by it for the purpose of
17 communication with or providing benefits to a member of the
18 Legislature, legislative staff, the Governor, the Governor's staff, or
19 officer or staff member of the Executive Branch or for the purpose of
20 communication with the general public exceed \$2,500.00 in any year.

21 Any lobbyist who receives contributions or makes expenditures to
22 influence legislation or regulation shall be required to file and certify
23 the correctness of a report of such contributions or expenditures if the
24 contributions or expenditures made, incurred or authorized by it for
25 the purpose of communication with or providing benefits to a member
26 of the Legislature, legislative staff, the Governor, the Governor's staff,
27 or an officer or staff member of the Executive Branch exceed, in the
28 aggregate, \$2,500.00 in any year. Any lobbyist required to file a
29 report pursuant to this section may designate a legislative agent in its
30 employ or otherwise engaged or used by it to file a report on its
31 behalf; provided such designation is made in writing by the lobbyist,
32 is acknowledged in writing by the designated legislative agent and is
33 filed with the Election Law Enforcement Commission on or before the
34 date on which the report of the lobbyist is due for filing, and further
35 provided that any violation of this act shall subject both the lobbyist
36 and the designated legislative agent to the penalties provided in this
37 act.

38 Any person other than a legislative agent or lobbyist who receives
39 contributions or makes expenditures for the purpose of communication
40 with the general public shall be required to file and certify the
41 correctness of a report of such contributions or expenditures in the
42 same manner as legislative agents under the provisions of this section
43 if the contributions or expenditures made, incurred or authorized by
44 the person for the purpose of communication with the general public
45 exceed in the aggregate \$2,500 in any year.

46 This section shall not be construed to authorize any person to make

1 or authorize, or to cause to be made or authorized, any expenditure
2 providing a benefit, or to provide a benefit, the provision or receipt of
3 which is prohibited under the "New Jersey Conflicts of Interest Law,"
4 P.L.1971, c.182 (C.52:13D-12 et seq.) or any code of ethics
5 promulgated thereunder, or under any other law or any executive
6 order, rule or regulation.

7 (cf: P.L.1991, c.243, s.5)

8

9 3. Section 10 of P.L.1971, c.183 (C.52:13C-27) is amended to
10 read as follows:

11 10. This act shall not apply to the following activities:

12 a. the publication or dissemination, in the ordinary course of
13 business, of news items, advertising which does not constitute
14 communication with the general public, editorials or other comments
15 by a newspaper, book publisher, regularly published periodical, or
16 radio or television station, including an owner, editor or employee
17 thereof;

18 b. acts of an officer or employee of the Government of this State
19 or any of its political subdivisions, or of the Government of the United
20 States or of any State or territory thereof or any of their political
21 subdivisions, in carrying out the duties of their public office or
22 employment;

23 c. acts of bona fide religious groups acting solely for the purpose
24 of protecting the public right to practice the doctrines of such religious
25 groups;

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

28 e. acts of a person in testifying before a legislative committee or
29 commission, at a public hearing duly called by the Governor on
30 legislative proposals or on legislation passed and pending his approval,
31 or before any officer or body empowered by law to issue, promulgate
32 or adopt administrative rules and regulations in behalf of a nonprofit
33 organization incorporated as such in this State who receives no
34 compensation therefor beyond the reimbursement of necessary and
35 actual expenses, and who makes no other communication with a
36 member of the Legislature, legislative staff, the Governor, the
37 Governor's staff, or an officer or staff member of the Executive Branch
38 in connection with the subject of his testimony; and

39 f. acts of a person in communicating with or providing benefits to
40 a member of the Legislature, legislative staff, the Governor, the
41 Governor's staff, or an officer or staff member of the Executive Branch
42 if such communication or provision of benefits is undertaken by him
43 as a personal expression and not incident to his employment, even if
44 it is upon a matter relevant to the interests of a person by whom or
45 which he is employed, and if he receives no additional compensation
46 or reward, in money or otherwise, for or as a result of such

1 communication or provision of benefits.

2 (cf: P.L.1991, c.243, s.6)

3

4 4. This act shall take effect immediately.

5

6

7

STATEMENT

8

9 This bill extends certain financial disclosure requirements under the
10 "Legislative Activities Disclosure Act of 1971" to lobbying conducted
11 through communication with the general public. Under the bill, such
12 communication is defined as a communication:

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

17 (2) which explicitly supports or opposes a particular item or items
18 of legislation or regulation, or the content of which can reasonably be
19 understood, irrespective of whether the communication is addressed
20 to the general public or to persons in public office or employment, as
21 intended to influence legislation or to influence regulation.

22 The bill would require a legislative agent or lobbyist to include
23 amounts contributed to it for the purpose of communication with the
24 general public in calculating whether its annual contributions or
25 expenditures exceeded \$2,500. (An agent or lobbyist with annual
26 contributions or expenditures in excess of that amount is subject to the
27 statutory obligation to make an annual report of its receipts and
28 expenditures to the Election Law Enforcement Commission (ELEC)).
29 The bill would also require the identification in any such annual report
30 of expenditures on such communication.

31 The bill also requires any other person or group who finances such
32 a communication to make a report, similar to that required of
33 legislative agents and lobbyists, of such expenditures.

SENATE, No. 631

STATE OF NEW JERSEY 211th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

Sponsored by:

Senator LEONARD LANCE

District 23 (Warren and Hunterdon)

Senator LEONARD T. CONNORS, JR.

District 9 (Atlantic, Burlington and Ocean)

Co-Sponsored by:

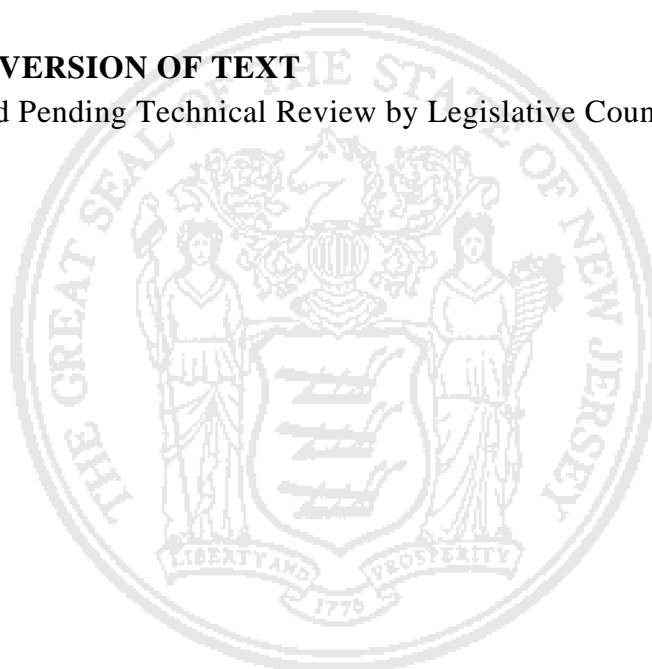
Senator Ciesla

SYNOPSIS

Extends certain financial disclosure requirements under "Legislative Activities Disclosure Act of 1971" to "grass roots" lobbying conducted through direct mail and advertisements to general public.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 5/21/2004)

1 AN ACT concerning the disclosure of certain lobbying activities and
2 amending P.L.1971, c.183 and P.L.1981, c.150.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 3 of P.L.1971, c.183 (C.52:13C-20) is amended to read
8 as follows:

9 3. For the purposes of this act, as amended and supplemented,
10 unless the context clearly requires a different meaning:

11 a. The term "person" includes an individual, partnership, committee,
12 association, corporation, and any other organization or group of
13 persons.

14 b. The term "legislation" includes all bills, resolutions, amendments,
15 nominations and appointments pending or proposed in either House of
16 the Legislature, and all bills and resolutions which, having passed both
17 Houses, are pending approval by the Governor.

18 c. The term "Legislature" includes the Senate and General Assembly
19 of the State of New Jersey and all committees and commissions
20 established by the Legislature or by either House thereof.

21 d. The term "lobbyist" means any person, partnership, committee,
22 association, corporation, labor union or any other organization that
23 employs, engages or otherwise uses the services of any legislative
24 agent to influence legislation or regulation.

25 e. The term "Governor" includes the Governor or the Acting
26 Governor.

27 f. The term "communication with a member of the Legislature,
28 "with legislative staff," "with the Governor," "with the Governor's
29 staff," or "with an officer or staff member of the Executive Branch"
30 means any communication, oral or in writing or any other medium,
31 addressed, delivered, distributed or disseminated, respectively, to a
32 member of the Legislature, to legislative staff, to the Governor, to the
33 Governor's staff, or to an officer or staff member of the Executive
34 Branch, as distinguished from communication to the general public
35 including but not limited to a member of the Legislature, legislative
36 staff, the Governor, the Governor's staff, or an officer or staff member
37 of the Executive Branch. If any person shall obtain, reproduce or
38 excerpt any communication or part thereof which in its original form
39 was not a communication under this subsection and shall cause such
40 excerpt or reproduction to be addressed, delivered, distributed or
41 disseminated to a member of the Legislature, to legislative staff, to the
42 Governor, to the Governor's staff, or to an officer or staff member of
43 the Executive Branch, such communication, reproduction or excerpt

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

Matter underlined thus is new matter.

1 shall be deemed a communication with the member of the Legislature,
2 with legislative staff, with the Governor, with the Governor's staff, or
3 with an officer or staff member of the Executive Branch by such
4 person.

5 g. The term "legislative agent" means any person who receives or
6 agrees to receive, directly or indirectly, compensation, in money or
7 anything of value including reimbursement of his expenses where such
8 reimbursement exceeds \$100.00 in any three-month period, to
9 influence legislation or to influence regulation, or both, by direct or
10 indirect communication, or by making or authorizing, or causing to be
11 made or authorized, any expenditures providing a benefit, to a member
12 of the Legislature, legislative staff, the Governor, the Governor's staff,
13 or any officer or staff member of the Executive Branch, or who holds
14 himself out as engaging in the business of influencing legislation or
15 regulation by such means, or who incident to his regular employment
16 engages in influencing legislation or regulation by such means;
17 provided, however, that a person shall not be deemed a legislative
18 agent who, in relation to the duties or interests of his employment or
19 at the request or suggestion of his employer, communicates with a
20 member of the Legislature, with legislative staff, with the Governor,
21 with the Governor's staff, or with an officer or staff member of the
22 Executive Branch concerning any legislation or regulation, if such
23 communication is an isolated, exceptional or infrequent activity in
24 relation to the usual duties of his employment.

25 h. The term "influence legislation" means to make any attempt,
26 whether successful or not, to secure or prevent the initiation of any
27 legislation, or to secure or prevent the passage, defeat, amendment or
28 modification thereof by the Legislature, or the approval, amendment
29 or disapproval thereof by the Governor in accordance with his
30 constitutional authority.

31 i. The term "statement" includes a notice of representation or a
32 report required by this act, as amended and supplemented.

33 j. (Deleted by amendment, P.L.1991, c.243).

34 k. The term "member of the Legislature" includes any member or
35 member-elect of, or any person who shall have been selected to fill a
36 vacancy in, the Senate or General Assembly, and any other person who
37 is a member or member-designate of any committee or commission
38 established by the Legislature or by either House thereof.

39 l. The term "legislative staff" includes all staff, assistants and
40 employees of the Legislature or any of its members in the member's
41 official capacity, whether or not they receive compensation from the
42 State of New Jersey.

43 m. The term "Governor's staff" includes the members of the
44 Governor's Cabinet, the Secretary to the Governor, the Counsel to the
45 Governor and all professional employees in the office of the Counsel
46 to the Governor, and all other employees of the Office of the

1 Governor.

2 n. The term "officer or staff member of the Executive Branch"
3 means any assistant or deputy head of a principal department in the
4 Executive Branch of State Government, including all assistant and
5 deputy commissioners; the members and chief executive officer of any
6 authority, board, commission or other agency or instrumentality in or
7 of such a principal department; and any officer of the Executive
8 Branch of State Government other than the Governor who is not
9 included among the foregoing or among the Governor's staff, but who
10 is empowered by law to issue, promulgate or adopt administrative
11 rules and regulations, and any person employed in the office of such
12 an officer who is involved with the development, issuance,
13 promulgation or adoption of such rules and regulations in the regular
14 course of employment.

15 o. The term "regulation" includes any administrative rule or
16 regulation affecting the rights, privileges, benefits, duties, obligations,
17 or liabilities of any one or more persons subject by law to regulation
18 as a class, but does not include an administrative action (1) to issue,
19 renew or deny, or, in an adjudicative action, to suspend or revoke, a
20 license, order, permit or waiver under any law or administrative rule
21 or regulation, (2) to impose a penalty, or (3) to effectuate an
22 administrative reorganization within a single principal department of
23 the Executive Branch of State Government.

24 p. The term "influence regulation" means to make any attempt,
25 whether successful or not, to secure or prevent the proposal of any
26 regulation or to secure or prevent the consideration, amendment,
27 issuance, promulgation, adoption or rejection thereof by an officer or
28 any authority, board, commission or other agency or instrumentality
29 in or of a principal department of the Executive Branch of State
30 Government empowered by law to issue, promulgate or adopt
31 administrative rules and regulations.

32 q. The term "expenditures providing a benefit" or "expenditures
33 providing benefits" means any expenditures for entertainment, food
34 and beverage, travel and lodging, honoraria, loans, gifts or any other
35 thing of value, except for (1) any money or thing of value paid for
36 past, present, or future services in regular employment, whether in the
37 form of a fee, expense, allowance, forbearance, forgiveness, interest,
38 dividend, royalty, rent, capital gain, or any other form of recompense,
39 or any combination thereof, or (2) any dividends or other income paid
40 on investments, trusts, and estates.

41 r. The term "commission" means the Election Law Enforcement
42 Commission established pursuant to section 5 of P.L.1973, c.83
43 (C.19:44A-5).

44 s. The term "communication with the general public" means any
45 communication (1) disseminated to the general public through direct
46 mail or in the form of a paid advertisement in a newspaper, magazine,

1 or other printed publication of general circulation or aired on radio,
2 television, or other broadcast medium, and (2) which explicitly
3 supports or opposes a particular item or items of legislation or
4 regulation, or the content of which can reasonably be understood,
5 irrespective of whether the communication is addressed to the general
6 public or to persons in public office or employment, as intended to
7 influence legislation or to influence regulation.

8 (cf: P.L.1991, c.244, s.1)

9

10 2. Section 2 of P.L.1981, c.150 (C.52:13C-22.1) is amended to
11 read as follows:

12 2. Each legislative agent or lobbyist shall make and certify the
13 correctness of a full annual report to the Election Law Enforcement
14 Commission, of those moneys, loans, paid personal services or other
15 things of value contributed to it and those expenditures made, incurred
16 or authorized by it for the purpose of communication with or
17 providing benefits to any member of the Legislature, legislative staff,
18 the Governor, the Governor's staff, or an officer or staff member of
19 the Executive Branch, or communication with the general public,
20 during the previous year. The report shall include, but not be limited
21 to, the following expenditures which relate to communication with, or
22 providing benefits to, any member of the Legislature, legislative staff,
23 the Governor, the Governor's staff, or an officer or staff member of
24 the Executive Branch, or communication with the general public:
25 media, including advertising; entertainment; food and beverage; travel
26 and lodging; honoraria; loans; gifts; and salary, fees, allowances or
27 other compensation paid to a legislative agent. The expenditures shall
28 be reported whether made to the intended recipient of the
29 communication or benefit [or], to a legislative agent or a lobbyist, or
30 in the case of a communication to the general public, to the publisher
31 of that communication. The expenditures shall be reported in the
32 aggregate by category, except that if the aggregate expenditures on
33 behalf of a member of the Legislature, legislative staff, the Governor,
34 the Governor's staff, or an officer or staff member of the Executive
35 Branch exceed \$25.00 per day, they shall be detailed separately as to
36 the name of the member of the Legislature, member of legislative staff,
37 the Governor, member of the Governor's staff, or officer or staff
38 member of the Executive Branch, date and type of expenditure,
39 amount of expenditure and to whom paid. Where the aggregate
40 expenditures for the purpose of communication with or providing
41 benefits to any one member of the Legislature, member of legislative
42 staff, the Governor, the Governor's staff, or officer or staff member of
43 the Executive Branch exceed \$200.00 per year, the expenditures,
44 together with the name of the intended recipient of the communication
45 or benefits, shall be stated in detail including the type of each
46 expenditure, amount of expenditure and to whom paid. Where [the]

1 those expenditures in the aggregate, or where the aggregate
2 expenditures for the purpose of communication with the general
3 public, with respect to any specific occasion are in excess of \$100.00,
4 the report shall include the date and type of expenditure, amount of
5 expenditure and to whom paid. The Election Law Enforcement
6 Commission may, in its discretion, permit joint reports by legislative
7 agents. No legislative agent shall be required to file a report unless all
8 moneys, loans, paid personal services or other things of value
9 contributed to it for the purpose of communication with or making
10 expenditures providing a benefit to a member of the Legislature,
11 legislative staff, the Governor, the Governor's staff, or officer or staff
12 member of the Executive Branch or for the purpose of communication
13 with the general public exceed \$2,500.00 in any year or unless all
14 expenditures made, incurred or authorized by it for the purpose of
15 communication with or providing benefits to a member of the
16 Legislature, legislative staff, the Governor, the Governor's staff, or
17 officer or staff member of the Executive Branch or for the purpose of
18 communication with the general public exceed \$2,500.00 in any year.

19 Any lobbyist who receives contributions or makes expenditures to
20 influence legislation or regulation shall be required to file and certify
21 the correctness of a report of such contributions or expenditures if the
22 contributions or expenditures made, incurred or authorized by it for
23 the purpose of communication with or providing benefits to a member
24 of the Legislature, legislative staff, the Governor, the Governor's staff,
25 or an officer or staff member of the Executive Branch exceed, in the
26 aggregate, \$2,500.00 in any year. Any lobbyist required to file a
27 report pursuant to this section may designate a legislative agent in its
28 employ or otherwise engaged or used by it to file a report on its
29 behalf; provided such designation is made in writing by the lobbyist,
30 is acknowledged in writing by the designated legislative agent and is
31 filed with the Election Law Enforcement Commission on or before the
32 date on which the report of the lobbyist is due for filing, and further
33 provided that any violation of this act shall subject both the lobbyist
34 and the designated legislative agent to the penalties provided in this
35 act.

36 Any person other than a legislative agent or lobbyist who receives
37 contributions or makes expenditures for the purpose of communication
38 with the general public shall be required to file and certify the
39 correctness of a report of such contributions or expenditures in the
40 same manner as legislative agents under the provisions of this section
41 if the contributions or expenditures made, incurred or authorized by
42 the person for the purpose of communication with the general public
43 exceed in the aggregate \$2,500 in any year.

44 This section shall not be construed to authorize any person to make
45 or authorize, or to cause to be made or authorized, any expenditure
46 providing a benefit, or to provide a benefit, the provision or receipt of

1 which is prohibited under the "New Jersey Conflicts of Interest Law,"
2 P.L.1971, c.182 (C.52:13D-12 et seq.) or any code of ethics
3 promulgated thereunder, or under any other law or any executive
4 order, rule or regulation.

5 (cf: P.L.1991, c.243, s.5)

6

7 3. Section 10 of P.L.1971, c.183 (C.52:13C-27) is amended to
8 read as follows:

9 10. This act shall not apply to the following activities:

10 a. the publication or dissemination, in the ordinary course of
11 business, of news items, advertising which does not constitute
12 communication with the general public, editorials or other comments
13 by a newspaper, book publisher, regularly published periodical, or
14 radio or television station, including an owner, editor or employee
15 thereof;

16 b. acts of an officer or employee of the Government of this State
17 or any of its political subdivisions, or of the Government of the United
18 States or of any State or territory thereof or any of their political
19 subdivisions, in carrying out the duties of their public office or
20 employment;

21 c. acts of bona fide religious groups acting solely for the purpose
22 of protecting the public right to practice the doctrines of such religious
23 groups;

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

26 e. acts of a person in testifying before a legislative committee or
27 commission, at a public hearing duly called by the Governor on
28 legislative proposals or on legislation passed and pending his approval,
29 or before any officer or body empowered by law to issue, promulgate
30 or adopt administrative rules and regulations in behalf of a nonprofit
31 organization incorporated as such in this State who receives no
32 compensation therefor beyond the reimbursement of necessary and
33 actual expenses, and who makes no other communication with a
34 member of the Legislature, legislative staff, the Governor, the
35 Governor's staff, or an officer or staff member of the Executive Branch
36 in connection with the subject of his testimony; and

37 f. acts of a person in communicating with or providing benefits to
38 a member of the Legislature, legislative staff, the Governor, the
39 Governor's staff, or an officer or staff member of the Executive Branch
40 if such communication or provision of benefits is undertaken by him
41 as a personal expression and not incident to his employment, even if
42 it is upon a matter relevant to the interests of a person by whom or
43 which he is employed, and if he receives no additional compensation
44 or reward, in money or otherwise, for or as a result of such
45 communication or provision of benefits.

46 (cf: P.L.1991, c.243, s.6)

1 4. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill extends certain financial disclosure requirements under the
7 "Legislative Activities Disclosure Act of 1971" to "grass roots"
8 lobbying conducted through communication with the general public.
9 Under the bill, such communication is defined as "communication (1)
10 disseminated to the general public through direct mail or in the form
11 of a paid advertisement in a newspaper, magazine, or other printed
12 publication of general circulation or aired on radio, television, or other
13 broadcast medium, and (2) which explicitly supports or opposes a
14 particular item or items of legislation or regulation, or the content of
15 which can reasonably be understood, irrespective of whether the
16 communication is addressed to the general public or to persons in
17 public office or employment, as intended to influence legislation or to
18 influence regulation."

19 The bill would require a legislative agent or lobbyist to include
20 amounts contributed to it for the purpose of communication with the
21 general public in calculating whether its annual contributions or
22 expenditures exceeded \$2,500. (An agent or lobbyist with annual
23 contributions or expenditures in excess of that amount is subject to the
24 statutory obligation to make an annual report of its receipts and
25 expenditures to the Election Law Enforcement Commission (ELEC)).
26 The bill would also require the identification in any such annual report
27 of expenditures on such communication.

28 The bill also requires any other person or group to make a report,
29 similar to that required of legislative agents and lobbyists, of such
30 expenditures.

SENATE STATE GOVERNMENT COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 4 and 631**

STATE OF NEW JERSEY

DATED: JUNE 3, 2004

The Senate State Government Committee reports favorably Senate Bill No. 4.

This Senate Committee Substitute extends certain financial disclosure requirements under the "Legislative Activities Disclosure Act of 1971" to lobbying conducted through communication with the general public. Under the substitute, such communication is defined as a communication:

- (1) disseminated to the general public through direct mail or in the form of a paid advertisement in a newspaper, magazine, or other printed publication of general circulation or aired on radio, television, or other broadcast medium, and
- (2) which explicitly supports or opposes a particular item or items of legislation or regulation, or the content of which can reasonably be understood, irrespective of whether the communication is addressed to the general public or to persons in public office or employment, as intended to influence legislation or to influence regulation.

The substitute would require a legislative agent or lobbyist to include amounts contributed to it for the purpose of communication with the general public in calculating whether its annual contributions or expenditures exceeded \$2,500. (An agent or lobbyist with annual contributions or expenditures in excess of that amount is subject to the statutory obligation to make an annual report of its receipts and expenditures to the Election Law Enforcement Commission (ELEC)). The substitute would also require the identification in any such annual report of expenditures on such communication.

The substitute also requires any other person or group who finances such a communication to make a report, similar to that required of legislative agents and lobbyists, of such expenditures.

This substitute is identical to Assembly, No. 4 of 2004.

ASSEMBLY, No. 4

STATE OF NEW JERSEY

211th LEGISLATURE

INTRODUCED MAY 27, 2004

Sponsored by:

Assemblywoman LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Assemblyman FREDERICK SCALERA

District 36 (Bergen, Essex and Passaic)

Assemblyman UPENDRA J. CHIVUKULA

District 17 (Middlesex and Somerset)

Assemblyman JACK CONNERS

District 7 (Burlington and Camden)

Co-Sponsored by:

Assemblywoman Previte, Assemblymen Mayer, Van Drew, McKeon, Stack, Assemblywoman Cruz-Perez, Assemblymen Chiappone, Payne, R.Smith, Assemblywoman Watson Coleman, Assemblymen Cryan, Panter, Morgan, Vas, Gusciora, Greenwald, Stanley, Johnson and Assemblywoman Quigley

SYNOPSIS

Extends certain financial disclosure requirements to lobbying conducted through advertisements and direct mail to general public.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 6/11/2004)

1 AN ACT concerning the financial disclosure of lobbying activities
2 conducted through advertisements and direct mail and amending
3 P.L.1971, c.183 and P.L.1981, c.150.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 3 of P.L.1971, c.183 (C.52:13C-20) is amended to read
9 as follows:

10 3. For the purposes of this act, as amended and supplemented,
11 unless the context clearly requires a different meaning:

12 a. The term "person" includes an individual, partnership,
13 committee, association, corporation, and any other organization or
14 group of persons.

15 b. The term "legislation" includes all bills, resolutions,
16 amendments, nominations and appointments pending or proposed in
17 either House of the Legislature, and all bills and resolutions which,
18 having passed both Houses, are pending approval by the Governor.

19 c. The term "Legislature" includes the Senate and General
20 Assembly of the State of New Jersey and all committees and
21 commissions established by the Legislature or by either House thereof.

22 d. The term "lobbyist" means any person, partnership, committee,
23 association, corporation, labor union or any other organization that
24 employs, engages or otherwise uses the services of any legislative
25 agent to influence legislation or regulation.

26 e. The term "Governor" includes the Governor or the Acting
27 Governor.

28 f. The term "communication with a member of the Legislature,
29 "with legislative staff," "with the Governor," "with the Governor's
30 staff," or "with an officer or staff member of the Executive Branch"
31 means any communication, oral or in writing or any other medium,
32 addressed, delivered, distributed or disseminated, respectively, to a
33 member of the Legislature, to legislative staff, to the Governor, to the
34 Governor's staff, or to an officer or staff member of the Executive
35 Branch, as distinguished from communication to the general public
36 including but not limited to a member of the Legislature, legislative
37 staff, the Governor, the Governor's staff, or an officer or staff member
38 of the Executive Branch. If any person shall obtain, reproduce or
39 excerpt any communication or part thereof which in its original form
40 was not a communication under this subsection and shall cause such
41 excerpt or reproduction to be addressed, delivered, distributed or
42 disseminated to a member of the Legislature, to legislative staff, to the
43 Governor, to the Governor's staff, or to an officer or staff member of

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

Matter underlined thus is new matter.

1 the Executive Branch, such communication, reproduction or excerpt
2 shall be deemed a communication with the member of the Legislature,
3 with legislative staff, with the Governor, with the Governor's staff, or
4 with an officer or staff member of the Executive Branch by such
5 person.

6 g. The term "legislative agent" means any person who receives or
7 agrees to receive, directly or indirectly, compensation, in money or
8 anything of value including reimbursement of his expenses where such
9 reimbursement exceeds \$100.00 in any three-month period, to
10 influence legislation or to influence regulation, or both, by direct or
11 indirect communication, or by making or authorizing, or causing to be
12 made or authorized, any expenditures providing a benefit, to a member
13 of the Legislature, legislative staff, the Governor, the Governor's staff,
14 or any officer or staff member of the Executive Branch, or who holds
15 himself out as engaging in the business of influencing legislation or
16 regulation by such means, or who incident to his regular employment
17 engages in influencing legislation or regulation by such means;
18 provided, however, that a person shall not be deemed a legislative
19 agent who, in relation to the duties or interests of his employment or
20 at the request or suggestion of his employer, communicates with a
21 member of the Legislature, with legislative staff, with the Governor,
22 with the Governor's staff, or with an officer or staff member of the
23 Executive Branch concerning any legislation or regulation, if such
24 communication is an isolated, exceptional or infrequent activity in
25 relation to the usual duties of his employment.

26 h. The term "influence legislation" means to make any attempt,
27 whether successful or not, to secure or prevent the initiation of any
28 legislation, or to secure or prevent the passage, defeat, amendment or
29 modification thereof by the Legislature, or the approval, amendment
30 or disapproval thereof by the Governor in accordance with his
31 constitutional authority.

32 i. The term "statement" includes a notice of representation or a
33 report required by this act, as amended and supplemented.

34 j. (Deleted by amendment, P.L.1991, c.243).

35 k. The term "member of the Legislature" includes any member or
36 member-elect of, or any person who shall have been selected to fill a
37 vacancy in, the Senate or General Assembly, and any other person who
38 is a member or member-designate of any committee or commission
39 established by the Legislature or by either House thereof.

40 l. The term "legislative staff" includes all staff, assistants and
41 employees of the Legislature or any of its members in the member's
42 official capacity, whether or not they receive compensation from the
43 State of New Jersey.

44 m. The term "Governor's staff" includes the members of the
45 Governor's Cabinet, the Secretary to the Governor, the Counsel to the
46 Governor and all professional employees in the office of the Counsel

1 to the Governor, and all other employees of the Office of the
2 Governor.

3 n. The term "officer or staff member of the Executive Branch"
4 means any assistant or deputy head of a principal department in the
5 Executive Branch of State Government, including all assistant and
6 deputy commissioners; the members and chief executive officer of any
7 authority, board, commission or other agency or instrumentality in or
8 of such a principal department; and any officer of the Executive
9 Branch of State Government other than the Governor who is not
10 included among the foregoing or among the Governor's staff, but who
11 is empowered by law to issue, promulgate or adopt administrative
12 rules and regulations, and any person employed in the office of such
13 an officer who is involved with the development, issuance,
14 promulgation or adoption of such rules and regulations in the regular
15 course of employment.

16 o. The term "regulation" includes any administrative rule or
17 regulation affecting the rights, privileges, benefits, duties, obligations,
18 or liabilities of any one or more persons subject by law to regulation
19 as a class, but does not include an administrative action (1) to issue,
20 renew or deny, or, in an adjudicative action, to suspend or revoke, a
21 license, order, permit or waiver under any law or administrative rule
22 or regulation, (2) to impose a penalty, or (3) to effectuate an
23 administrative reorganization within a single principal department of
24 the Executive Branch of State Government.

25 p. The term "influence regulation" means to make any attempt,
26 whether successful or not, to secure or prevent the proposal of any
27 regulation or to secure or prevent the consideration, amendment,
28 issuance, promulgation, adoption or rejection thereof by an officer or
29 any authority, board, commission or other agency or instrumentality
30 in or of a principal department of the Executive Branch of State
31 Government empowered by law to issue, promulgate or adopt
32 administrative rules and regulations.

33 q. The term "expenditures providing a benefit" or "expenditures
34 providing benefits" means any expenditures for entertainment, food
35 and beverage, travel and lodging, honoraria, loans, gifts or any other
36 thing of value, except for (1) any money or thing of value paid for
37 past, present, or future services in regular employment, whether in the
38 form of a fee, expense, allowance, forbearance, forgiveness, interest,
39 dividend, royalty, rent, capital gain, or any other form of recompense,
40 or any combination thereof, or (2) any dividends or other income paid
41 on investments, trusts, and estates.

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

45 s. The term "communication with the general public" means any
46 communication:

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

5 (2) which explicitly supports or opposes a particular item or items
6 of legislation or regulation, or the content of which can reasonably be
7 understood, irrespective of whether the communication is addressed
8 to the general public or to persons in public office or employment, as
9 intended to influence legislation or to influence regulation.

10 (cf: P.L.1991, c.244, s.1)

11
12 2. Section 2 of P.L.1981, c.150 (C.52:13C-22.1) is amended to
13 read as follows:

14 2. Each legislative agent or lobbyist shall make and certify the
15 correctness of a full annual report to the Election Law Enforcement
16 Commission, of those moneys, loans, paid personal services or other
17 things of value contributed to it and those expenditures made, incurred
18 or authorized by it for the purpose of communication with or
19 providing benefits to any member of the Legislature, legislative staff,
20 the Governor, the Governor's staff, or an officer or staff member of
21 the Executive Branch, or communication with the general public,
22 during the previous year. The report shall include, but not be limited
23 to, the following expenditures which relate to communication with, or
24 providing benefits to, any member of the Legislature, legislative staff,
25 the Governor, the Governor's staff, or an officer or staff member of
26 the Executive Branch, or communication with the general public:
27 media, including advertising; entertainment; food and beverage; travel
28 and lodging; honoraria; loans; gifts; and salary, fees, allowances or
29 other compensation paid to a legislative agent. The expenditures shall
30 be reported whether made to the intended recipient of the
31 communication or benefit [or], to a legislative agent or a lobbyist, or
32 in the case of a communication to the general public, to the publisher
33 of that communication. The expenditures shall be reported in the
34 aggregate by category, except that if the aggregate expenditures on
35 behalf of a member of the Legislature, legislative staff, the Governor,
36 the Governor's staff, or an officer or staff member of the Executive
37 Branch exceed \$25.00 per day, they shall be detailed separately as to
38 the name of the member of the Legislature, member of legislative staff,
39 the Governor, member of the Governor's staff, or officer or staff
40 member of the Executive Branch, date and type of expenditure,
41 amount of expenditure and to whom paid. Where the aggregate
42 expenditures for the purpose of communication with or providing
43 benefits to any one member of the Legislature, member of legislative
44 staff, the Governor, the Governor's staff, or officer or staff member of
45 the Executive Branch exceed \$200.00 per year, the expenditures,
46 together with the name of the intended recipient of the communication

1 or benefits, shall be stated in detail including the type of each
2 expenditure, amount of expenditure and to whom paid. Where [the]
3 those expenditures in the aggregate, or where the aggregate
4 expenditures for the purpose of communication with the general
5 public, with respect to any specific occasion are in excess of \$100.00,
6 the report shall include the date and type of expenditure, amount of
7 expenditure and to whom paid. The Election Law Enforcement
8 Commission may, in its discretion, permit joint reports by legislative
9 agents. No legislative agent shall be required to file a report unless all
10 moneys, loans, paid personal services or other things of value
11 contributed to it for the purpose of communication with or making
12 expenditures providing a benefit to a member of the Legislature,
13 legislative staff, the Governor, the Governor's staff, or officer or staff
14 member of the Executive Branch or for the purpose of communication
15 with the general public exceed \$2,500.00 in any year or unless all
16 expenditures made, incurred or authorized by it for the purpose of
17 communication with or providing benefits to a member of the
18 Legislature, legislative staff, the Governor, the Governor's staff, or
19 officer or staff member of the Executive Branch or for the purpose of
20 communication with the general public exceed \$2,500.00 in any year.

21 Any lobbyist who receives contributions or makes expenditures to
22 influence legislation or regulation shall be required to file and certify
23 the correctness of a report of such contributions or expenditures if the
24 contributions or expenditures made, incurred or authorized by it for
25 the purpose of communication with or providing benefits to a member
26 of the Legislature, legislative staff, the Governor, the Governor's staff,
27 or an officer or staff member of the Executive Branch exceed, in the
28 aggregate, \$2,500.00 in any year. Any lobbyist required to file a
29 report pursuant to this section may designate a legislative agent in its
30 employ or otherwise engaged or used by it to file a report on its
31 behalf; provided such designation is made in writing by the lobbyist,
32 is acknowledged in writing by the designated legislative agent and is
33 filed with the Election Law Enforcement Commission on or before the
34 date on which the report of the lobbyist is due for filing, and further
35 provided that any violation of this act shall subject both the lobbyist
36 and the designated legislative agent to the penalties provided in this
37 act.

38 Any person other than a legislative agent or lobbyist who receives
39 contributions or makes expenditures for the purpose of communication
40 with the general public shall be required to file and certify the
41 correctness of a report of such contributions or expenditures in the
42 same manner as legislative agents under the provisions of this section
43 if the contributions or expenditures made, incurred or authorized by
44 the person for the purpose of communication with the general public
45 exceed in the aggregate \$2,500 in any year.

46 This section shall not be construed to authorize any person to make

1 or authorize, or to cause to be made or authorized, any expenditure
2 providing a benefit, or to provide a benefit, the provision or receipt of
3 which is prohibited under the "New Jersey Conflicts of Interest Law,"
4 P.L.1971, c.182 (C.52:13D-12 et seq.) or any code of ethics
5 promulgated thereunder, or under any other law or any executive
6 order, rule or regulation.

7 (cf: P.L.1991, c.243, s.5)

8

9 3. Section 10 of P.L.1971, c.183 (C.52:13C-27) is amended to
10 read as follows:

11 10. This act shall not apply to the following activities:

12 a. the publication or dissemination, in the ordinary course of
13 business, of news items, advertising which does not constitute
14 communication with the general public, editorials or other comments
15 by a newspaper, book publisher, regularly published periodical, or
16 radio or television station, including an owner, editor or employee
17 thereof;

18 b. acts of an officer or employee of the Government of this State
19 or any of its political subdivisions, or of the Government of the United
20 States or of any State or territory thereof or any of their political
21 subdivisions, in carrying out the duties of their public office or
22 employment;

23 c. acts of bona fide religious groups acting solely for the purpose
24 of protecting the public right to practice the doctrines of such religious
25 groups;

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

28 e. acts of a person in testifying before a legislative committee or
29 commission, at a public hearing duly called by the Governor on
30 legislative proposals or on legislation passed and pending his approval,
31 or before any officer or body empowered by law to issue, promulgate
32 or adopt administrative rules and regulations in behalf of a nonprofit
33 organization incorporated as such in this State who receives no
34 compensation therefor beyond the reimbursement of necessary and
35 actual expenses, and who makes no other communication with a
36 member of the Legislature, legislative staff, the Governor, the
37 Governor's staff, or an officer or staff member of the Executive Branch
38 in connection with the subject of his testimony; and

39 f. acts of a person in communicating with or providing benefits to
40 a member of the Legislature, legislative staff, the Governor, the
41 Governor's staff, or an officer or staff member of the Executive Branch
42 if such communication or provision of benefits is undertaken by him
43 as a personal expression and not incident to his employment, even if
44 it is upon a matter relevant to the interests of a person by whom or
45 which he is employed, and if he receives no additional compensation
46 or reward, in money or otherwise, for or as a result of such

1 communication or provision of benefits.

2 (cf: P.L.1991, c.243, s.6)

3

4 4. This act shall take effect immediately.

5

6

7

STATEMENT

8

9 This bill extends certain financial disclosure requirements under the
10 "Legislative Activities Disclosure Act of 1971" to lobbying conducted
11 through communication with the general public. Under the bill, such
12 communication is defined as a communication:

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

17 (2) which explicitly supports or opposes a particular item or items
18 of legislation or regulation, or the content of which can reasonably be
19 understood, irrespective of whether the communication is addressed
20 to the general public or to persons in public office or employment, as
21 intended to influence legislation or to influence regulation.

22 The bill would require a legislative agent or lobbyist to include
23 amounts contributed to it for the purpose of communication with the
24 general public in calculating whether its annual contributions or
25 expenditures exceeded \$2,500. (An agent or lobbyist with annual
26 contributions or expenditures in excess of that amount is subject to the
27 statutory obligation to make an annual report of its receipts and
28 expenditures to the Election Law Enforcement Commission (ELEC)).
29 The bill would also require the identification in any such annual report
30 of expenditures on such communication.

31 The bill also requires any other person or group who finances such
32 a communication to make a report, similar to that required of
33 legislative agents and lobbyists, of such expenditures.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4

STATE OF NEW JERSEY

DATED: JUNE 3, 2004

The Assembly State Government Committee reports favorably Assembly, No. 4.

This bill extends certain financial disclosure requirements under the "Legislative Activities Disclosure Act of 1971" to lobbying conducted through communication with the general public. Under the bill, such communication is defined as a communication:

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

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

The bill requires a legislative agent or lobbyist to include amounts contributed to it for the purpose of communication with the general public in calculating whether its annual contributions or expenditures exceeded \$2,500 and to include such expenditures in its report. Under current law, an agent or lobbyist with annual contributions or expenditures in excess of that amount makes an annual report of its receipts and expenditures to the Election Law Enforcement Commission. The bill also requires any other person or group who finances such a communication to make a report, similar to that required of legislative agents and lobbyists, of such expenditures.

This bill is the same as Senate, Nos. 4 and 631, Senate Committee Substitute of 2004.

Office of the Governor

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Contact: Micah Rasmussen
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RELEASE: June 16, 2004

McGreevey Signs Landmark Ethics Reform Legislation

Bills Provide A More Accountable and Transparent Government

(TRENTON) – Governor James E. McGreevey today signed into law the strongest ethics and campaign finance reform package in the history of New Jersey – and one of the strongest in the nation.

“Today is a good day for government and a victory for our citizens,” said Governor McGreevey. “From the stronger penalties, to the increased disclosure, to the end of the influence of campaign contributions on no-bid contracts, this reform package provides a more accountable and more transparent government for all. I want to congratulate the citizens, the State Legislature, and the numerous advocacy groups who helped make these reforms a reality.”

The legislation is the most comprehensive ethics and campaign finance reform initiative the State has embarked upon in more than 30 years and makes New Jersey only the fourth state in the entire country to enact a “pay-to-play” ban.

"The numerous positive achievements in this legislation clearly demonstrate how Democrats have seized the initiative on ethics reform," said Senate Majority Leader Bernard F. Kenny Jr. (D-Hudson). "As the Majority Party, Democrats have acted to put us in the right direction after years of inaction by the Republicans. The reforms enacted today are long overdue, but they mark the beginning - not the end - of our commitment to eliminate any perception that those who give the most to political campaigns get favored treatment in the form of lucrative State contracts."

Among the reforms the package are: prohibiting anyone who receives a no-bid contract from making certain political contributions; strengthening legislative ethics; enhancing reporting of legislators' financial disclosure requirements, hidden financial interests, and

conflicts of interests; increasing penalties for ethics and campaign finance violations and for illegally soliciting campaign contributions; and expanding the definition of lobbyist and legislative agent, ensuring that all parties who seeks to influence government are properly disclosed.

One of the main components of the ethics reform package is S-2/A-2, which prohibits state, county or local government officials from awarding no-bid contracts to their campaign contributors and prohibits no-bid contract holders from contributing to officials holding office at the government level in which the contract is in effect.

“This has been a long and winding journey, but today New Jersey sets an unprecedented standard for disclosure and transparency, and takes significant steps to reduce the influence of money in politics,” said Governor McGreevey. “We should be proud of the example New Jersey has set for the rest of the nation, but we must also continue to work together to uphold the highest standards of ethical conduct.”

The ethics reform package signed into law today includes:

- **S-2** -- Prohibits campaign contributions by certain business entities performing State, county and local contracts, as well as prohibits certain contributions by county committee of political party.
- **S-4** -- Extends certain financial disclosure requirements to lobbying conducted through advertisements and direct mail to general public.
- **A-5** -- Change the minimum contribution that needs to be reported to the Election Law Enforcement Commission (ELEC) from \$400 to \$300 and requires the reporting of all cash campaign contributions.
- **A-6** -- Requires professional campaign fundraisers to register and file quarterly reports with ELEC.
- **A-7** -- Expands campaign communications require identification to include telephone calls featuring recorded messages made in regard to candidates and public questions. The message or call would clearly state the name of business or address of the committee, group or person that financed the communication.

"Just as voters have a right to know who is sending them campaign literature, New Jerseyans should see who is behind commercials or advertisements calling for action on a specific bill or regulation under consideration," said Assemblywoman Linda Greenstein (D-Mercer/Middlesex). "Issue ads are nothing more than thinly-veiled political campaign commercials, and all money spent on them should be publicly disclosed."

- **S-8** -- Prohibits the solicitation or making of political contributions on state property by state officeholders or their representatives.

- **A-9** -- Requires Election Law Enforcement Commission (ELEC) to assess its Internet site and recommend improvements for the site's format and content. ELEC) would evaluate the presentation, accessibility, convenience, and usefulness of its Web site and recommend upgrades.
- **S-10** -- Requires certain campaign and organizational treasurers to be trained by ELEC. It also requires ELEC to make the training program available over its Internet site within one year of the bill's enactment.
- **A-11** -- Increases the maximum fines for violating campaign contribution and expenditure limit, reporting requirements and payment restrictions. The bill doubles the maximum fines that may be imposed for a variety of violations.
- **A-12** -- Requires certain election committees/ joint candidates committees to file a report with ELEC within 48 hours of making certain expenditures in excess of \$800 during certain periods of an election cycle.
- **A-14** -- Blocks legislators, Governor and department heads from lobbying activities for one year after leaving office.

"The strong link between government service and private lobbying creates - at a minimum - an appearance of impropriety in the eyes of the public," said Assemblyman Michael J. Panter (D-Monmouth/Mercer). "It also creates the very real possibility that the judgment of an elected or appointed official could be affected by their own financial concerns rather than the public's best interest. The signing of this bill today represents a new era in New Jersey politics, and a step in the right direction toward good government."

- **A-15** – Prohibits employment or assignment of relatives of certain employees of the Executive Branch, independent authorities, and interstate agencies to specific positions. Expands upon last year's nepotism ban by extending the definition of immediate family and including certain Executive Branch departments and commissions.
- **S-16** – Bans any member of the Legislature from acting on legislation in which they or their family member has a personal interest. The bill eliminates the option of filing a personal interest statement and instead prohibits the member from acting on legislation that they have a personal interest.
- **S-17**-- Changes memberships of Executive Commission on Ethical Standards and Joint Legislative Committee on Ethical Standards. The changes equalize the number of public and governmental official members.
- **S-18** -- Increases monetary penalties for violations of "New Jersey Conflicts of Interest Law." The bill increases the fine for civil violations of the conflict of interest laws to between \$500 and \$10,000 for State officers and employees or

members of the Legislature.

- **S-19**-- Requires candidates seeking office of Governor or legislator to disclose prior conviction for criminal offense. Candidates would be required to file a form setting out whether they have been convicted of an indictable crime.

"As legislators, we often consider measures that would require members of the public to undergo criminal background checks or disclose criminal histories prior to consideration for employment," said Assemblyman Jeff Van Drew (D-Cape May). "However, current state law fails to require state elected officials to disclose similar backgrounds. This is more than a statutory anomaly. It is an error in need of immediate correction."

- **S-22** -- Expands the definition of lobbyist and legislative agent to include those who influence the governmental process and actions in the Executive Branch, agency, or instrumentality.
- **A-23** -- Requires ELEC to conduct random audits of records kept by legislative agents. Currently, ELEC has the authority to conduct such audits, but this bill would require them to do so.
- **A-24** -- Directs ELEC to collect \$100 annual fee from legislative agents. The fee would be deposited in the general fund to be appropriated to ELEC. The fee would offset the costs of ELEC's new responsibilities.
- **A-25** -- Prohibits legislative agents from accepting contingency fees to influence legislation or regulations. This bill amends the existing law by eliminating the ability of a legislative agent to enter into a contingency fee agreement with a client. The legislative agent's reimbursement could not be dependent upon the whether or not he or she was successful in trying to influence legislation or regulation.

State of New Jersey Governor's Office

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