

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1910 Session of 2009

INTRODUCED BY LEVDANSKY, JOSEPHS, MOUL, R. TAYLOR, FREEMAN, VITALI, ROAE, MANDERINO, DePASQUALE, McILVAINE SMITH, READSHAW, GOODMAN, MURT, HORNAMAN, WAGNER, MUNDY, M. SMITH, CARROLL, PASHINSKI, GRUCELA, GIBBONS, MIRABITO, WHITE, McGEEHAN AND DeWEESE, AUGUST 25, 2009

REFERRED TO COMMITTEE ON STATE GOVERNMENT, AUGUST 25, 2009

AN ACT

1 Amending the act of June 3, 1937 (P.L.1333, No.320), entitled
 2 "An act concerning elections, including general, municipal,
 3 special and primary elections, the nomination of candidates,
 4 primary and election expenses and election contests; creating
 5 and defining membership of county boards of elections;
 6 imposing duties upon the Secretary of the Commonwealth,
 7 courts, county boards of elections, county commissioners;
 8 imposing penalties for violation of the act, and codifying,
 9 revising and consolidating the laws relating thereto; and
 10 repealing certain acts and parts of acts relating to
 11 elections," further defining "expenditure" and "political
 12 action committee"; adding definitions of "affiliate" or
 13 "affiliated committee" and "in-kind contributions"; providing
 14 for contribution limitations and independent expenditures;
 15 and further providing for reporting by candidate and
 16 political committees and other persons, for pre-election
 17 reports by certain candidates, for late filing fees, for
 18 contributions or expenditures by national banks, corporations
 19 or unincorporated associations and for reports by business
 20 entities and for publication by Secretary of the
 21 Commonwealth.

22 The General Assembly finds and declares as follows:

23 The Commonwealth has a compelling governmental interest to
 24 protect the integrity of the government from actual corruption
 25 or the perception of corruption. The General Assembly recognizes
 26 that when people, associations or entities provide monetary

1 support for elected government officials or candidates who are
2 seeking governmental offices, there arises the perception of, if
3 not actual, corruption. The perception of corruption and actual
4 corruption can be prevented by regulating the contributions that
5 can be made to elected governmental officials and candidates who
6 are seeking governmental offices.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 1621(d) and (l) of the act of June 3,
10 1937 (P.L.1333, No.320), known as the Pennsylvania Election
11 Code, amended or added October 4, 1978 (P.L.893, No.171) and
12 July 21, 1979 (P.L.189, No.63), are amended and the section is
13 amended by adding subsections to read:

14 Section 1621. Definitions.--As used in this article, the
15 following words have the following meanings:

16 * * *

17 (d) The word "expenditure" shall mean:

18 (1) The payment, distribution, loan or advancement of money
19 or any valuable thing by a candidate, political committee or
20 other person for the purpose of influencing the outcome of an
21 election; Provided, however, That such payment, distribution,
22 loan or advancement of money or any valuable thing must be made
23 only for legitimate and verifiable expenses directly and
24 exclusively incurred for the campaign in which the candidate is
25 running in the contemporaneous election cycle and not for any
26 inherently personal purpose. "Inherently personal purpose" means
27 a purpose that, by its nature, confers a personal benefit,
28 including expenditures such as a home mortgage, rent, utility
29 payment, clothing purchase, noncampaign automobile expense,
30 country club membership, vacation or a trip of a noncampaign

1 nature, household food items, tuition payments, admission to a
2 sporting event, concert, theater or other form of entertainment
3 and other such expenditures not specifically and directly
4 necessary for the conduct of the campaign.

5 (2) The payment, distribution, loan, advance or transfer of
6 money or other valuable thing between or among political
7 committees;

8 (3) The providing of a service or other valuable thing for
9 the purpose of influencing the outcome of a nomination or
10 election of any person to any public office to be voted for in
11 this Commonwealth; or

12 (4) The payment or providing of money or other valuable
13 thing by any person other than a candidate or political
14 committee, to compensate any person for services rendered to a
15 candidate or political committee.

16 * * *

17 (1) The words "Political Action Committee" shall mean any
18 political committee as defined in subsection (h) which receives
19 contributions and makes expenditures to, or on behalf of, any
20 candidate other than a candidate's own authorized political
21 committees or the political committees of any State, county,
22 city, borough, township, ward or other regularly constituted
23 party committee of any political party or political body. A
24 political action committee which is established, maintained or
25 controlled by a sponsoring organization such as a corporation,
26 labor organization, membership association, not-for-profit
27 organization or trade or professional association shall include
28 in its registered name the full name of its sponsoring
29 organization.

30 * * *

1 (n) The words "affiliate" or "affiliated committee" shall
2 include:

3 (1) Any committee established or authorized by a candidate
4 as part of his or her campaign for the same election for office.

5 (2) Any committee established, financed, maintained or
6 controlled by the same corporation, labor organization,
7 membership association, not-for-profit organization or trade or
8 professional association, person or group of persons, including
9 any parent, subsidiary, branch, division, department or local
10 unit thereof. Local units may include, in appropriate cases, a
11 franchisee, licensee or regional association.

12 (o) The words "in-kind contribution" shall mean a
13 contribution of goods, services, property or any valuable thing
14 offered free or at less than the usual and normal charge for
15 such goods or services, but shall not include any legal or
16 accounting services rendered to or on behalf of any political
17 committee of a political party, an authorized committee of a
18 candidate or any other political committee, if such services are
19 solely for the purpose of ensuring compliance with this article.
20 Such legal or accounting services, however, shall be reported
21 pursuant to section 1631.

22 Section 2. Section 1626(a), (b) and (d) of the act, amended
23 or added October 4, 1978 (P.L.893, No.171) and July 11, 1980
24 (P.L.600, No.128), are amended and the section is amended by
25 adding a subsection to read:

26 Section 1626. Reporting by Candidate and Political
27 Committees and other Persons.--

28 (a) Each treasurer of a political committee and each
29 candidate for election to public office shall file with the
30 appropriate supervisor reports of receipts and expenditures on

1 forms, designed by the Secretary of the Commonwealth, if the
2 amount received or expended or liabilities incurred shall exceed
3 the sum of two hundred fifty dollars (\$250). Should such an
4 amount not exceed two hundred fifty dollars (\$250), then the
5 candidate or, in the case of a political committee, the
6 treasurer of the committee shall file a sworn statement to that
7 effect with the appropriate supervisor rather than the report
8 required by this section[.]: Provided, however, That if the
9 amount received or expended by a candidate does not exceed two
10 hundred fifty dollars (\$250) he or she may comply with this
11 section by signing an affidavit to that effect on his/her
12 political committee's report or statement.

13 (b) Each report shall include the following information:

14 (1) The full name, mailing address, specific occupation and
15 specific name of the employer, if any, or the principal place of
16 business, if self-employed, of each person who has made one or
17 more contributions to or for such committee or candidate within
18 the reporting period in an aggregate amount or value in excess
19 of [two hundred fifty dollars (\$250)] one hundred dollars
20 (\$100), together with the amount and date of such contributions.
21 The accuracy of the information furnished to the candidate or
22 committee shall be the responsibility of the contributor.

23 (2) The full name and mailing address of each person [who]
24 and political committee that has made one or more contributions
25 to or for such committee or candidate within the reporting
26 period in an aggregate amount or value in excess of fifty
27 dollars (\$50), together with the amount and date of such
28 contributions. The accuracy of the information furnished by the
29 contributor shall be the responsibility of the contributor.

30 (3) The total sum of individual contributions made to or for

1 such committee or candidate during the reporting period and not
2 reported under clauses (1) and (2): Provided, however, That when
3 individual contributions under fifty dollars (\$50) made to one
4 single fundraising event in which the total sum raised was two
5 thousand five hundred dollars (\$2,500) or more the report must
6 list the names and addresses of all contributors to that event.

7 (4) Each and every expenditure, the date made, the full name
8 and address of the person to whom made and the purpose for which
9 such expenditure was made. In the event the creditor is a credit
10 card company or like instrumentality that is an intermediary for
11 collecting payments due, it shall not be sufficient to list the
12 name of the collecting organization. Rather, the report shall
13 identify the credit card company and also the specific entities
14 and payments being paid through the credit card company or like
15 entity. In the event the payment is being made by a committee to
16 a creditor for expenses on behalf of more than one candidate,
17 the amounts of payments and purposes of the payments shall be
18 broken down to identify each candidate's share of the incurred
19 expenses.

20 (5) Any unpaid debts and liabilities, with the nature and
21 amount of each, the date incurred and the full name and address
22 of the person owed.

23 (6) The account shall include any unexpended balance of
24 contributions or other receipts appearing from the last account
25 filed.

26 * * *

27 (d) Pre-election reports by candidates for offices to be
28 voted for by the electors of the State at large, candidates for
29 the office of Senator in the General Assembly, candidates for
30 the office of Representative in the General Assembly and all

1 political committees, which have expended money for the purpose
2 of influencing the election of such [candidate] candidates,
3 shall be filed not later than the sixth Tuesday before and the
4 second Friday before an election, provided that the initial pre-
5 election report shall be complete as of fifty (50) days prior to
6 the election and the subsequent pre-election report shall be
7 complete as of fifteen (15) days prior to the election. Pre-
8 election reports by all other candidates and political
9 committees which have received contributions or made
10 expenditures for the purpose of influencing an election shall be
11 filed not later than the second Friday before an election,
12 provided that such report be complete as of fifteen (15) days
13 prior to the election.

14 (d.1) During non-election years in which subsection (d) is
15 not operative, an elected official or announced candidate for
16 elective office shall file quarterly reports if he or she
17 receives more than two hundred fifty dollars (\$250) during the
18 respective calendar quarter. Reports shall be due at the end of
19 each calendar quarter.

20 * * *

21 Section 3. The act is amended by adding a section to read:

22 Section 1627.1. Limitations on Certain Contributions.--

23 (a) Aggregate contributions, including in-kind
24 contributions, from any person to any candidate for the office
25 of Senator or Representative in the General Assembly, court of
26 common pleas or a county or local office, his authorized
27 committee or agent shall not exceed five hundred dollars (\$500)
28 for each election. Furthermore, for each election, no such
29 candidate, his authorized committee or agent shall accept or
30 receive more than five hundred dollars (\$500) in aggregate

1 contributions, including in-kind contributions from any person.

2 (b) Aggregate contributions, including in-kind
3 contributions, from any person to any candidate for Statewide
4 office, his authorized committee or agent shall not exceed two
5 thousand four hundred dollars (\$2,400) for each election.
6 Furthermore, for each election, no candidate, his authorized
7 committee or agent shall accept or receive more than two
8 thousand dollars (\$2,000) in aggregate contributions, including
9 in-kind contributions from any person.

10 (c) For each election aggregate contributions, including in-
11 kind contributions, from a single political action committee,
12 its affiliate or agent or candidate's political committee, its
13 affiliate or agent to any candidate for Statewide office, the
14 office of Senator or Representative in the General Assembly,
15 court of common pleas or a county or local office, his
16 authorized committee or agent shall not exceed:

17 (1) one thousand dollars (\$1,000) from a political action
18 committee having ten or fewer donors;

19 (2) two thousand dollars (\$2,000) from a political action
20 committee having at least eleven but not more than fifty donors;

21 (3) three thousand dollars (\$3,000) from a political action
22 committee having at least fifty-one but not more than one
23 hundred donors;

24 (4) four thousand dollars (\$4,000) from a political action
25 committee having at least one hundred one but not more than one
26 thousand donors;

27 (5) five thousand dollars (\$5,000) from a political action
28 committee having more than one thousand donors. Furthermore, for
29 each election, no candidate for such office, his authorized
30 committee or agent shall accept or receive more than the

1 applicable amount or amounts as specified in this subsection in
2 aggregate contributions, including in-kind contributions, from a
3 single political action committee or agent or candidate's
4 political committee; and

5 (6) for the purposes of subsection (c), a donor is a single
6 person or single committee regardless of the number of
7 contributions made by that person or committee during the
8 election cycle.

9 (d) Aggregate contributions, including in-kind
10 contributions, from all political party committees, affiliates
11 or agents to any candidate for the office of Senator or
12 Representative in the General Assembly, court of common pleas or
13 a county or local office, his authorized committee or agent,
14 shall not exceed one hundred thousand dollars (\$100,000) per
15 election. A candidate for the office of Senator or
16 Representative in the General Assembly, court of common pleas or
17 a county or local office, his authorized committee or agent
18 shall not accept in excess of one hundred thousand dollars
19 (\$100,000) in aggregate contributions, including in-kind
20 contributions from all political party committees, affiliates or
21 agents.

22 (e) Aggregate contributions, including in-kind
23 contributions, from all political party committees, affiliates
24 or agents to any candidate for Statewide office, his authorized
25 committee or agent, or any political action committee, its
26 affiliate or agent or political party committee, its affiliate
27 or agent, or any other political committee, its affiliate or
28 agent, shall not exceed two hundred fifty thousand dollars
29 (\$250,000) per election. A candidate for the office of Senator
30 or Representative in the General Assembly, court of common pleas

1 or a county or local office, his authorized committee or agent
2 shall not accept in excess of two hundred fifty thousand dollars
3 (\$250,000) in aggregate contributions, including in-kind
4 contributions from all political party committees, affiliates or
5 agents.

6 (f) Aggregate contributions, including in-kind
7 contributions, from any individual person or a single political
8 action committee, its affiliate or agent or any single
9 candidate's political committee, its affiliate or agent to a
10 single political action committee, its affiliate or agent shall
11 not exceed five thousand dollars (\$5,000) during any calendar
12 year. Furthermore, for each election, no political action
13 committee, its affiliate or agent shall accept or receive more
14 than five thousand dollars (\$5,000) in aggregate contributions,
15 including in-kind contributions, from any individual person or a
16 single political action committee, its affiliate or agent during
17 any calendar year.

18 (g) Aggregate contributions from any person, a single
19 candidate's political committee, its affiliate or agent or a
20 single political action committee, its affiliate or agent or any
21 other political committee to a single political party committee
22 shall not exceed ten thousand dollars (\$10,000) in a calendar
23 year. Furthermore, no single political party committee shall
24 accept or receive more than ten thousand dollars (\$10,000) in
25 aggregate contributions from any single candidate's political
26 committee or agent or a single political action committee, its
27 affiliate or agent or any political committee.

28 (h) No person shall make contributions to candidates,
29 political committees and party committees that have a combined
30 aggregate value that exceeds twenty-five thousand dollars

1 (\$25,000) in any calendar year.

2 (i) A gift, subscription, loan, advance or deposit of money
3 or anything of value to a candidate shall be considered a
4 contribution both by the original source of the contribution and
5 by any intermediary or conduit if the intermediary or conduit:

6 (1) exercises any direction over the making of the
7 contribution; or

8 (2) solicits the contribution or arranges for the
9 contribution made and directly or indirectly makes the candidate
10 aware of such intermediary or conduit's role in soliciting or
11 arranging the contribution for the candidate.

12 (j) For purposes of subsection (i), a contribution shall not
13 be considered to be a contribution by an intermediary or conduit
14 to the candidate if:

15 (1) the intermediary or conduit has been retained by the
16 candidate's committee for the purpose of fundraising and is
17 reimbursed for expenses incurred in soliciting contributions;

18 (2) in the case of an individual, the candidate has
19 expressly authorized the intermediary or conduit to engage in
20 fundraising, or the individual occupies a position within the
21 candidate's campaign organization and is authorized by the
22 organization to engage in fundraising; or

23 (3) in the case of a political committee, the intermediary
24 or conduit is the authorized committee of the candidate.

25 (k) (1) Neither candidates nor their committees shall
26 accept a campaign contribution from an out-of-State political
27 action committee if the political action committee's home state
28 has less restrictive disclosure laws than this Commonwealth. A
29 candidate or his committee may accept a campaign contribution
30 from an out-of-State political action committee if that

1 political action committee is also registered in this
2 Commonwealth.

3 (2) The Secretary of the Commonwealth shall list and certify
4 those states that have less restrictive disclosure laws than
5 this Commonwealth. The list shall be compiled and updated
6 annually, and published in the Pennsylvania Bulletin no later
7 than January 1 of each year, beginning in 2010.

8 (l) The provisions of this section are applicable to any
9 contribution made for the purpose of influencing any election to
10 all public offices except Federal offices.

11 (m) For purposes of this section, any contribution made to a
12 candidate in a year other than the calendar year in which the
13 election is held with respect to which such contribution is
14 made, is considered to be made during the calendar year in which
15 such election is held.

16 (n) For purposes of this section, contribution limits shall
17 apply to each election separately, whether a primary or general
18 election.

19 Section 4. Section 1632(a) of the act, amended or added
20 October 4, 1978 (P.L.893, No.171) and July 11, 1980 (P.L.591,
21 No.127), is amended to read:

22 Section 1632. Late Filing Fee; Certificate of Filing.--

23 (a) A late filing fee for each report or statement of
24 expenditures and contributions which is not filed within the
25 prescribed period shall be imposed as follows. Such fee shall be
26 [ten dollars (\$10)] twenty dollars (\$20) for each day or part of
27 a day excluding Saturdays, Sundays and holidays that a report is
28 overdue. [An additional fee of ten dollars (\$10) is due for each
29 of the first six (6) days that a report is overdue. The maximum
30 fee payable with respect to a single report is two hundred fifty

1 dollars (\$250). A supervisor shall receive an overdue report or
2 statement even if any late filing fee due has not been paid but
3 the report or statement shall not be considered filed until all
4 fees have been paid upon the receipt by the supervisor of an
5 overdue report. No further late filing fees shall be incurred
6 once the report or statement is filed notwithstanding the fact
7 that the report or statement is not considered filed. The late
8 filing fee is the personal liability of the candidate or
9 treasurer of a political committee and cannot be paid from
10 contributions to the candidate or committee, nor may such fee be
11 considered an expenditure. A report or statement of expenditures
12 and contributions shall be deemed to have been filed within the
13 prescribed time if the letter transmitting the report or
14 statement which is received by the supervisor is transmitted by
15 first class mail and is postmarked by the United States Postal
16 Service on the day prior to the final day on which the report or
17 statement is to be received: Provided, That this sentence shall
18 not be applicable to the reporting requirements contained in
19 section 1628.

20 * * *

21 Section 5. Section 1633(a) of the act, amended November 26,
22 1978 (P.L.1313, No.318), is amended to read:

23 Section 1633. Contributions or Expenditures by National
24 Banks, Corporations or Unincorporated Associations.--

25 (a) It is unlawful for any National or State bank,
26 partnership or any corporation, incorporated under the laws of
27 this or any other state or any foreign country or any
28 unincorporated association, except those corporations formed
29 primarily for political purposes or as a political committee, to
30 make a contribution or expenditure in connection with the

1 election of any candidate or for any political purpose whatever
2 except in connection with any question to be voted on by the
3 electors of this Commonwealth. Furthermore, it shall be unlawful
4 for any candidate, political committee, or other person to
5 knowingly accept or receive any contribution prohibited by this
6 section, or for any officer or any director of any corporation,
7 bank, or any unincorporated association to consent to any
8 contribution or expenditure by the corporation, bank or
9 unincorporated association, as the case may be, prohibited by
10 this section.

11 * * *

12 Section 6. Section 1641(a) of the act, amended July 12, 1980
13 (P.L.649, No.134), is amended and the section is amended by
14 adding a subsection to read:

15 Section 1641. Reports by Business Entities; Publication by
16 Secretary of the Commonwealth.--(a) Any business entity
17 including but not limited to a corporation, company,
18 association, partnership or sole proprietorship, which has been
19 awarded [non-bid] contracts over fifty thousand dollars
20 (\$50,000) from the Commonwealth or its political subdivisions
21 during the preceding calendar year, or any business entity or
22 person applying for or receiving a permit to operate a landfill
23 from the Department of Environmental Protection shall report by
24 February 15 of each year to the Secretary of the Commonwealth a
25 list including the amount of the contract, description of the
26 service provided and location and an itemized list of all
27 political contributions known to the business entity by virtue
28 of the knowledge possessed by every officer, director,
29 associate, partner, limited partner or individual owner that has
30 been made by:

1 (1) any officer, director, associate, partner, limited
2 partner, individual owner or members of their immediate family
3 when the contributions exceed an aggregate of one thousand
4 dollars (\$1,000) by any individual during the preceding year; or

5 (2) any employe or members of his immediate family whose
6 political [contribution] contributions exceeded one thousand
7 dollars (\$1,000) during the preceding year.

8 For the purposes of this subsection, "immediate family" means a
9 person's spouse and any unemancipated child.

10 * * *

11 (c) The Department of General Services shall provide a list
12 of all corporations, companies, associations, partnerships or
13 sole proprietorships receiving contracts and contracts in excess
14 of fifty thousand dollars (\$50,000) from the Commonwealth and
15 the Department of Environmental Protection shall provide a list
16 of any person or business entity applying for or receiving a
17 landfill permit to the State board of elections not later than
18 January 31 of each year for the preceding calendar year.

19 Section 7. The dollar figures contained in section 1627.1 of
20 the act shall be adjusted biennially at a rate determined by the
21 Federal Election Commission as authorized under 11 CFR § 110.
22 The Secretary of the Commonwealth shall certify the calculation
23 of the rate as determined by the Federal Election Commission and
24 shall publish the new dollar figures in the Pennsylvania
25 Bulletin.

26 Section 8. The provisions of this act are severable. If any
27 provision of this act or its application to any person or
28 circumstance is held invalid, the invalidity shall not affect
29 other provisions or applications of this act which can be given
30 effect without the invalid provision or application.

1 Section 9. This act shall take effect in 120 days.