

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 277

50th Legislature, 1st Session, 2011

Tracking Number: .183649.1

Short Title: School Board Campaign Reporting Act

Sponsor(s): Representative Jimmie C. Hall

Analyst: Kevin Force

Date: February 16, 2011 (revised)

Bill Summary:

HB 277 creates the *School Board Campaign Reporting Act*, which applies to persons who seek or consider an office in a school board election and either have filed a declaration of candidacy, or has received a campaign contribution of \$200, or more.

Among its provisions, the act:

- defines the terms “campaign committee,” “candidate,” “contribution,” “expenditure,” “political purpose,” and “prescribed form”;
- requires the filing of a form with the Office of the Secretary of State to report campaign contributions of \$200, or more;
- requires the report to be filed electronically, with an electronic signature, in accordance with the *Electronic Authorization of Documents Act*;
- sets a schedule for the filing of updates of contributions and expenditures not already in the report, on set days in the months of December, January, February, and March;
- creates an exception to these reporting requirements for any candidate who files a “statement of no activity;”
- requires the candidate to comply with reporting requirements in a timely manner until:
 - there are no outstanding debts;
 - all money has been expended; and
 - the candidate’s or campaign committee’s bank account for campaign funds has been closed;
- requires a candidate who does not file a declaration of candidacy to nevertheless file periodic reports on the appropriate dates;
- allows the candidate to apply, to the Secretary of State, for a hardship waiver that exempts the candidate from electronic filing;
- requires the report to list the name and occupation or type of business of any person who contributes \$250, or more;
- imposes a penalty of \$50.00 per day, up to a maximum of \$5,000, for a candidate who files a false, incomplete, or late report;
- requires all funds collected for penalties to be deposited in the general fund, to the credit of the current school fund;

- prohibits a candidate's name from being printed on a ballot or from being issued a certificate of election if the candidate fails or refuses to file a statement of no activity, or fails or refuses to pay appropriate penalties;
- prohibits a candidate from filing a declaration of candidacy or nominating petition for any future election if the candidate failed or refused to file a statement of no activity, or failed or refused to pay appropriate penalties, until the candidate satisfies all reporting requirements and pays all penalties; and
- becomes effective as of August 1, 2011.

Fiscal Impact:

This bill does not contain an appropriation.

Fiscal Issues:

According to the Secretary of State:

- the enhancement of the Campaign Finance Information System (CFIS) necessary for compliance with the act would cost approximately \$30,000, based on estimates from the system contractor, Real Time Sites;
- the bill would further require an estimated \$1,000 in annual recurring costs; and
- the Office of the Secretary of State does not currently have sufficient funds in its budget to implement the requirements of HB 277.

Technical Issues:

According to the Public Education Department (PED) analysis:

- the portion of the definition of "candidate" on page 2, lines 9 and 10 addressing contributions "*of \$200 or more*" is inconsistent with the bill's reporting provision on page 3, lines 9 and 10 requiring reporting of contributions of "*more than \$200*"; and
- Section 3 of the bill is unclear whether the "campaign report" described in Subsection B that requires periodic updates is a separate report or a supplement to the report required by Subsection A. Further, it is unclear whether this update requires an electronic signature.

Substantive Issues:

- According to the Secretary of State:
 - HB 277 would add approximately 800 candidates to the reporting system, in odd-numbered years, for New Mexico's 89 school districts; and
 - the necessary enhancements to the CFIS system may not be able to be completed by August 1, 2011 (the effective date of the act), based on discussions with the contractor, Real Time Sites.

- According to the analysis by PED:
 - the act would not apply to the governing bodies of charter schools, as they are not elected officials and, thus, not potential candidates for office. (Currently, there are 84 charter schools in New Mexico, each with a governing body of at least 5 members.);
 - the proposed bill would make the school board election process more transparent and accountable to the electorate;
 - unlike the requirements of the *Campaign Reporting Act*, HB 277 does not include:
 - a public records inspection provision, like that in Section 1-19-32 NMSA 1978; and
 - a provision permitting the Secretary of State to adopt rules and regulations to implement the new act; and
 - a potential candidate under HB 277 would need access to a computer and the internet to comply with the electronic filing requirements of the bill;
- however, it should be noted that a potential candidate under HB 277 would have the option to apply for a hardship exemption from the electronic filing requirements; and
- while HB 277 does not explicitly authorize the Secretary of State to adopt implementing rules for the proposed *School Board Campaign Reporting Act*, Section 3. D. reads, in part, “. . .the candidate or campaign committee shall file quarterly reports, as provided by rule of the Secretary of State,” implying that the required rulemaking authority has been contemplated in the act.

Background:

- HB 277 appears to be modeled after the *Campaign Reporting Act*, although that act requires more detailed and comprehensive reporting, and requires reporting of contributions of \$500, or more.
- At the national level, a 2002 survey by the National School Boards Association¹ produced these figures:
 - 75.6 percent of respondents spent less than \$1,000 on their most recent school board campaign;
 - nearly 15 percent spent between \$1,000 and \$4,999;
 - 4.6 percent spent between \$5,000 and \$9,999;
 - 3.6 percent spent between \$10,000 and \$24,999; and
 - 0.7 percent spent \$25,000 or more.

Finally, similar legislation was introduced during a previous session. That legislation proposed to amend the *School Election Law* and the *Campaign Reporting Act* to require candidates for local school boards to comply with provisions of that Act, but did not pass.

¹ *School Boards At the Dawn of the 21st Century, Conditions and Challenges of District Governance*, a report prepared for the NSBA.

Related Bills:

HB 264 *School Board Election, Appointment Limits*
HJR 11 *Hold School Elections With General, CA*
HJR 16 *School Elections With Other Elections, CA*
SJR 7 *Increase Size of Certain School Boards, CA*