

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 258

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Timothy M. Keller

AN ACT

RELATING TO STATE CONTRACTS; PROHIBITING CERTAIN CONTRIBUTIONS AND SOLICITATION OF CONTRIBUTIONS BY THE PRINCIPALS OF STATE CONTRACTORS AND PROSPECTIVE STATE CONTRACTORS; PROHIBITING CERTAIN SOLICITATIONS OF CONTRIBUTIONS FROM STATE CONTRACTORS AND PROSPECTIVE STATE CONTRACTORS.

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

Section 1. A new section of the Campaign Reporting Act is enacted to read:

"NEW MATERIAL CONTRIBUTIONS FROM STATE CONTRACTORS PROHIBITED.--

A. No principal of a state contractor or prospective state contractor, with regard to a state contract, bid solicitation or request for proposals with or from a state agency in the executive branch or an instrumentality of the state, shall

underscored material = new
[bracketed material] = delete

underscoring material = new
[bracketed material] = delete

1 make a contribution to or solicit contributions on behalf of:

2 (1) a candidate or candidate committee
3 established by a candidate for nomination or election to a
4 state public office; or

5 (2) a political committee authorized to make
6 contributions or expenditures to or for the benefit of such
7 candidates.

8 B. If a principal of a state contractor makes or
9 solicits a contribution prohibited by Subsection A of this
10 section, the contracting state agency or instrumentality of the
11 state may, in the case of a state contract executed on or after
12 the effective date of this section, void the existing contract
13 with that contractor, and no state agency or instrumentality of
14 the state shall award that state contractor a state contract or
15 an extension or an amendment to a state contract for two years
16 after the election for which the contribution is made or
17 solicited. Each state contract shall include the provisions of
18 this subsection and Subsection A of this section as conditions
19 of the contract.

20 C. A state public officer, candidate for state
21 public office or any agent of a state public officer or
22 candidate shall not solicit contributions on behalf of a
23 candidate, a candidate committee or a political committee from
24 a principal of a state contractor or prospective state
25 contractor.

.175346.2

underscored material = new
[bracketed material] = delete

1 D. The provisions of this section shall not
2 restrict a principal of a state contractor or prospective state
3 contractor from establishing a candidate committee for the
4 principal's own campaign or from soliciting contributions from
5 persons not prohibited from making contributions by this
6 section."

7 Section 2. Section 1-19-26 NMSA 1978 (being Laws 1979,
8 Chapter 360, Section 2, as amended) is amended to read:

9 "1-19-26. DEFINITIONS.--As used in the Campaign Reporting
10 Act:

11 A. "advertising campaign" means an advertisement or
12 series of advertisements used for a political purpose and
13 disseminated to the public either in print, by radio or
14 television broadcast or by any other electronic means,
15 including telephonic communications, and may include direct or
16 bulk mailings of printed materials;

17 B. "anonymous contribution" means a contribution
18 the contributor of which is unknown to the candidate or [his]
19 the candidate's agent or the political committee or its agent
20 who accepts the contribution;

21 C. "bank account" means an account in a financial
22 institution located in New Mexico;

23 D. "campaign committee" means two or more persons
24 authorized by a candidate to raise, collect or expend
25 contributions on the candidate's behalf for the purpose of

.175346.2

underscored material = new
[bracketed material] = delete

1 electing [~~him~~] the candidate to office;

2 E. "candidate" means an individual who seeks or
3 considers an office in an election covered by the Campaign
4 Reporting Act, including a public official, who either has
5 filed a declaration of candidacy or nominating petition or:

6 (1) for a nonstatewide office, has received
7 contributions or made expenditures of one thousand dollars
8 (\$1,000) or more or authorized another person or campaign
9 committee to receive contributions or make expenditures of one
10 thousand dollars (\$1,000) or more for the purpose of seeking
11 election to the office; or

12 (2) for a statewide office, has received
13 contributions or made expenditures of two thousand five hundred
14 dollars (\$2,500) or more or authorized another person or
15 campaign committee to receive contributions or make
16 expenditures of two thousand five hundred dollars (\$2,500) or
17 more for the purpose of seeking election to the office or for
18 candidacy exploration purposes in the years prior to the year
19 of the election;

20 F. "contribution" means a gift, subscription, loan,
21 advance or deposit of money or other thing of value, including
22 the estimated value of an in-kind contribution, that is made or
23 received for a political purpose, including payment of a debt
24 incurred in an election campaign, but does not include the
25 value of services provided without compensation or unreimbursed

.175346.2

1 travel or other personal expenses of individuals who volunteer
2 a portion or all of their time on behalf of a candidate or
3 political committee, nor does it include the administrative or
4 solicitation expenses of a political committee that are paid by
5 an organization that sponsors the committee;

6 G. "deliver" or "delivery" means to deliver by
7 certified or registered mail, telecopier, electronic
8 transmission or facsimile or by personal service;

9 H. "election" means any primary, general or
10 statewide special election in New Mexico and includes county
11 and judicial retention elections but excludes municipal, school
12 board and special district elections;

13 I. "election year" means an even-numbered year in
14 which an election covered by the Campaign Reporting Act is
15 held;

16 J. "expenditure" means a payment, transfer or
17 distribution or obligation or promise to pay, transfer or
18 distribute any money or other thing of value for a political
19 purpose, including payment of a debt incurred in an election
20 campaign or pre-primary convention, but does not include the
21 administrative or solicitation expenses of a political
22 committee that are paid by an organization that sponsors the
23 committee;

24 K. "person" means an individual or entity;

25 L. "political committee" means two or more persons,

underscored material = new
[bracketed material] = delete

1 other than members of a candidate's immediate family or
2 campaign committee or a husband and wife who make a
3 contribution out of a joint account, who are selected,
4 appointed, chosen, associated, organized or operated primarily
5 for a political purpose; and "political committee" includes:

6 (1) political action committees or similar
7 organizations composed of employees or members of any
8 corporation, labor organization, trade or professional
9 association or any other similar group that raises, collects,
10 expends or contributes money or any other thing of value for a
11 political purpose;

12 (2) a single individual [~~who by his~~] whose
13 actions [~~represents~~] represent that [~~he~~] the individual is a
14 political committee; and

15 (3) a person or an organization of two or more
16 persons that within one calendar year expends funds in excess
17 of five hundred dollars (\$500) to conduct an advertising
18 campaign for a political purpose;

19 M. "political purpose" means influencing or
20 attempting to influence an election or pre-primary convention,
21 including a constitutional amendment or other question
22 submitted to the voters;

23 N. "prescribed form" means a form or electronic
24 format prepared and prescribed by the secretary of state;

25 O. "principal of a state contractor or prospective

.175346.2

underscoring material = new
[bracketed material] = delete

1 state contractor" means:

2 (1) a person who is a member of the board of
3 directors of, or has an ownership interest in, a state
4 contractor or prospective state contractor that is a business
5 entity, except for an individual who owns less than five
6 percent of the shares of that state contractor or prospective
7 state contractor that is a publicly traded corporation;

8 (2) a person who is employed by a state
9 contractor or prospective state contractor that is a business
10 entity, as president, treasurer or executive or senior vice
11 president;

12 (3) a person who is the chief executive
13 officer of a state contractor or prospective state contractor
14 that is not a business entity;

15 (4) an employee of any state contractor or
16 prospective state contractor who has managerial or
17 discretionary responsibilities with respect to a state
18 contract;

19 (5) the spouse or a dependent child of a
20 person described in Paragraphs (1) through (4) of this
21 subsection; or

22 (6) a political committee established by or on
23 behalf of a person described in this subsection;

24 [0.] P. "proper filing officer" means either the
25 secretary of state or the county clerk as provided in Section
.175346.2

underscored material = new
[bracketed material] = delete

1 1-19-27 NMSA 1978;

2 Q. "prospective state contractor" means a person,
3 business entity or nonprofit organization that submits a bid in
4 response to a bid solicitation by the state, a state agency or
5 an instrumentality of the state, or a proposal in response to a
6 request for proposals by the state, a state agency or an
7 instrumentality of the state, until the contract has been
8 entered into. "Prospective state contractor" does not include
9 a municipality or any other political subdivision of the state
10 or an employee in the executive, legislative or judicial branch
11 of state government or instrumentality of the state, whether
12 full- or part-time, in such person's capacity as an employee of
13 the state or an instrumentality of the state;

14 [~~P-~~] R. "public official" means a person elected to
15 an office in an election covered by the Campaign Reporting Act
16 or a person appointed to an office that is subject to an
17 election covered by that act;

18 [~~Q-~~] S. "reporting individual" means every public
19 official, candidate or treasurer of a campaign committee and
20 every treasurer of a political committee; [~~and~~]

21 T. "state agency" means an office, department,
22 board, council, commission, institution or other agency in the
23 executive branch of state government;

24 U. "state contract" means an agreement or contract
25 with the state or any state agency or instrumentality of the

.175346.2

underscored material = new
[bracketed material] = delete

1 state, having a value of twenty thousand dollars (\$20,000) or
2 more, or a combination or series of such agreements or
3 contracts having a value of fifty thousand dollars (\$50,000) or
4 more in a fiscal year, for:

5 (1) the rendition of services, including
6 professional services;

7 (2) the furnishing of any material, supplies
8 or equipment;

9 (3) the construction, alteration or repair of
10 any public building or public work;

11 (4) the acquisition, sale or lease of any land
12 or building;

13 (5) a licensing arrangement; or

14 (6) a grant, loan or loan guarantee;

15 V. "state contractor" means a person, business
16 entity or nonprofit organization that enters into a state
17 contract, which shall be deemed to be a state contractor until
18 the termination of the contract. "State contractor" does not
19 include a municipality or any other political subdivision of
20 the state or an employee in the executive, legislative or
21 judicial branch of state government or an instrumentality of
22 the state, whether full- or part-time, in that person's
23 capacity as an employee of the state or an instrumentality of
24 the state; and

25 [~~R.~~] W. "statement of exception" or "statement"

.175346.2

underscoring material = new
~~[bracketed material] = delete~~

1 means the prescribed form subscribed and sworn to by a
2 candidate to indicate that the candidate does not intend to
3 raise or expend the minimum amount required for the filing of a
4 report of expenditures and contributions as provided in Section
5 1-19-33 NMSA 1978."

6 - 10 -
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

.175346.2