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SENATE BILL 402

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

INTRODUCED BY

Linda M. Lopez

AN ACT

RELATING TO LOCAL GOVERNMENT; ENACTING THE LOCAL GOVERNMENT
CAMPAIGN REPORTING ACT; REQUIRING TIMELY REPORTING OF CAMPAIGN
CONTRIBUTIONS AND EXPENDITURES; PROVIDING FOR 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
"Local Government Campaign Reporting Act"."

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

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

A. "campaign committee" means one or more persons
authorized by a candidate to raise, collect or expend

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1 contributions on the candidate's behalf for the purpose of
2 electing the candidate to office;

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

12 C. "contribution" means a gift, subscription, loan,
13 advance or deposit of money or other thing of value, including
14 the estimated value of an in-kind contribution, that is made or
15 received for a political purpose, including payment of a debt
16 incurred in an election campaign, but "contribution" does not
17 include the value of services provided without compensation or
18 unreimbursed travel or other personal expenses of individuals
19 who volunteer a portion or all of their time on behalf of a
20 candidate or campaign committee;

21 D. "election cycle" means the period beginning
22 thirty days after an election for an office and ending on
23 election day for that office;

24 E. "expenditure" means a payment, transfer or
25 distribution or obligation or promise to pay, transfer or

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1 distribute any money or other thing of value for a political
2 purpose, including payment of a debt incurred in an election
3 campaign;

4 F. "local government" means a school board, a two-
5 year public post-secondary educational institution, a special
6 district with a population of more than five thousand according
7 to the most recent federal decennial census or a municipality
8 with a population of more than five thousand according to the
9 most recent federal decennial census that does not have
10 campaign reporting requirements in its charter;

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

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1 all reports pursuant to the Local Government Campaign Reporting
2 Act shall be filed electronically and electronically
3 authenticated by the candidate using an electronic signature in
4 conformance with the Electronic Authentication of Documents Act
5 and the 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.:

- 10 (1) on the sixtieth day before the election;
- 11 (2) on the thirtieth day before the election;
- 12 (3) five days before the election; and
- 13 (4) thirty days after the election.

14 C. If a reporting date set by Subsection B of this
15 sections falls on a weekend or holiday, the report shall be
16 filed on the next business day.

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

24 E. A report of expenditures and contributions filed
25 after a deadline set forth in this section shall not be deemed

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1 to have been timely filed.

2 F. Except for candidates and campaign committees
3 that file a statement of no activity, each candidate or
4 campaign committee shall file a report of expenditures and
5 contributions pursuant to the filing schedules set forth in
6 this section, regardless of whether any expenditures were made
7 or contributions were received during the reporting period.
8 Reports shall be required until the candidate or campaign
9 committee delivers a report to the secretary of state stating
10 that:

- 11 (1) there are no outstanding campaign debts;
12 (2) all money has been expended in accordance
13 with the provisions of Section 1-19-29.1 NMSA 1978; and
14 (3) the bank account for campaign funds
15 maintained by the candidate or campaign committee has been
16 closed.

17 G. A candidate who does not ultimately file a
18 declaration of candidacy and does not file a statement of no
19 activity shall file reports in accordance with Subsection B of
20 this section.

21 H. A candidate may apply to the secretary of state
22 for exemption from electronic filing in case of hardship, which
23 shall be defined by the secretary of state."

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

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

2 A. Each required report of expenditures and
3 contributions shall be typed or printed legibly, or on a
4 computer disc or format approved by the secretary of state, and
5 shall include:

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

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

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

18 (4) the purpose of the expenditure; and

19 (5) the date that the expenditure was made or
20 the contribution was received.

21 B. Each report shall contain an opening and closing
22 cash balance for the bank account maintained for campaign funds
23 by the reporting individual during the reporting period and the
24 name of the financial institution.

25 C. Each report shall specify the amount of each

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1 unpaid debt and the identity of the person to whom the debt is
2 owed."

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

5 "[NEW MATERIAL] REPORTS AND STATEMENTS--LATE FILING
6 PENALTY--FAILURE TO FILE.--

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

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

24 C. Any candidate who fails or refuses to file a
25 report of expenditures and contributions or statement of no

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1 activity or to pay a penalty imposed by the secretary of state
2 as required by the Local Government Campaign Reporting Act
3 shall not, in addition to any other penalties provided by law:

4 (1) have the candidate's name printed upon the
5 ballot if the violation occurs before or through the final date
6 for the withdrawal of candidates; or

7 (2) be issued a certificate of nomination or
8 election, if the violation occurs after the final date for
9 withdrawal of candidates or after the election, until the
10 candidate satisfies all reporting requirements of the Local
11 Government Campaign Reporting Act and pays all penalties owed.

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

21 SECTION 6. EFFECTIVE DATE.--The effective date of the
22 provisions of this act is July 1, 2011.