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NOTE TO
SPONSOR

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AN ACT concerning the time threshold of governmental affairs agent activities and amending P.L.1971, c.183.

Redefines governmental affairs agent to include those persons performing activities for more than one hour in a calendar year.

PRIME Sponsor _____ / _____

<u>CO-Sponsor</u>	<u>District</u>	<u>CO-Sponsor</u>	<u>District</u>
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Same as _____ 16/17 Same as _____ 18/19

Suggested allocation:

AN ACT concerning the time threshold of governmental affairs agent activities and amending P.L.1971, c.183.

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

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

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

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

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

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

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

e. (1) The term "Governor" includes the Governor or the Acting Governor; and

(2) the term "Lieutenant Governor" means the person elected to that office, or appointed to fill a vacancy therein, pursuant to Article V, Section I of the New Jersey Constitution.

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

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.

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legislative staff, to the Governor, to the Lieutenant Governor, to the Governor's staff, or to an officer or staff member of the Executive Branch, such communication, reproduction or excerpt shall be deemed a communication with the member of the Legislature, with legislative staff, with the Governor, with the Lieutenant Governor, with the Governor's staff, or with an officer or staff member of the Executive Branch by such person.

g. The term "governmental affairs agent" means any person who receives or agrees to receive, directly or indirectly, compensation, in money or anything of value including reimbursement of his expenses where such reimbursement exceeds \$100.00 in any three-month period, to influence legislation, to influence regulation or to influence governmental processes, or all of the above, for more than one hour in a calendar year, by direct or indirect communication with, or by making or authorizing, or causing to be made or authorized, any expenditures providing a benefit to, a member of the Legislature, legislative staff, the Governor, the Lieutenant Governor, the Governor's staff, or any officer or staff member of the Executive Branch, or who holds himself out as engaging in the business of influencing legislation, regulation or governmental processes, by such means, or who incident to his regular employment engages in influencing legislation, regulation or governmental processes, by such means [; provided, however, that a person shall not be deemed a governmental affairs agent who, in relation to the duties or interests of his employment or at the request or suggestion of his employer, communicates with a member of the Legislature, with legislative staff, with the Governor, with the Lieutenant Governor, with the Governor's staff, or with an officer or staff member of the Executive Branch concerning any legislation, regulation or governmental process, if such communication is an isolated, exceptional or infrequent activity in relation to the usual duties of his employment].

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

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

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

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

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

m. The term "Governor's staff" includes the members of the Governor's Cabinet, the Secretary to the Governor, the Counsel to the Governor and all professional employees in the office of the Counsel to the Governor, and all other employees of the Office of the Governor, including employees of that office who may be assigned by the Governor to assist the Lieutenant Governor.

n. The term "officer or staff member of the Executive Branch" means any assistant or deputy head of a principal department in the Executive Branch of State Government, including all assistant and deputy commissioners; the members and chief executive officer of any authority, board, commission or other agency or instrumentality in or of such a principal department; and any officer of the Executive Branch of State Government other than the Governor who is not included among the foregoing or among the Governor's staff, but including the Lieutenant Governor when the Lieutenant Governor has been appointed by the Governor to serve in any of the foregoing positions, but who is empowered by law to issue, promulgate or adopt administrative rules and regulations or to administer governmental processes, and any person employed in the office of such an officer who is involved with the development, issuance, promulgation or adoption of such rules and regulations or administration of governmental processes in the regular course of employment.

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

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

q. The term "expenditures providing a benefit" or "expenditures providing benefits" means any expenditures for entertainment, food and beverage, travel and lodging, honoraria, loans, gifts or any other thing of value, except for (1) any money or thing of value paid for past, present, or future services in regular

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employment, whether in the form of a fee, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of recompense, or any combination thereof, or (2) any dividends or other income paid on investments, trusts, and estates.

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

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

t. The terms "influence governmental processes", "influencing governmental processes" or "influence governmental process" means to make any attempt, whether successful or not, to assist a represented entity or group to engage in communication with, or to secure information from, an officer or staff member of the Executive Branch, or any authority, board, commission or other agency or instrumentality in or of a principal department of the Executive Branch of State Government, empowered by law to administer a governmental process or perform other functions that relate to such processes.

u. The term "governmental process" means:

- promulgation of executive orders;
- rate setting;
- development, negotiation, award, modification or cancellation of public contracts;
- issuance, denial, modification, renewal, revocation or suspension of permits, licenses or waivers;
- procedures for bidding;
- imposition or modification of fines and penalties;
- procedures for purchasing;
- rendition of administrative determinations; and
- award, denial, modification, renewal or termination of financial assistance, grants and loans.

v. The term "public contract" means a contract the cost or price of which is to be paid with or out of State funds or the funds of an independent authority created by the State or by the Legislature.
(cf: P.L.2009, c.66, s.37)

2. This act shall take effect immediately.

STATEMENT

Under current law, a “governmental affairs agent” is a person who receives or agrees to receive compensation in money or anything of value, including certain reimbursements, to influence legislation, regulation, or governmental processes, by communicating with or making expenditures providing a benefit to, a member of the Legislature, legislative staff, the Governor, the Lieutenant Governor, the Governor’s staff, or any officer or staff member of the Executive Branch, or who holds himself or herself out as engaging in that business, unless the communication is “isolated, exceptional, or infrequent.” Certain communications with the general public are also considered governmental affairs agent activities. However, by regulation of the Election Law Enforcement Commission (ELEC), a communication is “isolated, exceptional, or infrequent” if it constitutes 20 hours or less of a person’s usual work duties. In those cases, that person is not considered a governmental affairs agent. This bill would lower this time threshold to one hour or less, thereby classifying persons as governmental affairs agents subject to the disclosure and reporting requirements under current law when they perform their activities for more than one hour in a calendar year.

Redefines governmental affairs agent to include those persons performing activities for more than one hour in a calendar year.