HOUSE DOCKET, NO. 2216 FILED ON: 1/17/2019

HOUSE . . . . . No. 678

The Commonwealth of Massachusetts

PRESENTED BY:

Bradley H. Jones, Jr.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to prohibiting pay-to-play schemes.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Bradley H. Jones, Jr.	*20th Middlesex*	*1/17/2019*
Elizabeth A. Poirier	*14th Bristol*	*1/17/2019*
Susan Williams Gifford	*2nd Plymouth*	*1/17/2019*
Paul K. Frost	*7th Worcester*	*1/30/2019*
Todd M. Smola	*1st Hampden*	*1/31/2019*
Randy Hunt	*5th Barnstable*	*1/28/2019*
Steven S. Howitt	*4th Bristol*	*1/30/2019*
Mathew J. Muratore	*1st Plymouth*	*1/30/2019*
Michael J. Soter	*8th Worcester*	*1/31/2019*

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By Mr. Jones of North Reading, a petition (accompanied by bill, House, No. 678) of Bradley H. Jones, Jr., and others relative to political contributions by investment advisors doing business with public entities. Election Laws.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

An Act relative to prohibiting pay-to-play schemes.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 55 of the General Laws, as appearing in the 2016 Official Edition, is hereby further amended by inserting after 16B the following new section:

Section 16C. (a) As used in this section, the following words shall have the following meanings:

"Contribution", shall mean any gift, subscription, loan, advance, or deposit of money or anything of value made for the purpose of influencing any election for federal, state or local office, payment of debt incurred in connection with any such election or transition or inaugural expenses of the successful candidate for state or local office.

"Executive officer", shall mean the president, any vice president in charge of a principal business unit, division or function, any other officer who performs a policy-making function, or any other person who performs similar policy-making functions, for the investment adviser.

"Government entity", shall mean any state or political subdivision of a state, including any agency, authority, or instrumentality of the state or political subdivision, plan or pools of assets controlled by the state or political subdivision or any agency, authority or instrumentality thereof; and officers, agents, or employees of the state or political subdivision or any agency, authority or instrumentality thereof, acting in their official capacity.

"Investment adviser", shall include any investment adviser to a private investment company providing investment advisory services to the government entity.

"Official", shall mean any person including any election committee for the person who was, at the time of the contribution, an incumbent, candidate or successful candidate for an elective office of a government entity, if the office is directly or indirectly responsible for, or can influence the outcome of, the use of an investment adviser by a government entity; or for any elective office of a government entity, if the office has authority to appoint any person who is directly or indirectly responsible for, or can influence the outcome of, the use of an investment adviser.

"Private investment company", shall mean a company that would be an investment company under section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(a)) but for the exceptions to that definition in sections 3(c)(1) and 3(c)(7) of the Investment Company Act (15 U.S.C. 80a-3(c)(1)).

"Solicitor", shall mean any person who directly or indirectly solicits any client for, or refers any client to, an investment adviser.

(b) It shall be unlawful:

(1) For any investment adviser to provide investment advisory services for compensation to a government entity within two years after a contribution to an official of the government entity is made by the investment adviser, any partner, executive officer or solicitor of the investment adviser, including any person who becomes a partner, executive officer or solicitor within two years after the contribution is made; or any political action committee controlled by the investment adviser or by any partner, executive officer or solicitor of the investment adviser; and

(2) For any investment adviser, or any of its partners, executive officers or solicitor to solicit any person or political action committee to make, or coordinate, any contribution to an official of a government entity to which the investment adviser is providing or seeking to provide investment advisory services; or to do anything indirectly which, if done directly, would result in a violation of this section.

(3) For any government official to solicit or accept campaign contributions from an investment advisor and subsequently award that same adviser, his partners, executive officers, or solicitors a contract for investment advisory services.

(c) Subdivision (1) of subsection (b) does not apply to contributions made by a partner, executive officer or solicitor to officials for whom the partner, executive officer or solicitor was entitled to vote at the time of the contributions and which in the aggregate do not exceed $350 to any one official for which that person may vote or $150 to any one official for which that person is unable to cast a vote, per election.

(d) The office of campaign and political finance, upon application, may conditionally or unconditionally exempt an investment adviser from the prohibition under subdivision (1) of

subsection (b). In determining whether to grant an exemption, the office of campaign and political finance shall consider, among other factors, whether the exemption is consistent with the purposes of this section; whether the investment adviser, before the contribution resulting in the prohibition was made, developed and instituted procedures reasonably designed to ensure compliance with this section and had no actual knowledge of the contribution; and the investment adviser has taken all available steps to obtain a return of the contribution or contributions and has taken other remedial or preventive measures as may be appropriate under the circumstances.

(e) A violation of this section shall be punished by a fine of not more than $1,000 or by imprisonment for not more than 6 months or both such fine and imprisonment for both the investment advisor and the government official involved. Each such violation shall constitute a separate offense.