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THE LEAGUE OF WOMEN VOTERS *of New York State*

The Joint Commission on Public Ethics Hearing

On Developing Guidelines and Regulations for New Reporting Requirements for
Lobbyists and Clients of Lobbyists

June 7, 2012

Good morning, I am Barbara Bartoletti, Legislative Director of the League of Women Voters of New York State. The Public Integrity Reform Act of 2011 (the “Act”) instituted new disclosure requirements for lobbyists and clients of lobbyists. The League is suggesting in these comments a few principles to be followed by the commission in developing guidelines and regulations to implement this new law.

1. New Reporting Requirement for “Reportable Business Relationships”

Lobbyists and clients are required to disclose “all reportable business relationships” under the Act. In developing guidelines and regulations for this new requirement, the commission should specify clearly the circumstances under which a “reportable business relationship” exists so that lobbyists and clients understand their obligation to report. The form should be simple to understand and disclosures under this section should be sufficiently detailed so that the public can fully understand the nature of the business relationship.

2. Source of Funding Reporting

The Act requires new funding source disclosures by lobbyists and clients who meet specific financial thresholds, thresholds that the League does not meet since we are almost entirely a volunteer organization. Disclosure and reporting requirements for lobbying have been upheld for many years in the courts and we believe that they play a very important role in informing the public. However, in implementing these new requirements, the Act recognizes a competing need to make sure that fundamental constitutional rights of speech, association, and privacy are protected.

- **Exemptions for Areas of Public Concern**

One way in which it does this is to provide exemptions for all 501(c) (3) tax-exempt organizations and a sub-set of 501 (c) (4) tax-exempt organizations, if their primary activities are in an area of public concern such as civil rights and civil liberties, determined by the commission to create a substantial likelihood that application of this disclosure requirement would lead to harm, threats, harassment, or reprisals. In coming up with these pre-determined exempt areas of public concern, as well as ruling on specific exemptions from reporting, the commission needs to carefully balance the benefit of providing useful information to the public against a legitimate need to protect constitutional rights.

- **Opt-out Provision**

We also believe that the commission should establish a straightforward process by which 501 (c) (4) organizations can allow donors who want to broadly support an organization's mission to designate contributions for a separate account whose funds cannot be used as a source of funding for lobbying activities. This opt-out provision would give meaning to the Act's requirement that sources "used to fund the lobbying activities reported" be identified. It could be modeled on a similar opt-out provision in the recently introduced federal DISCLOSE Act of 2012, legislation that is aimed at disclosing the source of money used for campaign-related disbursements and is strongly supported by the League of Women Voters of the United States.

- **Look-through Rules**

The commission needs to establish regulations and guidelines sufficient to look-through entities to reach the ultimate source of funding for lobbying activities and thus fulfill the intent of the statute. Again, provisions in the DISCLOSE Act that get to the source of money used for campaign-related disbursements, even if the funds are passed through other entities, might be helpful.

3. Transition Rules

Unfortunately, the Act did not include transition rules. Given this, we believe a fair and reasonable approach is for organizations to report sources of funds received after regulations under the Act are finalized. That way both the reporting organizations and donors are aware of their obligations. For example, at this point it is not clear which 501(c) (4) organizations will be exempt from the reporting requirements because their activities are determined to be in specific areas of public concern.