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SENATE BILL 312

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Dede Feldman

AN ACT

RELATING TO CONSERVANCY DISTRICTS; ENACTING THE CONSERVANCY  
DISTRICT CAMPAIGN REPORTING ACT; LIMITING CONTRIBUTIONS;  
REQUIRING TIMELY REPORTING OF CAMPAIGN CONTRIBUTIONS AND  
EXPENDITURES; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of Chapter 1 NMSA 1978 is  
enacted to read:

"[NEW MATERIAL] SHORT TITLE.--This act may be cited as the  
"Conservancy District Campaign Reporting Act"."

SECTION 2. A new section of Chapter 1 NMSA 1978 is  
enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the Conservancy  
District Campaign Reporting Act:

A. "campaign committee" means one or more persons

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1 authorized by a candidate to raise, collect or expend  
2 contributions on the candidate's behalf for the purpose of  
3 electing the candidate to office;

4 B. "candidate" means a person who seeks or  
5 considers an office in a conservancy district election covered  
6 by the Conservancy District Campaign Reporting Act, including a  
7 conservancy district director, who either has filed a  
8 declaration of candidacy or has received contributions or made  
9 expenditures of two hundred dollars (\$200) or more or  
10 authorized another person or campaign committee to receive  
11 contributions or make expenditures of two hundred dollars  
12 (\$200) or more for the purpose of seeking election to the  
13 conservancy district board of directors;

14 C. "conservancy district" means any conservancy  
15 district that includes within its boundaries a class A county  
16 with a population greater than five hundred thousand according  
17 to the most recent federal decennial census;

18 D. "contribution" means a gift, subscription, loan,  
19 advance or deposit of money or other thing of value, including  
20 the estimated value of an in-kind contribution, that is made or  
21 received for a political purpose, including payment of a debt  
22 incurred in an election campaign, but "contribution" does not  
23 include the value of services provided without compensation or  
24 unreimbursed travel or other personal expenses of individuals  
25 who volunteer a portion or all of their time on behalf of a

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1 candidate or campaign committee;

2 E. "election cycle" means the period beginning  
3 thirty days after a conservancy district election and ending on  
4 the next conservancy district election for the position being  
5 sought;

6 F. "expenditure" means a payment, transfer or  
7 distribution or obligation or promise to pay, transfer or  
8 distribute any money or other thing of value for a political  
9 purpose, including payment of a debt incurred in an election  
10 campaign;

11 G. "political purpose" means influencing or  
12 attempting to influence the outcome of an election; and

13 H. "prescribed form" means a form or electronic  
14 format prepared and prescribed by the secretary of state."

15 SECTION 3. A new section of Chapter 1 NMSA 1978 is  
16 enacted to read:

17 "[NEW MATERIAL] REPORTS REQUIRED--TIME AND PLACE OF  
18 FILING.--

19 A. A candidate or campaign committee that has  
20 received contributions of more than two hundred dollars (\$200)  
21 shall file with the secretary of state a report of all  
22 contributions received and expenditures made on a prescribed  
23 form, and the report shall be filed in the same or similar  
24 electronic system as that used for the Campaign Reporting Act.  
25 Except as otherwise provided in this section, all reports

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1 pursuant to the Conservancy District Campaign Reporting Act  
2 shall be filed electronically and electronically authenticated  
3 by the candidate using an electronic signature in conformance  
4 with the Electronic Authentication of Documents Act and the  
5 Uniform Electronic Transactions Act.

6 B. A candidate or campaign committee shall file a  
7 campaign report of all contributions received and expenditures  
8 made during an election cycle and not previously reported by  
9 5:00 p.m. on:

- 10 (1) the second Tuesday in April;
- 11 (2) the second Tuesday in May;
- 12 (3) the Thursday before election day; and
- 13 (4) the third Tuesday in July.

14 C. If a candidate or campaign committee has not  
15 received any contributions and has not made any expenditures  
16 since the last report filed with the secretary of state, the  
17 candidate or campaign committee shall only be required to file  
18 a statement of no activity, which shall not be required to be  
19 notarized, in lieu of a full report when that report would  
20 otherwise be due.

21 D. A report of expenditures and contributions filed  
22 after a deadline set forth in this section shall not be deemed  
23 to have been timely filed.

24 E. Except for candidates and campaign committees  
25 that file a statement of no activity, each candidate or

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1 campaign committee shall file a report of expenditures and  
2 contributions pursuant to the filing schedules set forth in  
3 this section, regardless of whether any expenditures were made  
4 or contributions were received during the reporting period.  
5 Reports shall be required until the candidate or campaign  
6 committee delivers a report to the secretary of state stating  
7 that:

- 8 (1) there are no outstanding campaign debts;
- 9 (2) all money has been expended in accordance  
10 with the provisions of Section 1-19-29.1 NMSA 1978; and
- 11 (3) the bank account has been closed.

12 F. A candidate who does not ultimately file a  
13 declaration of candidacy and does not file a statement of no  
14 activity shall file reports in accordance with Subsection B of  
15 this section.

16 G. A candidate may apply to the secretary of state  
17 for exemption from electronic filing in case of hardship, which  
18 shall be defined by the secretary of state."

19 SECTION 4. A new section of Chapter 1 NMSA 1978 is  
20 enacted to read:

21 "[NEW MATERIAL] CONTENTS OF REPORT.--

22 A. Each required report of expenditures and  
23 contributions shall be typed or printed legibly, or on a  
24 computer disc or format approved by the secretary of state, and  
25 shall include:

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1 (1) the name and address of the person to whom  
2 an expenditure was made or from whom a contribution was  
3 received; provided that for contributors, the name of the legal  
4 entity or the first and last names of the individual shall be  
5 the full name of the legal entity or individual, and initials  
6 only shall not constitute a full name unless that is the  
7 complete legal name;

8 (2) the occupation or name and type of  
9 business of any person making contributions of two hundred  
10 fifty dollars (\$250) or more in the aggregate per election;

11 (3) the amount of the expenditure or  
12 contribution or value thereof;

13 (4) the purpose of the expenditure; and

14 (5) the date that the expenditure was made or  
15 the contribution was received.

16 B. Each report shall contain an opening and closing  
17 cash balance for the bank account maintained by the reporting  
18 individual during the reporting period and the name of the  
19 financial institution.

20 C. Each report shall specify the amount of each  
21 unpaid debt and the identity of the person to whom the debt is  
22 owed."

23 SECTION 5. A new section of Chapter 1 NMSA 1978 is  
24 enacted to read:

25 "[NEW MATERIAL] REPORTS AND STATEMENTS--LATE FILING

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1 PENALTY--FAILURE TO FILE.--

2 A. If a statement of no activity or a report of  
3 expenditures and contributions contains false or incomplete  
4 information or is filed after any deadline imposed by the  
5 Conservancy District Campaign Reporting Act, the candidate, in  
6 addition to any other penalties or remedies prescribed by the  
7 Election Code, shall be liable for and shall pay to the  
8 secretary of state fifty dollars (\$50.00) per day for each  
9 regular working day after the time required by the Conservancy  
10 District Campaign Reporting Act for the filing of statements of  
11 no activity or reports of expenditures and contributions until  
12 the complete or true statement or report is filed, up to a  
13 maximum of five thousand dollars (\$5,000).

14 B. All sums collected for the penalty shall be  
15 deposited in the general fund for credit to the current school  
16 fund. A report or statement of exception shall be deemed  
17 timely filed only if it is received by the proper filing  
18 officer by the date and time prescribed by law.

19 C. Any candidate who fails or refuses to file a  
20 report of expenditures and contributions or statement of no  
21 activity or to pay a penalty imposed by the secretary of state  
22 as required by the Conservancy District Campaign Reporting Act  
23 shall not, in addition to any other penalties provided by law:

24 (1) have the candidate's name printed upon the  
25 ballot if the violation occurs before or through the final date

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1 for the withdrawal of candidates; or

2 (2) be issued a certificate of nomination or  
3 election, if the violation occurs after the final date for  
4 withdrawal of candidates or after the election, until the  
5 candidate satisfies all reporting requirements of the  
6 Conservancy District Campaign Reporting Act and pays all  
7 penalties owed.

8 D. Any candidate who loses an election and who  
9 failed or refused to file a report of expenditures and  
10 contributions or a statement of no activity or to pay a penalty  
11 imposed by the secretary of state as required by the  
12 Conservancy District Campaign Reporting Act shall not be, in  
13 addition to any other penalties provided by law, permitted to  
14 file a declaration of candidacy or nominating petition for any  
15 future election until the candidate satisfies all reporting  
16 requirements of that act and pays all penalties owed."

17 SECTION 6. A new section of Chapter 1 NMSA 1978 is  
18 enacted to read:

19 "[NEW MATERIAL] CONTRIBUTION LIMITATIONS--CANDIDATES.--

20 A. A person shall not make a contribution to a  
21 candidate in an amount that will cause that person's total  
22 contributions to the candidate to exceed two thousand three  
23 hundred dollars (\$2,300) during an election cycle.

24 B. All contributions made by a person to a  
25 candidate, either directly or indirectly, including

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1 contributions that are in any way earmarked or otherwise  
2 directed through another person to a candidate, shall be  
3 treated as contributions from the person to that candidate.

4 C. A person shall not knowingly accept or solicit a  
5 contribution, directly or indirectly, including a contribution  
6 earmarked or otherwise directed or coordinated through another  
7 person, that violates the contribution limits provided for in  
8 this section.

9 D. All contributions in excess of the limits  
10 imposed by the provisions of this section shall be deposited in  
11 the public election fund upon a finding by the secretary of  
12 state that the contribution limits have been exceeded.

13 E. The limitation on contributions to a candidate  
14 provided for in Subsection A of this section shall not apply to  
15 a candidate's own contribution from the candidate's personal  
16 funds to the candidate's own campaign."

17 SECTION 7. A new section of Chapter 1 NMSA 1978 is  
18 enacted to read:

19 "[NEW MATERIAL] CIVIL PENALTIES.--

20 A. If the secretary of state reasonably believes  
21 that a person committed, or is about to commit, a violation of  
22 the Conservancy District Campaign Reporting Act, the secretary  
23 of state shall refer the matter to the attorney general or a  
24 district attorney for enforcement.

25 B. The attorney general or district attorney may

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1 institute a civil action in district court for any violation of  
2 the Conservancy District Campaign Reporting Act or to prevent a  
3 violation of that act that involves an unlawful solicitation or  
4 the making or acceptance of an unlawful contribution. An  
5 action for relief may include a permanent or temporary  
6 injunction, a restraining order or any other appropriate order,  
7 including a civil penalty of two hundred fifty dollars (\$250)  
8 for each violation not to exceed five thousand dollars  
9 (\$5,000), and forfeiture of any contribution received as a  
10 result of an unlawful solicitation or unlawful contribution.  
11 Each unlawful solicitation and each unlawful contribution made  
12 or accepted shall be deemed a separate violation of the  
13 Conservancy District Campaign Reporting Act.

14 C. The attorney general or district attorney may  
15 institute a civil action in district court if a violation has  
16 occurred or to prevent a violation of any provision of the  
17 Conservancy District Campaign Reporting Act other than that  
18 specified in Subsection B of this section. Relief may include  
19 a permanent or temporary injunction, a restraining order or any  
20 other appropriate order, including an order for a civil penalty  
21 of fifty dollars (\$50.00) for each violation not to exceed five  
22 thousand dollars (\$5,000)."

23 SECTION 8. A new section of Chapter 1 NMSA 1978 is  
24 enacted to read:

25 "[NEW MATERIAL] PENALTIES--CRIMINAL ENFORCEMENT.--

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A. Any person who knowingly and willfully violates any provision of the Conservancy District Campaign Reporting Act is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than one year or both.

B. The Conservancy District Campaign Reporting Act may be enforced by the attorney general or the district attorney in the county where the candidate resides."

SECTION 9. EFFECTIVE DATE.--The effective date of the provisions of this act is August 1, 2011.