

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 205 Session of  
2009

INTRODUCED BY GODSHALL, PRESTON, BAKER, BARRAR, BEYER, CLYMER,  
CUTLER, DeLUCA, FLECK, GIBBONS, GROVE, MARSICO, MELIO, MOUL,  
PICKETT, REICHLEY, ROAE, SAYLOR, STERN, SWANGER, TURZAI AND  
VULAKOVICH, FEBRUARY 2, 2009

REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 2, 2009

AN ACT

1 Prohibiting campaign contributions by certain persons that  
2 contract with the Commonwealth or its political subdivisions.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 CHAPTER 1

6 PRELIMINARY PROVISIONS

7 Section 101. Short title.

8 This act shall be known and may be cited as the Public  
9 Contract Integrity Act.

10 Section 102. Declaration of policy.

11 The General Assembly finds and declares as follows:

12 (1) In a representative form of government, it is  
13 essential that individuals who are elected to public office  
14 have the trust, respect and confidence of the citizenry.

15 (2) All individuals and businesses have a right to  
16 participate in the political process, including making  
17 contributions to candidates or soliciting contributions on

1       behalf of candidates, political parties and those holding  
2       office within this Commonwealth.

3           (3)   However, when an individual or business makes  
4       contributions or solicits major contributions to obtain a  
5       contract awarded by a government agency, it constitutes a  
6       violation of the public trust and raises legitimate public  
7       concerns about whether the contract awarded was based on  
8       merit.

9           (4)   While the right of individuals and businesses to  
10      make contributions is unequivocal, that right may be limited,  
11      even abrogated, when the contributions promote the actuality  
12      or appearance of public corruption.

13          (5)   The Commonwealth has a duty to protect the integrity  
14      of contractual decisions made by elected officials at all  
15      levels of government.

16          (6)   It is essential that the citizenry have confidence  
17      that the selection of contractors is based on merit and not  
18      the extent of contributions made by contractors.

19          (7)   It is essential that the citizenry trust the process  
20      through which taxpayer dollars are spent.

21          (8)   The Commonwealth has a duty to promote the honesty  
22      and integrity of the process of selecting contractors and a  
23      duty to guard against favoritism, improvidence, extravagance  
24      and corruption in the selection process.

25   Section 103.   Definitions.

26       The following words and phrases when used in this act shall  
27      have the meanings given to them in this section unless the  
28      context clearly indicates otherwise:

29       "Candidate."   The term includes the Governor, an individual  
30      seeking the office of Governor, the Lieutenant Governor, an

1 individual seeking the office of Lieutenant Governor, an  
2 individual appointed by the Governor to head a department,  
3 board, commission or authority who is responsible for awarding  
4 public contracts, an individual holding elected office in a  
5 local agency and an individual seeking elected office in a local  
6 agency. The term also includes a committee of a political party  
7 organized at the level of the Commonwealth or the level of a  
8 political subdivision of this Commonwealth and a political  
9 action committee or other entity formed to provide contributions  
10 to the Governor, an individual seeking the office of Governor,  
11 the Lieutenant Governor, an individual seeking the office of  
12 Lieutenant Governor, an individual holding elected office in a  
13 local agency or an individual seeking elected office in a local  
14 agency.

15 "Contribution." A payment, gift, subscription, assessment,  
16 contract, payment for services, dues, loan, forbearance or  
17 deposit of money or valuable thing to a candidate before or  
18 after an election. The term includes the purchase of tickets for  
19 events, including dinners, luncheons, rallies and other  
20 fundraising events and the granting of discounts or rebates not  
21 available to the general public.

22 "Executive agency." The Governor and the departments,  
23 boards, commissions, authorities and other officers and agencies  
24 of the Commonwealth. The term does not include any court or  
25 other officer or agency of the unified judicial system, the  
26 General Assembly and its officers and agencies or any  
27 independent agency or State-affiliated entity.

28 "Local agency." The governing authority of a county,  
29 township, borough or other political subdivision of the  
30 Commonwealth.

1 "Person." The term includes a corporation, partnership,  
2 limited liability company, business trust, other association,  
3 estate, trust, foundation or individual seeking a public  
4 contract. The term also includes the spouse of an individual or  
5 a child of an individual living in the home of an individual  
6 seeking a public contract, and a principal in a business entity  
7 who owns at least 10% of the equity of that business entity in  
8 the case of a corporation, partnership, limited liability  
9 company, business trust or other association of a business  
10 entity seeking a public contract.

11 "Public contract." An agreement, contract or amendment to an  
12 existing agreement or contract or other transaction, including  
13 an agreement or contract for legal or engineering services,  
14 awarded without public bidding.

15 Section 104. Scope of act.

16 This act shall apply to the Commonwealth and its political  
17 subdivisions.

## 18 CHAPTER 3

## 19 VIOLATIONS

20 Section 301. Unlawful acts.

21 (a) Certain public contracts prohibited.--Notwithstanding  
22 any other provision of law to the contrary, it is unlawful for  
23 an executive agency or a local agency to enter into a public  
24 contract with a person who has made a contribution to or  
25 solicited a contribution on behalf of a candidate exceeding the  
26 limits set forth under subsection (b) within one year  
27 immediately preceding the awarding of a public contract.

28 (b) Certain contributions unlawful.--Notwithstanding any  
29 other provision of law to the contrary, it is unlawful for a  
30 person seeking a public contract to make a contribution to any

1 one candidate or solicit a contribution on behalf of any one  
2 candidate which exceeds \$300 within one year immediately  
3 preceding the awarding of a public contract or to make a  
4 contribution to two or more candidates or solicit a contribution  
5 on behalf of two or more candidates which exceed \$3,000 in the  
6 aggregate within one year immediately preceding the awarding of  
7 a public contract.

8 (c) After public contract awarded.--Notwithstanding any  
9 other provision of law to the contrary, it is unlawful for a  
10 person awarded a public contract to make a contribution to a  
11 candidate or to solicit a contribution on behalf of a candidate  
12 during the duration of that public contract.

13 Section 302. Breach of public contract.

14 (a) Breach of contract.--It shall be a breach of a public  
15 contract for a person seeking or awarded a public contract to  
16 violate a provision of this act or to:

17 (1) Make or solicit a contribution in violation of this  
18 act.

19 (2) Conceal or misrepresent a contribution given to a  
20 candidate.

21 (3) Make or solicit a contribution through  
22 intermediaries for the purpose of concealing or  
23 misrepresenting the source of the contribution.

24 (4) Fund a contribution made by a third party which, if  
25 made or solicited by the person, would violate this act.

26 (5) Directly or indirectly, whether by the person or an  
27 intermediary, perform an act which would violate this act.

28 (b) Terms.--A public contract shall include a provision  
29 setting forth the prohibitions contained in this act and shall  
30 contain a provision that it is a breach of the terms of the

1 public contract for a person to violate this act or to:

2 (1) Make or solicit a contribution in violation of this  
3 act.

4 (2) Conceal or misrepresent a contribution given to a  
5 candidate.

6 (3) Make or solicit a contribution through  
7 intermediaries for the purpose of concealing or  
8 misrepresenting the source of the contribution.

9 (4) Fund a contribution made by a third party which, if  
10 made or solicited by the person, would violate this act.

11 (5) Directly or indirectly, whether by the person or an  
12 intermediary, perform an act which would violate this act.

13 Section 303. Certification required.

14 Prior to awarding a public contract, a person awarded the  
15 contract shall provide a written certification that the person  
16 has not made a contribution to or solicited a contribution on  
17 behalf of a candidate in violation of this act. The  
18 certification shall be made part of the person's application for  
19 a public contract. A certification which contains materially  
20 false information shall subject the person to prosecution under  
21 18 Pa.C.S. § 4904 (relating to unsworn falsification to  
22 authorities) and to a fine of \$5,000.

## 23 CHAPTER 5

## 24 ENFORCEMENT

25 Section 501. Remedies.

26 (a) Executive or local agency.--A public contract which is  
27 entered into by an executive agency or a local agency in  
28 violation of this act shall be void.

29 (b) Person seeking public contract.--A person who makes a  
30 contribution to a candidate or solicits a contribution on behalf

1 of a candidate in violation of this act shall be subject to a  
2 fine of \$5,000. Each contribution made to a candidate or  
3 solicited on behalf of a candidate shall constitute a separate  
4 offense.

5 (c) Courts.--The several courts of common pleas and the  
6 Commonwealth Court shall have jurisdiction to prevent and  
7 restrain violations of sections 301, 302(a) and 303 by issuing  
8 appropriate orders, including, but not limited to:

9 (1) Ordering any candidate to divest himself of a  
10 contribution made in violation of this act.

11 (2) Making due provision for the rights of taxpayers by  
12 voiding the public contract or ordering the denial,  
13 suspension or revocation of licenses, permits or other  
14 approval granted to the person in connection with the public  
15 contract or prohibiting the person from engaging in any act.

16 (d) Injunctions.--In any proceeding under subsection (c),  
17 the court shall proceed as soon as is practicable to the hearing  
18 and determination thereof. Pending final determination, the  
19 court may enter preliminary or special injunctions, or take such  
20 other actions, including the acceptance of satisfactory  
21 performance bonds, as it may deem proper. Proceedings under  
22 subsection (c) at pretrial, trial and appellate levels shall be  
23 governed by the Pennsylvania Rules of Civil Procedure and all  
24 other rules and procedures relating to civil actions, except to  
25 the extent inconsistent with the provisions of this section.  
26 Section 502. Enforcement.

27 (a) Attorney General.--The Attorney General shall have the  
28 power and duty to enforce the provisions of this act, including  
29 the power to institute proceedings under section 501 and to take  
30 such actions as may be necessary to ascertain and investigate

1 alleged violations of sections 301, 302(a) and 303.

2 (b) District attorneys.--The district attorneys of the  
3 several counties shall have concurrent authority to institute  
4 proceedings under section 501 and to take such actions as may be  
5 necessary to ascertain and investigate alleged violations of  
6 sections 301, 302(a) and 303.

7 (c) Construction.--Nothing in this section shall be  
8 construed to limit the regulatory or investigative authority of  
9 any department or agency of the Commonwealth or a political  
10 subdivision of the Commonwealth, including the Inspector  
11 General, whose function might relate to persons, candidates or  
12 matters falling within the scope of this act.

## 13 CHAPTER 21

### 14 MISCELLANEOUS PROVISIONS

15 Section 2101. Repeal.

16 All acts and parts of acts are repealed insofar as they are  
17 inconsistent with this act.

18 Section 2102. Applicability.

19 This act shall apply to all contributions made to candidates  
20 or solicitations on behalf of candidates by persons seeking  
21 public contracts on or after the effective date of this act.

22 Section 2103. Effective date.

23 This act shall take effect immediately.