

STRICKEN AS OF 1/29/2015
AMENDED COPY AS OF 9/24/2014

Intro. Res. No. 1658-2014

Laid on Table 7/29/2014

Introduced by Legislators Lindsay and Browning

**RESOLUTION NO. -2015, ADOPTING LOCAL LAW
NO. -2015, A CHARTER LAW TO STRENGTHEN AND
STREAMLINE LOBBYIST REGISTRATION AND REPORTING
REQUIREMENT**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on July 29, 2014, a proposed local law entitled, "**A CHARTER LAW TO STRENGTHEN AND STREAMLINE LOBBYIST REGISTRATION AND REPORTING REQUIREMENT;**" now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. -2015, SUFFOLK COUNTY, NEW YORK

**A CHARTER LAW TO STRENGTHEN AND STREAMLINE
LOBBYIST REGISTRATION AND REPORTING REQUIREMENT**

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that County of Suffolk has strived to maintain the integrity and transparency of its decision-making processes by enacting strong conflict of interest and financial disclosure rules for its officers and employees.

This Legislature also finds that the County of Suffolk requires persons and organizations hired to influence the County's legislative, rulemaking and ratemaking processes to register with the County and periodically report their lobbying activities to the Clerk of the County Legislature.

This Legislature finds that regular public disclosure of lobbying activities is critical to maintaining public confidence in the integrity of County government. To achieve this end, the County's lobbying law must be updated and strengthened to enhance openness and transparency.

This Legislature finds and determines that the Suffolk County Board of Ethics should be given sole responsibility for implementing and administering lobbying disclosure requirements.

This Legislature also finds that persons and organizations which seek to influence executive orders, the legislative lawmaking process, the award of County grants or the County's procurement of public works, goods and services should be required to register with the County and report their lobbying activities.

Therefore, the purpose of this law is to broaden the definition of lobbying activities which trigger registration and reporting requirements and to centralize the administration of the County's lobbyist statute within the Board of Ethics.

Section 2. Amendments.

I. Article 30 of the SUFFOLK COUNTY CODE is hereby amended as follows:

ARTICLE XXX. BOARD OF ETHICS

§ C30-3. Powers and responsibilities.

A. The Board shall have the authority and responsibility to:

* * * *

(5) Administer and implement lobbyist registration and disclosure requirements and conduct non-confidential hearings to enforce those requirements.

* * * *

II. Chapter 580 of the SUFFOLK COUNTY CODE is hereby amended as follows:

Chapter 580: LOBBYISTS

* * * *

§ 580-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BOARD

The Suffolk County Board of Ethics.

CLIENT

Every person or organization who or which retains, employs or designates any person or organization to carry on lobbying activities on behalf of such client.

[COMMISSION

The Suffolk County Ethics Commission or Suffolk County Board of Ethics or any successor body, entity or agency thereto, whichever is in effect or existence at the time of applicability of this chapter.]

COMPENSATION

Any [money] salary, fee, gift, payment or other thing of value [or financial or other benefit conferred] paid, given, owed or promised to the lobbyist by the client for lobbying, but shall not include contributions reportable pursuant to Article 14 of the New York Election Law.

COUNTY

County of Suffolk

COUNTY AGENCY

Any department, board, bureau, commission, division, office, council, committee or officer of the County, whether permanent or temporary, or a public authority or public

benefit corporation, at least one of whose members is appointed by the County Executive, County Legislature or a County officer, authorized by law to make rules or to make final decisions in adjudicatory proceedings, but shall not include the judiciary.

EXPENSE

Any expenditures incurred by or reimbursed to the lobbyist for lobbying, but shall not include contributions reportable pursuant to Article 14 of the New York Election Law.

LOBBYING or LOBBYING ACTIVITIES

Any attempt to influence[the passage or defeat of any legislation] any determination made by the County Legislature [or the approval or disapproval of any legislation] or any member thereof with respect to the introduction, passage, defeat or substance of any local legislation; any determination made by the County Executive to support, oppose, approve or disapprove any local legislation; the adoption, issuance or modification of any executive order by the County Executive; the adoption or rejection [by the County of Suffolk, its agencies, boards or commissions] by a County agency of any rule or regulation having the force and effect of law; [or] the outcome of any rate-making proceeding by a County agency[.];any determination made by a County agency with respect to the procurement of goods, services or public works; or the award by a County agency of any grant, loan or agreement which involves the disbursement of public monies. The term "lobbying" shall not include:

* * * *

- C. Persons who participate as witnesses, attorneys or other representatives in public [rule-making or rate-making] proceedings of a County 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.

* * * *

- F. The submission of a bid or proposal in response to a Request for Proposals ("RFP") or an invitation to bid or any other solicitation made by a County agency and intended to result in a procurement contract.
- G. Participation in a conference provided for in a RFP or invitation to bid or any other solicitation by a County agency which seeks responses that will result in a procurement contract.
- H. The submission of written questions to a County agency during the procurement process, when all written questions and the responses thereto will be disseminated to all persons who have responded to the solicitation of a County agency.
- I. Persons who bring complaints of alleged improper conduct in a County procurement to a County agency, the District Attorney or a court of competent jurisdiction or persons who are a party to a protest, appeal or other review proceeding before the County agency conducting the procurement seeking a final administrative determination.

- J. Persons that have been tentatively awarded a County contract and are engaged in communication with a County agency for the sole purpose of negotiating terms of the contract.
- K. Contacts during a procurement process between County agency staff and the officers or employees of a prospective contractor/vendor who are qualified to provide technical services to explain, clarify or demonstrate the qualities, characteristics or advantages of an article or procurement. "Technical services" shall be limited to analysis directly applying to any accounting, engineering, scientific or other similar technical disciplines.
- L. Officers and employees of any contract agency, as that term is defined in § 189-40 of the SUFFOLK COUNTY CODE, which receive less than \$50,000 in annual funding from the County of Suffolk.
- M. Contacts between the County and the representatives of a public employee bargaining unit during the collective bargaining process.

LOBBYIST

Every person or organization retained, employed or designated by any client to engage in lobbying before the County of Suffolk, its agencies, boards, commissions, the County Legislature or County Executive. The term "lobbyist" shall not include any officer, director, trustee, employee, counsel or agent of the County of Suffolk or other public corporation when discharging his or her official duties.

* * * *

§ 580-3. Statement of registration.

- A. Every lobbyist shall annually file with the [Clerk of the County Legislature] Board, on forms provided by the [Clerk of the County Legislature] Board, a statement of registration for each calendar year. 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 \$1,000 of reportable compensation and expenses for the purposes of lobbying, [, or is an officer, director, trustee or employee of any public corporation when acting in such official capacity. Nothing herein shall be construed to relieve any public corporation of the obligation to file such statements and reports as required by this chapter. The clerical tasks performed by the office of the Clerk of the County Legislature under this section shall be undertaken by those individuals within such office who have secured County employment pursuant to a New York Civil Service Law competitive examination.]

* * * *

- D. Such statement of registration shall contain:

- (1) The name, address and telephone number of the lobbyist[.] , and if the lobbyist is an organization, the names, addresses and telephone numbers of any officer or employee of such lobbyist who engages in lobbying.

* * * *

- F. Any amendment to the information filed by the lobbyist in the original statement of registration shall be submitted to the [Clerk of the County Legislature] Board, on forms supplied by the [Clerk of the County Legislature] Board, within 10 days after such amendment. However, this shall not require the lobbyist to amend the entire registration form.

* * * *

- H. The Board shall assign every Lobbyist registered with the Board a “Lobbyist Identification Number.” The “Lobbyist Identification Number” must be provided by the Lobbyist upon request of any officer or employee of the County or any County Agency.

§ 580-4. Monthly registration docket.

The [Clerk of the County Legislature] Board shall compile a monthly docket of statements of registration containing all information required by § 580-3 of this chapter. 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 online at the Board’s County Lobbyist webpage [and shall be filed quarterly with the Clerk of the County Legislature. The clerical tasks performed by the office of the Clerk of the County Legislature under this section shall be undertaken by those individuals within such office who have secured County employment pursuant to a New York Civil Service Law competitive examination].

§ 580-5. 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 [Clerk of the County Legislature] Board within 30 days after the lobbyist ceases the activity that required such lobbyist to file a statement of registration. 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 chapter, and both such parties shall each file the annual report required by § 580-7 of this chapter. The [Clerk of the County Legislature] Board shall enter notice of such termination in the appropriate monthly registration docket required by § 580-4 of this chapter. [The clerical tasks performed by the office of the Clerk of the County Legislature under this section shall be undertaken by those individuals within such office who have secured County employment pursuant to a New York Civil Service Law competitive examination.]

§ 580-6. Periodic reports of certain lobbyists.

A. Report required.

[(1)] Any lobbyist required to file a statement of registration pursuant to § 580-3 of this chapter [who in any lobbying year expends, receives or incurs combined reportable compensation and expenses in an amount in excess of \$1,000 for the purposes of lobbying] shall file with the [Clerk of the County Legislature] Board [a first] periodic written reports, on forms supplied by the [Clerk of the County Legislature] Board, by the 15th day next succeeding the end of the reporting period, and the first periodic report shall be filed by the 15th day next succeeding the end of the reporting period in which [the cumulative total for such lobbying year equaled such sum] the lobbyist was first required to file a statement of registration. Such reporting periods shall be the period from January 1 to March 31, April 1 to May 31, June 1 to August 31 and August 31 to December 31.

[(2)] Any lobbyist making a report pursuant to Subsection A(1) of this section shall thereafter file with the Clerk of the County Legislature, on forms supplied by the Clerk of the County Legislature, a periodic report for such reporting period that such person expends, receives or incurs combined reportable compensation and expenses in an amount in excess of \$100 for the purposes of lobbying during such reporting period. Such report shall be filed no later than the 15th 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 thereof during the lobbying year.]

* * * *

C. [All such periodic reports shall be forwarded to the Suffolk County Ethics Commission by the Clerk of the County Legislature, and all such periodic reports shall be subject to review by the Commission.] Such periodic reports shall be kept on file for three years and shall be open to public inspection during such time. [The clerical tasks performed by the office of the Clerk of the County Legislature under this section shall be undertaken by those individuals within such office who have secured County employment pursuant to a New York Civil Service Law competitive examination.]

[D. In addition to the periodic reports required by Subsection A of this section, any lobbyist, regardless of whether or not such lobbyist is required to file a statement of registration pursuant to § 580-3 of this chapter (i.e., without regard to the expenditure or compensation threshold of \$1,000), shall, in addition to the information required by Subsection B of this section and required by § 580-7 of this chapter, file with the Clerk of the County Legislature or any County agency, upon retention, employment or designation as a lobbyist in connection with any legislation or any initiative pending before the Suffolk County Legislature or before any County agency, a written statement describing the specific piece of legislation or initiative for which such lobbyist has been retained, together with the name, address and telephone number of the client by whom or on whose behalf the lobbyist is retained, employed or so designated, together with the interest which such client has in such pending legislation or initiative. This statement

shall be filed with the Clerk of the Legislature no later than five business days after such retention, employment or designation by said client. The Clerk of the County Legislature shall then immediately forward such information to the County Executive and to each member of the County Legislature.]

§ 580-7. Annual Reports.

- A. Annual reports shall be filed by:
- (1) Every lobbyist required to file a statement of registration [or a periodic report] pursuant to this chapter.
 - (2) Any client retaining, employing or designating a lobbyist or lobbyists, whether or not any such lobbyist was required to file [a periodic report] a statement of registration, if during the year such client expended, received or incurred an amount in excess of \$1,000 of combined reportable compensation and expenses for the purposes of lobbying.
- B. Such report pursuant to Subsection A(1) above shall be filed with the [Clerk of the County Legislature] Board, on forms provided by the [Clerk of the County Legislature] Board, by the 15th 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 this chapter.
- C. Such report pursuant to Subsection A(2) above shall be filed with the [Clerk of the County Legislature] Board, on forms provided by the [Clerk of the County Legislature] Board, by the 15th day of January next following the year for which such report is made and shall contain:
- * * * *
- [D. All such annual reports shall be forwarded to the Suffolk County Ethics Commission by the Clerk of the County Legislature, and all such annual reports shall be subject to review by the Commission. Such annual reports shall be kept on file for three years and shall be open to public inspection during such period. The clerical tasks performed by the office of the Clerk of the County Legislature under this section shall be undertaken by those individuals within such office who have secured County employment pursuant to a New York Civil Service Law competitive examination.]

§ 580-8. Statements and reports.

- A. All statements and reports required under this chapter shall be subject to a declaration by the person making and filing such statement and report that the information is true, correct and complete to the best knowledge and belief of the signer under the penalties of perjury.

- B. For the purposes of this chapter, 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.
- C. The statements and reports filed with the Board pursuant to this chapter shall not be deemed to be confidential. The Board will maintain all statements and reports filed under this chapter and make these statements and reports available to the public in accordance with the provisions of this chapter, any rules the Board may prescribe and New York's Freedom of Information Law.

§ 580-[8]9. Penalties for offenses.

- A. Any person or organization who or which knowingly and willfully [violates any provision of this chapter] fails to file a timely report or statement required by this chapter or knowingly and willingly files false information with the Board shall be guilty of a Class A misdemeanor punishable by a fine not to exceed \$1,000 and/or a term of imprisonment not to exceed one year. [For the purposes of this subsection, 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.]
- B. A person or organization who fails to file a statement or report within the time required for the filing of such report or who knowingly and wilfully files a false statement or report shall be subject to a civil penalty, in an amount not to exceed \$5,000, to be assessed by the [Commission] Board. Such assessment may only be imposed after written notice of such failure and the expiration of a reasonable period within which to cure the failure. The amount of such assessment shall be determined only after a hearing at which the party shall be entitled to appear and be heard. Such assessment may be recovered in any action brought by the District Attorney.
- C. [All statements and reports required under this chapter shall be subject to a declaration by the person making and filing such statement and report that the information is true, correct and complete to the best knowledge and belief of the signer under the penalties of perjury.] Any person or organization who receives a notice from the Board of intent to assess a penalty for knowingly and wilfully failing to file a report or statement pursuant to paragraph 1(B) of this section, and who has never previously received a notice of intent to assess a penalty for failing to file a report or statement required under this section shall be granted 15 days within which to file the statement of registration or report without being subject to the fine or penalty set forth in paragraph (B) of this section. Upon the failure of such person or organization to file within such 15 day period, such lobbyist, or client shall be subject to a fine or penalty pursuant to paragraph (B) of this section.
- [D. Following a failure to make and file a statement or report required by this chapter, the Commission shall notify the person or organization of such fact by certified mail, and that such filing must be made within 15 days of the date of such notice. The failure to file any statement or report within the time provided for in this subsection shall constitute a Class A misdemeanor. Upon receipt of notice of such failure from the Commission, the District Attorney or other appropriate authority shall take such action as he deems appropriate to secure compliance with the provisions of this chapter.]

[E]D. The [Commission shall be] Board is charged with the duty of reviewing all statements and reports required under this chapter for violations, and it shall be its duty, if it deems such to be willful, to report such determination to the District Attorney or other appropriate authority.

E. Any person or organization who has not previously filed a statement of registration or any other filing required pursuant to this chapter and is filing for the first time shall be charged a late filing fee of \$10 per day for each the required filing is late. If the person or organization is responsible for more than one filing the total late filing fee shall be equal to the sum of \$10 per day multiplied by the number of such late filings. Any other person or organization shall be charged a late filing fee of \$25 per day for each day the required filing is late. If more than one filing is due from a person or organization, the total late filing fee shall be equal to the sum of \$25 multiplied by the number of such late filings. Any complaint received by the Board shall not be subject to confidentiality provisions set forth by § A30-8 of the SUFFOLK COUNTY ADMINSTRATIVE CODE.

§ 580.[9]10. Rules and regulations.

A. The [Commission] Board is hereby authorized, empowered and directed to promulgate and issue such rules and regulations as it may deem necessary to implement and carry out this chapter including the development of electronic filing procedures, and the process for receiving and investigating complaints of violations of this chapter.

B. The Board will develop a protocol to review sources of information that may assist the Board in identifying lobbyists who are required to file statements of registration but have failed to do so. Such review shall include, but not be limited to, statements of registration filed with the New York State Joint Commission on Public Ethics pursuant to section 1-e of New York Legislative Law and notices of appearance compiled by government agencies.

C. The Board will develop and advertise notices intended to reach persons and organizations doing business with the County and inform them of the requirements set forth in this chapter.

Section 3. Applicability.

This law shall apply to actions occurring on or after the effective date of this law.

Section 4. Transition Provisions.

All registrations, reports and records collected by any department or agency of Suffolk County government pursuant to the County's Lobbying Law prior to the effective date of this law shall be delivered to the Board of Ethics.

Section 5. Report Required.

No later than twenty-four (24) months after the effective date of this law, the Board of Ethics shall report on the status of the implementation of this law to the County

Executive and the County Legislature. This report shall be separate and distinct from the Board's Annual Report.

Section 6. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 7. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 8. Effective Date.

This law shall take effect on January 1, 2015.

[] Brackets denote deletion of existing language
___ Underlining denotes addition of new language

DATED:

APPROVED BY:

County Executive of Suffolk County

Date: