

LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1986

No. 14

JS63-A

Introduced by the Vice Chairman (Council Member Vallone) and Council Member Lisa and the President (Mr. Stein); also Council Members Ferrer, Foster, Harrison, Maloney, Povman, Robles, Dryfoos, Di Brienza, Alter, Gerges, Eisland and McCaffrey (Passed Under a Message of Necessity from the Mayor).

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to lobbying.

Be it enacted by the Council as follows:

Section one. Subchapter 2 of chapter 2 of title 3 of the administrative code is hereby repealed and re-enacted to read as follows:

SUBCHAPTER 2

REGULATION OF LOBBYING

Section 3-211. **Definitions.** Whenever used in this subchapter, the following words and phrases shall be construed as defined in this section:

(a) The term "lobbyist" shall mean every person or organization retained, employed or designated by any client to engage in lobbying. The term "lobbyist" shall not include any officer or employee of the city of New York, the State of New York, any political subdivision of the State, or any public corporation, agency or commission, or the United States when discharging his or her official duties.

(b) The term "client" shall mean every person or organization who retains, employs or designates any person or organization to carry on lobbying activities on behalf of such client.

(c)(1) The term "lobbying" or "lobbying activities" shall mean any attempt to influence:

(i) the passage or defeat of any legislation by the city council,

(ii) the approval or disapproval of any legislation by the mayor,

(iii) the approval or disapproval of any resolution by the board of estimate,

(iv) the adoption or rejection by an agency of any rule or regulation having the force and effect of law,

(v) the outcome of any rate making proceeding before an agency,

(vi) any determination by an agency in connection with a proposed concession agreement, or

(vii) any determination of a board or commission, other than a determination in an adjudicatory proceeding.

(2) The following persons and organizations shall be deemed not to be engaged in "lobbying activities":

(i) persons engaged in drafting legislation, rules, regulations or rates, advising clients and rendering opinions on proposed legislation, resolutions, rules, regulations or rates, where such professional services are not otherwise connected with legislative or executive action on such legislation, board of estimate action on such resolutions, administrative action on such rules, regulations or rates or determinations of a board or commission;

(ii) newspapers and other periodicals and radio and television stations; and owners and employees thereof, provided that their activities in connection with proposed legislation, resolutions, rules,

regulations or rates are limited to the publication or broadcast of news items, editorials or other comment, or paid advertisements;

(iii) persons who participate as witnesses, attorneys or other representatives in public rule making or rate making proceedings of an agency, with respect to all participation by such persons which is part of the public record thereof and all preparation by such persons for such participation;

(iv) persons who appear before an agency in an adjudicatory proceeding; and

(v) persons who prepare or submit a response to a request for information or comments by the city council or one of its committees, the mayor, the board of estimate, or an agency.

(d) The term "organization" shall include any corporation, company, foundation, association, labor organization, firm, partnership, society, or joint stock company.

(e) The term "compensation" shall mean any salary, fee, gift, payment, subscription, loan, advance or any other thing of value paid, owed, given or promised by the client to the lobbyist for the purpose of lobbying.

(f) The term "expenditure" shall mean any expenses incurred by or reimbursed to the lobbyist for lobbying.

Section 3-212. Powers and the Duties of the City Clerk. In addition to any other powers and duties specified by law, the city clerk shall have the power and duty to administer and enforce all the provisions of this subchapter, subpoena witnesses and records, issue advisory opinions to those under its jurisdiction, conduct any investigation necessary to carry out the provisions of this subchapter, prepare uniform forms for the statements and reports required by this subchapter and promulgate such rules and regulations as he deems necessary for the proper administration of this subchapter.

Section 3-213. Statement of registration. (a)(1) Every lobbyist shall annually file with the city clerk, on forms prescribed by the city clerk, a statement of registration for each calendar year; provided, however, that the filing of such statement of registration shall not be required of any lobbyist who in any year does not expend, incur or receive an amount in excess of two thousand dollars of reportable compensation and expenses, as provided in paragraph five of subdivision (b) of section 3-216 of this subchapter, for the purposes of lobbying.

(2) Such filing shall be completed on or before January first by those persons who have been retained, employed or designated as lobbyists on or before December fifteenth of the previous calendar year who reasonably anticipate that in the coming year they will expend, incur or receive combined reportable compensation and expenses in an amount in excess of two thousand dollars. For those lobbyists retained, employed or designated after December fifteenth, and for those lobbyists who, subsequent to their retainer, employment or designation, reasonably anticipate combined reportable compensation and expenses in excess of such amount, such filing must be completed within fifteen days thereafter, but in no event later than ten days after the actual incurring or receiving of such reportable compensation and expenses.

(b) Such statements of registration shall be kept on file for a period of five years and shall be open to public inspection during such period.

(c) Such statement of registration shall contain:

(1) the name, address and telephone number of the lobbyist;

(2) the name, address and telephone number of the client by whom or on whose behalf the lobbyist is retained, employed or designated;

(3) if such lobbyist is retained or employed pursuant to a written agreement of retainer or employment, a copy of such shall also be attached and if such retainer or employment is oral, a statement of the substance thereof;

(4) a written authorization from the client by whom the lobbyist is authorized to lobby, unless such lobbyist has filed a written agreement of retainer or employment pursuant to paragraph three of this subdivision;

(5) a description of the general subject or subjects on which the lobbyist is lobbying or expects to lobby;

(6) the name of the person or agency before which the lobbyist is lobbying or expects to lobby;

(7) if the lobbyist has a financial interest in the client, direct or indirect, information as to the extent of such interest and the date on which it was acquired; and

(d) Whenever there is a change in the information filed by the lobbyist in the original statement of registration, an amended statement shall be submitted to the city clerk on forms supplied by the city clerk within ten days after such change occurs; however, this shall not require the lobbyist to amend the entire registration form.

(e) Each statement of registration filed annually by each lobbyist shall be accompanied by a registration fee established by the city clerk in an amount not to exceed one hundred dollars. An additional fee may be imposed not to exceed twenty dollars for each client in excess of one identified on such statement.

(f) In the event of the retention, employment or designation of an organization wherein more than one member of the organization will be engaging in lobbying activities on behalf of a client, one statement of registration shall be filed by the organization with a listing of all such persons.

(g) All applicable forms as required under this subchapter shall be mailed by the city clerk to every lobbyist and client who filed an annual report in the prior year. In the event of non-receipt prior to the filing date, such person shall notify the city clerk of such non-receipt. In no event shall non-receipt of required forms constitute cause for failure to file or lateness in filing.

Section 3-214. Monthly registration docket. It shall be the duty of the city clerk to compile a monthly docket of statements of registration containing all information required by section 3-213 of this subchapter. Each such monthly docket shall contain all statements of registration filed during such month and all amendments to previously filed statements of registration. Copies shall be made available for public inspection.

Section 3-215. Termination of retainer, employment or designation. Upon the termination of a lobbyist's retainer, employment or designation, such lobbyist and the client on whose behalf such service has been rendered shall both give written notice to the city clerk within thirty days after the lobbyist ceases the activity that required such lobbyist to file a statement of registration; however, such lobbyist shall nevertheless comply with the reporting requirements for the last periodic reporting period up to the date such activity has ceased as required by this subchapter and both such parties shall each file the annual report required by section 3-217 of this subchapter. The city clerk shall enter notice of such termination in the appropriate monthly registration docket required by section 3-214 of this subchapter.

Section 3-216. Periodic reports. (a)(1) Any lobbyist required to file a statement of registration pursuant to section 3-213 of this subchapter who in any lobbying year expends, receives or incurs combined reportable compensation and expenses in an amount in excess of two thousand dollars, as provided in paragraph five of subdivision (b) of this section, for the purpose of lobbying, shall file with the city clerk a first periodic written report, on forms supplied by the city clerk, by the fifteenth day next succeeding the end of the reporting period on which the cumulative total for such lobbying year equalled such sum. Such reporting periods shall be the period from January first to March thirty-first, April first to May thirty-first, June first to September thirtieth, and October first to December thirty-first.

(2) Any lobbyist making a report pursuant to paragraph one of this subdivision shall thereafter file with the city clerk, on forms supplied by the city clerk, a periodic report for each reporting period that such person expends, receives or incurs combined reportable compensation and expenses in an amount in excess of five hundred dollars for the purposes of lobbying during such reporting period. Such report shall be filed not later than the fifteenth day next succeeding the end of such reporting

period and shall include the amounts so expended, received or incurred during such reporting period and the cumulative total during the lobbying year.

(b) Such periodic report shall contain:

(1) the name, address and telephone number of the lobbyist;
 (2) the name, address and telephone number of the client by whom or on whose behalf the lobbyist is retained, employed or designated;

(3) a description of the general subject or subjects on which the lobbyist has lobbied;

(4) the person or agency before which the lobbyist has lobbied;

(5)(i) the compensation paid or owed to the lobbyist, and any expenses expended, received or incurred by the lobbyist for the purpose of lobbying.

(ii) expenses required to be reported pursuant to subparagraph (i) of this paragraph shall be listed in the aggregate if fifty dollars or less and if more than fifty dollars such expenses shall be detailed as to amount, to whom paid, and for what purpose; and where such expense is more than fifty dollars on behalf of any one person, the name of such person shall be listed.

(iii) for the purpose of this paragraph, expenses shall not include:

(A) personal sustenance, lodging and travel disbursements of such lobbyist;

(B) expenses, not in excess of five hundred dollars in any one calendar year, directly incurred for the printing or other means of reproduction or mailing of letters, memoranda or other written communications.

(iv) expenses paid or incurred for salaries other than that of the lobbyist shall be listed in the aggregate.

(v) expenses of more than fifty dollars shall be paid by check or substantiated by receipts.

(c) Notwithstanding any inconsistent provision of this section, where a lobbyist required to file a statement of registration pursuant to section 3-213 of this subchapter is not required to file a periodic report pursuant to subdivision (a) or (b) of this section because he or she has not expended, received or incurred compensation and expenses as therein specified, he or she shall file a periodic report stating that he or she has not expended, received or incurred such compensation and expenses by the fifteenth day next succeeding the end of the reporting period.

(d)(1) All such periodic reports shall be subject to review by the City Clerk.

(2) Such periodic reports shall be kept on file in the office of the City Clerk for five years and shall be open to public inspection during such time.

Section 3-217 **Annual reports.** — (a) Annual reports shall be filed by:

(1) every lobbyist required to file a statement of registration pursuant to section 3-213 of this subchapter;

(2) any client retaining, employing or designating a lobbyist or lobbyists, if during the year such client expended, received or incurred an amount in excess of two thousand dollars of combined reportable compensation or expenses, as provided in paragraph five of subdivision (c) of this section, for the purposes of lobbying.

(b) Such report pursuant to paragraph one of subdivision (a) of this section shall be filed with the City Clerk, on forms supplied by the City Clerk, by the fifteenth day of January next following the year for which such report is made and shall contain on an annual cumulative basis all the information required in periodic reports by section 3-216 of this subchapter.

(c) Such report pursuant to paragraph two of subdivision (a) of this section shall be filed with the City Clerk on forms supplied by the City Clerk by the fifteenth day of January next following the year for which such report is made and shall contain:

(1) the name, address and telephone number of the client;

(2) the name, address and telephone number of each lobbyist retained, employed or designated by such client;

(3) a description of the general subject or subjects on which each lobbyist retained, employed or designated by such client has lobbied;

(4) the person or agency before which such client has lobbied;

(5)(i) the compensation paid or owed to each such lobbyist, and any other expenses paid or incurred by such client for the purpose of lobbying.

(ii) any expenses required to be reported pursuant to subparagraph (i) of this paragraph shall be listed in the aggregate if fifty dollars or less and if more than fifty dollars such expenses shall be detailed as to amount, to whom paid, and for what purpose; and where such expenses are more than fifty dollars on behalf of any one person, the name of such person shall be listed.

(iii) for the purposes of this paragraph, expenses shall not include:

(A) personal sustenance, lodging and travel disbursements of such lobbyist and client;

(B) expenses, not in excess of five hundred dollars, directly incurred for the printing or other means of reproduction or mailing of letters, memoranda or other written communications.

(iv) expenses paid or incurred for salaries other than that of the lobbyist shall be listed in the aggregate.

(v) expenses of more than fifty dollars must be paid by check or substantiated by receipts.

(d)(1) All such annual reports shall be subject to review by the City Clerk.

(2) Such annual reports shall be kept on file in the office of the City Clerk for a period of five years and shall be open to public inspection during such period.

Section 3-218 Contingent retainer. — No client shall retain or employ any lobbyist for compensation, the rate or amount of which compensation in whole or part is contingent or dependent upon the passage or defeat of any legislative bill or the approval or veto of any legislation by the mayor, or the approval or disapproval of any resolution by the board of estimate, or the adoption or rejection of any rule or regulation having the force and effect of law, or the outcome of any rate making proceeding by an agency, or any other determination of an agency where efforts by a lobbyist to influence such determination are subject to the jurisdiction of the City Clerk, and no person shall accept such a retainer or employment.

Section 3-219 Obligations of lobbyists. — Any person who is required to file a statement of registration under this subchapter has the following obligations:

a. To abstain from doing any act, with the express purpose and intent of placing a member of the city council or board of estimate, the mayor or any officer or employee charged by law with conducting a hearing and making a decision on a matter pending or proposed, under personal obligation to him or her or to his or her employer.

b. Never to knowingly deceive or attempt to deceive a member of the city council or board of estimate, the mayor or any officer or employer charged by law with conducting a hearing and making a decision on a matter pending or proposed, as to any material fact pertinent to any pending or proposed legislation or matter.

c. Never to cause or influence the introduction of any legislation at the City Council for the purpose of thereafter being employed to secure its granting, denial, confirmation, rejection, passage or defeat.

d. To abstain from any attempt to create a fictitious appearance of public favor or disfavor of any legislative proposal before the City Council or to cause any communication to be sent to a member of the City Council or board of estimate, or the mayor, or any officer or employee charged by law with the duty of conducting a hearing and making a decision on a matter pending or proposed, in the name of any fictitious person or in the name of any real person, except with the consent of such real person.

e. Not to represent, either directly or indirectly through word of mouth or otherwise, that he or she can control or obtain the vote or action of any member of the City Council or board of estimate, or any employee or officer of the city charged by law with the duty of conducting a hearing and

making a decision on a matter pending or proposed, or the approval or veto of any legislation by the mayor of the city of New York.

f. Not to represent or solicit representation of, an interest adverse to such person's employer nor to represent employers whose interests are known to such person to be adverse.

g. To retain all books, papers and documents necessary to substantiate the financial reports required to be made under this subchapter for a period of five years.

Section 3-220 Retention of records. — Every person to whom this subchapter is applicable shall keep for at least five years a detailed and exact account of:

- (1) all compensation of any amount or value whatsoever;
- (2) the name and address of every person paying or promising to pay compensation of fifty dollars or more and the date thereof;
- (3) all expenditures made by or on behalf of the client; and
- (4) the name and address of every person to whom any item of expenditure exceeding fifty dollars is made, the date thereof and receipted bill for said expenditure.

Section 3-221 Filing of statements and reports. — Any statement or report required by this subchapter may be filed with the City Clerk either in person or by mail. It shall be deemed properly filed by mail when deposited in an official depository under the exclusive care and custody of the United States Postal Service, properly addressed in a post-paid wrapper. In the event it is not received, such statement shall be promptly filed upon notice from the city clerk of its non-receipt.

Section 3-222. Certification. — All statements and reports required under this subchapter shall contain the following declaration: "I certify that all statements made on this statement are true and correct to the best of my knowledge and belief and I understand that the wilful making of any false statement of material fact herein will subject me to the provisions of law relevant to the making and filing of false instruments and will render such statement null and void."

Section 3-223. Penalties. — (a) Except as provided for in subdivision b of this section, any person or organization who knowingly and wilfully violates any provision of this subchapter shall be guilty of a class A misdemeanor. In addition to such criminal penalties, said person or organization shall be subject to a civil penalty, in an amount not to exceed fifteen thousand dollars, to be assessed by the City Clerk, or an order to cease all lobbying activities subject to the jurisdiction of the City Clerk for a period of time as determined by said Clerk not to exceed sixty days or both such civil penalty and order.

(b) Any person or organization who violates a cease and desist order of the City Clerk issued under subdivision a of this section or enters into a contingency agreement or accepts or pays any contingency fees as proscribed in 3-218 hereof, shall be guilty of a class A misdemeanor. In addition to such criminal penalties, said person or organization shall be subject to a civil penalty, in an amount not to exceed fifteen thousand dollars, to be assessed by the City Clerk.

(c) Following a failure to make and file any statement or report required by this subchapter, the City Clerk shall notify the person or organization of such fact by certified mail that such filing must be made within fourteen business days of the date of mailing of such notice. The failure to file any statement or report within such time shall constitute a class A misdemeanor. In addition to such criminal penalties, said person or organization shall be subject to a civil penalty, in an amount not to exceed ten thousand dollars, to be assessed by the City Clerk. For the purposes of this subdivision, the chief administrative officer of any organization required to file a statement or report shall be the person responsible for making and filing such statement or report unless some other person prior to the due date thereof has been duly designated to make and file such statement or report.

(d) Any person or organization who violates any provision of this subchapter not punishable under subdivisions a, b or c of this section shall be subject to a civil penalty, in an amount not to exceed ten thousand dollars, to be assessed by the City Clerk.

(e) Any civil penalty to be assessed under subdivision d of this section may only be imposed or ordered under subdivision a of this section issued after written notice of violation and the expiration of fourteen business days of the date of mailing of such notice within which to cure said violation.

(f) The amount of any assessment made or duration of order issued pursuant to this section shall be determined only after a hearing at which the party shall be entitled to appear and be heard. Any assessment imposed under this section may be recovered in an action brought by the corporation counsel.

(g) The City Clerk shall be charged with the duty of reviewing all statements and reports required under this subchapter for violations, and it shall be his duty, if he deems such to be wilful, to report such determination to the appropriate authority for criminal prosecution.

Section 2. If any part or provision of this subchapter or the application thereof to any person or organization is adjudged by a court of competent jurisdiction to be unconstitutional, such judgment shall not affect or impair any other part or provision or the application thereof to any other person or organization, but shall be confined in its operation to the part, provision, person or organization directly involved in the controversy in which such judgment shall have been rendered.

Section 3. This local law shall take effect December first, nineteen hundred eighty-six provided, however, that nothing contained in this local law shall be construed to waive the requirement for the filing of any document which is due on or before January fifteen, nineteen hundred eighty-seven pursuant to the provisions of subchapter two of chapter two of title three of the administrative code of the city of New York repealed by section one of this local law and further provided, however, that the City Clerk shall be authorized to immediately promulgate any rule or regulation, to be effective on or after December first, nineteen hundred eighty-six, pursuant to the provisions of subchapter two of chapter two of title three of the administrative code of the city of New York as added by Section one of this local law.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on May 22, 1986, and approved by the Mayor on June 6, 1986.

CARLOS CUEVAS, City Clerk, Clerk of the Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW § 27

Pursuant to the provisions of Municipal Home Rule Law § 27, I hereby certify that the enclosed local law (Local Law 14 of 1986, Council Int. No. 563-A) contains the correct text and, received the following vote at the meeting of the New York City Council on May 22, 1986: 35 for, 0 against.

Was approved by the Mayor on June 6, 1986.

Was returned to the City Clerk on June 9, 1986.

LEONARD KREPNER, Acting Corporation Counsel.