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HOUSE BILL 276

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Mimi Stewart

AN ACT

RELATING TO ELECTIONS; ENACTING THE SCHOOL BOARD CAMPAIGN REPORTING ACT; ESTABLISHING CAMPAIGN REPORTING REQUIREMENTS FOR SCHOOL BOARD ELECTIONS; PROVIDING PENALTIES.

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

Section 1. SHORT TITLE.--This act may be cited as the "School Board Campaign Reporting Act".

Section 2. DEFINITIONS.--As used in the School Board Campaign Reporting Act:

A. "anonymous contribution" means a contribution, the contributor of which is unknown to the candidate or his agent who accepts the contribution;

B. "candidate" means an individual who has filed a declaration of candidacy for election to a school board;

C. "contribution" means a gift, subscription,

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1 loan, advance or deposit of any money or other thing of value,
2 including the estimated value of an in-kind contribution, that
3 is made or received for a political purpose, including payment
4 of a debt incurred in a school board election campaign, but
5 does not include the value of services provided without
6 compensation or unreimbursed travel or other personal expenses
7 of individuals who volunteer a portion or all of their time on
8 behalf of a candidate;

9 D. "expenditure" means a payment, transfer or
10 distribution or obligation or promise to pay, transfer or
11 distribute any money or other thing of value for a school
12 board election, including payment of a debt incurred in an
13 election campaign;

14 E. "political purpose" means influencing or
15 attempting to influence a school board election;

16 F. "proper filing officer" means the county clerk
17 of the county in which the school district is located or, in
18 the case of a multicounty school district, the clerk of the
19 county in which the administrative office of the school
20 district is located;

21 G. "school board" means the local school board of
22 a school district, the governing board of a technical and
23 vocational institute, the governing board of an area
24 vocational institute, a community college board or a branch
25 community college board;

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1 H. "school board election" means any regular or
2 special election for a school board member; and

3 I. "school district" means a school district as
4 defined in the Public School Code, a technical and vocational
5 institute district, an area vocational institute district, a
6 community college district or a branch community college
7 district.

8 Section 3. SCHOOL BOARD CAMPAIGN REPORTING
9 REQUIREMENTS. --

10 A. Each candidate who receives contributions or
11 makes expenditures of more than one thousand dollars (\$1,000)
12 in a school board election campaign shall file with the proper
13 filing officer reports of all contributions and expenditures
14 as required by the School Board Campaign Reporting Act.

15 B. The proper filing officer shall provide
16 necessary contribution and expenditure reporting forms to a
17 candidate at the time a declaration of candidacy is filed.
18 The secretary of state shall approve the forms to be used.

19 C. Contribution and expenditure reports shall be
20 filed with the proper filing officer:

21 (1) twenty-five days prior to a school board
22 election;

23 (2) seven days prior to a school board
24 election;

25 (3) thirty days after a school board

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1 election, which shall be the final report unless the campaign
2 account remains open or all contributions are not reported as
3 having been expended in accordance with the provisions of
4 Section 6 of the School Board Campaign Reporting Act; and

5 (4) annually in nonelection years on February
6 1, until the account is reported as closed or all expenditures
7 are reported as having been expended in accordance with
8 Section 6 of the School Board Campaign Reporting Act.

9 D. The contribution and expenditure report due
10 twenty-five days prior to a school board election shall
11 include all contributions received and expenditures made
12 before or on the thirtieth day prior to the election and not
13 previously reported. The report due seven days prior to the
14 election shall include all contributions received and
15 expenditures made before or on the tenth day prior to the
16 election and not previously reported. The report due thirty
17 days after the election shall include all contributions
18 received and expenditures made before or on the twenty-fifth
19 day after the election and not previously reported. The
20 annual report due on February 1 in nonelection years shall
21 include all contributions received and expenditures made that
22 have not been previously reported.

23 E. If at any time a candidate receives
24 contributions or makes expenditures in excess of one thousand
25 dollars (\$1,000), the candidate shall file the next scheduled

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1 report and each succeeding report.

2 F. A report shall not be deemed timely filed
3 unless it is received by the proper filing officer by 5:00
4 p.m. on the day the report is required to be filed.

5 Section 4. EXCLUSION OF CERTAIN CANDIDATES FROM
6 REPORTING--STATEMENT OF EXCEPTION. --

7 A. A candidate who anticipates receiving and
8 expending less than one thousand dollars (\$1,000) in a school
9 board election campaign may file, in lieu of filing a report
10 of contributions and expenditures, a statement of exception to
11 that effect on a prescribed form and under penalty of perjury.
12 The statement of exception shall be filed with the proper
13 filing officer at the time of filing a declaration of
14 candidacy.

15 B. Upon filing of the statement of exception, the
16 candidate shall not be required to file a report of
17 contributions and expenditures except as provided in
18 Subsection C of this section.

19 C. If at any time after filing a statement of
20 exception a candidate receives or expends in an election more
21 than the one-thousand-dollar (\$1,000) threshold amount
22 provided in Subsection A of this section, the candidate shall
23 file reports of contributions and expenditures according to
24 the reporting schedule provided in Section 3 of the School
25 Board Campaign Reporting Act.

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Section 5. CONTENTS OF REPORT OF CONTRIBUTIONS AND EXPENDITURES-- ANONYMOUS CONTRIBUTION. --

A. Each report of contributions and expenditures required by the School Board Campaign Reporting Act shall be typed or printed legibly, or on a computer disc or format approved by the proper filing officer, and shall include:

(1) the full name and address of the individual or entity from whom a contribution was received or to whom an expenditure was made, except for an anonymous contribution; provided that for contributors, the name of the entity or the first and last names of any individual shall be the full name of the entity or individual, and initials only shall not constitute a full name of an entity unless that is its complete legal name;

(2) the occupation or type of business of any individual or entity making contributions of two hundred fifty dollars (\$250) or more in the aggregate per school board election;

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

(4) the purpose of the expenditure; and

(5) the date of the contribution or expenditure.

B. No anonymous contribution may be accepted in excess of fifty dollars (\$50.00). The aggregate amount of

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1 anonymous contributions accepted by a candidate shall not
2 exceed two hundred fifty dollars (\$250) per school board
3 election.

4 C. The report of contributions and expenditures
5 shall be subscribed and sworn to by the candidate. If the
6 report of contributions and expenditures is filed in an
7 electronically readable format, the report shall be subscribed
8 and sworn to by the candidate in an independent affidavit
9 signed by the candidate and filed with the proper filing
10 officer.

11 D. Each report shall contain an opening and
12 closing cash balance for the campaign account.

13 E. Each report shall specify the amount of each
14 unpaid debt and the identity of the person to whom the debt is
15 owed, except that the debts to suppliers of goods and services
16 that are not more than thirty days past due need not be
17 reported.

18 Section 6. LIMITATION ON USE OF CAMPAIGN CONTRIBUTIONS. --
19 It is unlawful for any candidate, elected school board member or
20 the agent of either to make an expenditure of contributions
21 received, except for the following purposes:

- 22 A. expenditures of the campaign;
- 23 B. donations to the state general fund; or
- 24 C. donations to an organization to which a federal
25 income tax deduction would be permitted pursuant to Subparagraph

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1 (A) of Paragraph (1) of Subsection (b) of Section 170 of the
2 Internal Revenue Code of 1986.

3 Section 7. ENFORCEMENT--PENALTIES.--

4 A. Any person who believes a provision of the School
5 Board Campaign Reporting Act has been violated may file a sworn
6 complaint with the proper filing officer. If the proper filing
7 officer reasonably believes a provision of the School Board
8 Campaign Reporting Act has been violated, the proper filing
9 officer shall refer the matter to the district attorney. The
10 School Board Campaign Reporting Act may be enforced by the
11 district attorney in the county where the candidate resides.

12 B. If a campaign contribution or expenditure report
13 is filed late or is incomplete or false, the candidate
14 responsible for it shall, in addition to any other penalties or
15 remedies, be liable for and shall pay to the proper filing
16 officer twenty-five dollars (\$25.00) per day for each regular
17 working day that the required full and complete report is late,
18 up to a maximum of one thousand dollars (\$1,000).

19 C. If a candidate who violates the provisions of the
20 School Board Campaign Reporting Act is elected to the school
21 board, that person shall not serve on the school board or
22 participate in school board meetings until the candidate
23 satisfies all reporting requirements of the School Board
24 Campaign Reporting Act and pays all penalties owed. The
25 provisions of this subsection are in addition to any other

1 penalties provided by law.

2 D. Any person who knowingly and willfully violates a
3 provision of the School Board Campaign Reporting Act is guilty
4 of a misdemeanor and shall be punished by a fine of not more
5 than one thousand dollars (\$1,000) or by imprisonment for not
6 more than one year or both.

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1 FORTY- FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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6 February 4, 1999

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8 Mr. Speaker:

9
10 Your VOTERS AND ELECTIONS COMMITTEE, to whom has
11 been referred

12
13 HOUSE BILL 276

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15 has had it under consideration and reports same with
16 recommendation that it DO PASS, amended as follows:

17 1. On page 7, line 22, after "campaign" insert "of the
18 candidate".

19
20 2. On page 7, between lines 22 and 23, insert the following
21 new subsection:

22 "B. donations to the campaign of another candidate for
23 elections to a school board;".

24
25 3. Reletter the succeeding subsections accordingly.,

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FIRST SESSION, 1999

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and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

Edward C. Sandoval, Chairman

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____

The roll call vote was 13 For 0 Against

Yes: 13

Excused: None

Absent: None

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1 **FORTY- FOURTH LEGISLATURE**
2 **FIRST SESSION, 1999**

3
4 **February 15, 1999**

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7 **Mr. Speaker:**

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9 **Your JUDICIARY COMMITTEE, to whom has been referred**

10 **HOUSE BILL 276**

11
12 **has had it under consideration and reports same with**
13 **recommendation that it DO PASS.**

14
15 **Respectfully submitted,**

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19 _____
20 **R. David Pederson, Chairman**

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

Excused: Garcia, Godbey, Luna, Sanchez, Thompson, T.

Absent: None

J: \99Bill\SWP\H0276

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