



**CITIZENS UNION OF THE CITY OF NEW YORK**  
**Statement to the Commission on Public Integrity**  
**on Legislative Proposals to Amend the New York State Lobbying Act**  
**September 4, 2009**

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Citizens Union is an independent, nonpartisan, civic organization of New Yorkers who promote good government and advance political reform in our city and state. For more than a century, Citizens Union has served as a watchdog for the public interest and an advocate for the common good. We thank you for soliciting comment on your legislative proposals to amend the lobbying law and giving us the opportunity to submit Citizens Union's views.

While New York's lobbying law, which regulates and tries to limit the appearance of impropriety associated with influence by special interests on elected officials, is in need of additional reform, it is, we believe, only one piece of a larger confluence of issues which require immediate change. Citizens Union continues to believe ultimately in a holistic approach in which lobbying reforms are coupled with changes to the state's election, ethics and campaign finance laws to ensure that all intersections of money and politics are monitored and abuses of power prevented. We applaud the Commission for giving the public the opportunity to engage in a discussion about how best to reform the state's lobbying laws, and look forward to working with you to strengthen and improve these proposals throughout the legislative process. Our comments on each of the legislative proposal are below.

**Legislative Proposal No. 1 – Expanding the definition of lobbying activities**

Citizens Union philosophically supports the Commission's proposal to expand the definition of lobbying to include certain currently unregulated activities, but believes that this proposal may create an unnecessarily broad definition of lobbying. The proposed definition would define lobbying or lobbying activities as any attempt to influence "any act or decisions made by a public official," which Citizens Union believes may create confusion and could be construed to include activities that have no relation to state business. Instead, to the extent that the Commission's goal is to cover specific, new activities, we believe the better approach is for the proposed legislation to specifically delineate such activities. We specifically recommend covering activities such as attempts to influence State pension fund investment, attempts to influence legislative resolutions, and the broadening of attempts to influence legislation beyond "passage or defeat" to also include items such as attempts to influence the drafting, introduction, sponsorship, consideration, debate, modification, or veto of legislation. In general, Citizens Union believes that more specificity is preferable when looking to capture activities of lobbyists with regard to their influence on public officials.

**Legislative Proposal No. 2 – Amending the definition of "expense" to include political contributions made by registered lobbyists and their clients**

Citizens Union supports this proposal, as we believe that it will provide an additional check on contributions made by lobbyists to elected officials. We share the concern that information is not currently shared between the State Board of Elections and the Commission, and short of creating a more unified structure of election, ethics, lobbying, and campaign finance enforcement, we believe that this measure will create greater transparency of contributions made by lobbyists.

**Legislative Proposal No. 3 – Amending the definition of gift and requiring opinions from the Commission on Public Integrity**

Citizens Union has concerns regarding the Commission’s third proposal, particularly with regard to the requirement that an opinion be obtained from the Commission to request exceptions to the gift rule. While we agree that it is an inherent concern that gifts from lobbyists will be used to influence public officials, we believe that the law should be amended to have greater specificity with regard to gifts rather than requiring an opinion from the Commission for every exception. The Commission should, however, be able to use opinions as useful tools to examine and make determinations regarding any remaining “grey” areas in the law. We suggest that the Commission review the definition of gifts under the New York City Charter and Conflicts of Interest Board’s rules, which list prohibited gifts while also carving out certain exceptions. Citizens Union is particularly concerned that the amendment to the state’s gift ban would limit elected officials’ ability to attend community functions, which often serve a necessary and useful constituent and educational function, and believes that the City’s rules strike the right balance in this regard.

**Legislative Proposal No. 4 – Increasing the penalty for failure to comply or cooperate with a Commission random audit**

We support the proposal to create a civil penalty for failure to comply or cooperate with a Commission random audit because it will provide an additional incentive for lobbyists to comply with the law. Citizens Union strongly supports random audits as a necessary deterrent for failure to file, or submission of incorrect or incomplete filings, and believes that fines will be an additional tool that will enable the Commission to better enforce the law and have accurate information available for the public.

**Legislative Proposal No. 5 – Establishing a civil penalty for illegal use of lobbying retainer agreements**

Citizens Union supports the proposal to establish a civil penalty for the use of lobbying retainer agreements, but is concerned that the proposal, when aligned with the first Commission proposal regarding the definition of lobbying, may be unworkable and lead to more penalties than are justified or necessary. While we believe that illegal contingent fee retainer agreements which tie lobbyists’ compensation to success of lobbying efforts are worrisome and should be subject to civil penalties in addition to criminal prosecution, we believe that lobbying activities should be more clearly defined than is recommended by the Commission’s first legislative proposal to ensure the appropriate amount of activity is covered and the Commission spends too much of its limited time pursuing unnecessary penalties.

**Legislative Proposal No. 6 – Expanding the retention of documents to three biennial filing periods**

Citizens Union supports expanding the period of time for which lobbying records are retained to ensure that they are publicly available for inspection and available for use by the Commission in conducting audits. Having records only available for three years – one and a half legislative sessions – is not only inconsistent with the legislative calendar, but also may unnecessarily hinder the Commission’s ability to conduct its statutorily mandated responsibilities which may require reviewing documents from three biennial reporting periods. We, therefore, strongly support increasing the time period that these records must be retained.

**Legislative Proposal No. 7 – Increasing the monetary threshold for the filing of lobbyist registration and reports**

While Citizens Union understands that the Commission has limited resources and is seeking to alleviate some of its administrative burden, we are very concerned about the effect of the Commission's last proposal to raise the threshold requirement for lobbyist registration and filing of bi-monthly reports from \$5,000 to \$10,000. After a cursory review of the Commission's online lobbyist database, it appears that in the most recent reporting period of January – June 2009, approximately 145 clients filed expenses of less than \$5,000. We believe that given the state's legislative calendar, in which lobbying activities weigh more heavily during the first half of the year, it is likely that the lobbyists of at least these many clients – and likely more – would no longer be required to file reports under the proposal. In evaluating this proposal and determining our organization's position, Citizens Union would like more information from the Commission regarding the number of lobbyists who would no longer be required to file registration reports as well as the bi-monthly report. We believe that maintaining and increasing transparency regarding spheres of influence in lobbying is preferable to lessening this transparency, and therefore, would like to fully understand the impact of the proposed legislation before taking a position.

Citizens Union again thanks you for soliciting comments and for making it possible for us to express our views. We look forward to continuing to work with you on this and other issues going forward.