

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1269 Session of
2010

INTRODUCED BY EARLL, COSTA, FARNESE, RAFFERTY, WAUGH, FONTANA,
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BOSCOLA, BRUBAKER, O'PAKE, MUSTO, LOGAN AND MENSCH,
MARCH 11, 2010

REFERRED TO STATE GOVERNMENT, MARCH 11, 2010

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"; adding
12 definitions of "affiliate" or "affiliated committee" and "in-
13 kind contribution"; providing for contribution limitations
14 and independent expenditures; and further providing for
15 reporting by candidate and political committees and other
16 persons, for pre-election reports by certain candidates, for
17 late filing fees, for contributions or expenditures by
18 national banks, corporations or unincorporated associations
19 and for reports by business entities and for publication by
20 Secretary of the Commonwealth.

21 The General Assembly finds and declares as follows:

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

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

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

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

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

15 * * *

16 (d) The word "expenditure" shall mean any of the following:

17 (1) The payment, distribution, loan or advancement of money
18 or any valuable thing by a candidate, political committee,
19 political action committee, political party committee or other
20 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 shall be made
23 only for expenses directly and exclusively incurred for the
24 campaign in which the candidate is running in the
25 contemporaneous election cycle and not for any personal purpose.

26 (2) The payment, distribution, loan, advance or transfer of
27 money or other valuable thing between or among political
28 committees[;].

29 (3) The providing of a service or other valuable thing for
30 the purpose of influencing the outcome of a nomination or

1 election of any person to any public office to be voted for in
2 this Commonwealth[; or].

3 (4) The payment or providing of money or other valuable
4 thing by any person other than a candidate or political
5 committee, to compensate any person for services rendered to a
6 candidate or political committee.

7 * * *

8 (n) The words "affiliate" or "affiliated committee" shall
9 include:

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

12 (2) Any committee established, financed, maintained or
13 controlled by the same corporation, labor organization,
14 membership association, not-for-profit organization or trade or
15 professional association, person or group of persons, including
16 any parent, subsidiary, branch, division, department or local
17 unit thereof. Local units may include, in appropriate cases, a
18 franchisee, licensee or regional association.

19 (o) The words "in-kind contribution" shall mean a
20 contribution of goods, services, property or any valuable thing
21 offered free or at less than the fair market value for such
22 goods, property or services, but shall not include any legal or
23 accounting services rendered to or on behalf of any political
24 committee of a political party, an authorized committee of a
25 candidate or any other political committee, if such services are
26 solely for the purpose of ensuring compliance with this article.
27 Such legal or accounting services, however, shall be reported
28 pursuant to section 1631.

29 (p) The words "personal purpose" mean a purpose that, by its
30 nature, confers a personal benefit, including expenditures such

1 as a home mortgage, home rent, utility payment, clothing
2 purchase, noncampaign automobile expense, country club
3 membership, vacation or a trip of a noncampaign nature,
4 household food items, tuition payments, admission to a sporting
5 event, concert, theater or other form of entertainment and other
6 such expenditures not specifically and directly necessary for
7 the conduct of the campaign.

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

12 Section 1626. Reporting by Candidate and Political
13 Committees and other Persons.--

14 (a) Each treasurer of a political committee and each
15 candidate for election to public office shall file with the
16 appropriate supervisor reports of receipts and expenditures on
17 forms, designed by the Secretary of the Commonwealth, if the
18 amount received or expended or liabilities incurred shall exceed
19 the sum of two hundred fifty dollars (\$250). Should such an
20 amount not exceed two hundred fifty dollars (\$250), then the
21 candidate or, in the case of a political committee, the
22 treasurer of the committee shall file a sworn statement to that
23 effect with the appropriate supervisor rather than the report
24 required by this section[.]: Provided, however, That if the
25 amount received or expended by a candidate does not exceed two
26 hundred fifty dollars (\$250) he or she may comply with this
27 section by signing an affidavit to that effect on his/her
28 political committee's report or statement.

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

30 (1) The full name, mailing address, specific occupation and

1 specific name of the employer, if any, or the principal place of
2 business, if self-employed, of each person who has made one or
3 more contributions to or for such committee or candidate within
4 the reporting period in an aggregate amount or value in excess
5 of [two hundred fifty dollars (\$250)] one hundred dollars
6 (\$100), together with the amount and date of such contributions.
7 The accuracy of the information furnished to the candidate or
8 committee shall be the responsibility of the contributor.

9 (2) The full name and mailing address of each person [who]
10 and political committee that has made one or more contributions
11 to or for such committee or candidate within the reporting
12 period in an aggregate amount or value in excess of [fifty
13 dollars (\$50)] one hundred dollars (\$100), together with the
14 amount and date of such contributions. The accuracy of the
15 information furnished by the contributor shall be the
16 responsibility of the contributor.

17 (3) The total sum of individual contributions made to or for
18 such committee or candidate during the reporting period and not
19 reported under clauses (1) and (2): Provided, however, That a
20 contribution under fifty dollars (\$50) made to one single
21 fundraising event in which the total sum raised was two thousand
22 five hundred dollars (\$2,500) or more the report must list the
23 names and addresses of all contributors to that event.

24 (4) Each and every expenditure, the date made, the full name
25 and address of the person to whom made and the purpose for which
26 such expenditure was made. In the event the creditor is a credit
27 card company or like instrumentality that is an intermediary for
28 collecting payments due, it shall not be sufficient to list the
29 name of the collecting organization. Rather, the report shall
30 identify the credit card company and also the specific entities

1 and payments being paid through the credit card company or like
2 entity. In the event the payment is being made by a committee to
3 a creditor for expenses on behalf of one or more candidates, the
4 amounts of payments and purposes of the payments shall be broken
5 down to identify each candidate's share of the incurred
6 expenses.

7 (5) Any unpaid debts and liabilities, with the nature and
8 amount of each, the date incurred and the full name and address
9 of the person owed.

10 (6) The account shall include any unexpended balance of
11 contributions or other receipts appearing from the last account
12 filed.

13 (7) Identification of political committees:

14 (i) If the contributor is a political committee, the
15 official registration number of the committee must be included
16 on the contribution check or in the case of an electronic
17 transfer within the documentation sent to the candidate
18 providing notice to the electronic transfer of funds.

19 (ii) The official registration number of the committee shall
20 be included on the disclosure report filed by the committee.

21 (iii) The official committee registration number shall be
22 included on each entry for that committee on a candidate's
23 disclosure report. A political action committee which is
24 established, financed, maintained or controlled by a sponsoring
25 organization such as a corporation, labor organization,
26 membership association, not-for-profit organization or trade or
27 professional association shall include in its registered name
28 the full name of its sponsoring organization.

29 * * *

30 (d) Pre-election reports by candidates for offices to be

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

17 (d.1) During nonelection years in which subsection (d) is
18 not operative, an elected official or announced candidate for
19 elective office shall file quarterly reports if he or she
20 receives more than two hundred fifty dollars (\$250) during the
21 respective calendar quarter. Reports shall be due thirty days
22 after the end of each calendar quarter and shall be complete
23 through the final day of the calendar quarter the report covers.

24 * * *

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

26 Section 1627.1. Limitations on Certain Contributions.--

27 (a) Aggregate contributions, including in-kind

28 contributions, from any individual to any candidate for the

29 office of Senator or Representative in the General Assembly,

30 court of common pleas or a county or local office, or to the

1 candidate's committee or agent, may not exceed five hundred
2 dollars (\$500) for each election. Furthermore, for each
3 election, a candidate and the candidate's committee or agent may
4 not accept or receive more than five hundred dollars (\$500) in
5 aggregate contributions, including in-kind contributions from
6 any individual.

7 (b) Aggregate contributions, including in-kind
8 contributions, from any individual to any candidate for
9 Statewide office, his authorized committee or agent may not
10 exceed two thousand four hundred dollars (\$2,400) for each
11 election. Furthermore, for each election, no candidate, his
12 authorized committee or agent may accept or receive more than
13 two thousand four hundred dollars (\$2,400) in aggregate
14 contributions, including in-kind contributions from any
15 individual.

16 (c) For each election aggregate contributions, including in-
17 kind contributions, from a single political action committee,
18 its affiliate or agent or candidate's political committee, its
19 affiliate or agent to any candidate for Statewide office, the
20 office of Senator or Representative in the General Assembly,
21 court of common pleas or a county or local office, his
22 authorized committee or agent may not exceed five thousand
23 dollars (\$5,000) from a political action committee. For each
24 election, no candidate for such office, nor the candidate's
25 committee or agent may accept or receive more than the
26 applicable amount or amounts as specified in this subsection in
27 aggregate contributions, including in-kind contributions, from a
28 single political action committee or agent or candidate's
29 political committee. A donor is an individual or a single
30 committee regardless of the number of contributions made by that

1 individual or committee during the election cycle.

2 (d) Contributions from political party committees to a
3 political action committee, other party committee or other
4 committee may not exceed five thousand dollars (\$5,000) per
5 election.

6 (e) A candidate for the office of Senator or Representative
7 in the General Assembly, judge of a court of common pleas or a
8 county or local office, or the candidate's committee or agent
9 may not accept in excess of one hundred thousand dollars
10 (\$100,000) in aggregate contributions, including in-kind
11 contributions from all political party committees, affiliates or
12 agents. Such contributions, in the aggregate, received by a
13 candidate, may not exceed the aggregate contributions made by
14 individuals per election, in order to achieve balance of
15 influence.

16 (f) A candidate for Statewide office, his authorized
17 committee or agent may not accept in excess of two hundred fifty
18 thousand dollars (\$250,000) in aggregate contributions,
19 including in-kind contributions from all political party
20 committees, affiliates or agents. Furthermore, such
21 contributions in aggregate received by a candidate may not
22 exceed the aggregate contributions made by individuals per
23 election in order to achieve balance of influence.

24 (g) Aggregate contributions, including in-kind
25 contributions, from any person or a single political action
26 committee, its affiliate or agent or any single candidate's
27 political committee, its affiliate or agent to a single
28 political action committee, its affiliate or agent may not
29 exceed five thousand dollars (\$5,000) during any calendar year.
30 Furthermore, for each election, no political action committee,

1 its affiliate or agent may accept or receive more than five
2 thousand dollars (\$5,000) in aggregate contributions, including
3 in-kind contributions, from any individual person or a single
4 political action committee, its affiliate or agent during any
5 calendar year.

6 (h) Aggregate contributions from any individual, person or a
7 single candidate's political committee, its affiliate or agent
8 or a single political action committee, its affiliate or agent
9 or any other political committee to a single political party
10 committee may not exceed ten thousand dollars (\$10,000) in a
11 calendar year. Furthermore, no single political party committee
12 may accept or receive more than ten thousand dollars (\$10,000)
13 in aggregate contributions from any individual, person, single
14 candidate's political committee or agent or a single political
15 action committee, its affiliate or agent, any political
16 committee or other committee.

17 (i) Annual aggregate limits: (1) No individual may make
18 contributions to candidates, political committees or other
19 committees that have a combined aggregate amount or value that
20 exceeds twenty-five thousand dollars (\$25,000) in a calendar
21 year.

22 (2) No political action committee may make contributions to
23 candidates, political committees and party committees in an
24 aggregate amount or value that exceeds one hundred thousand
25 dollars (\$100,000) in any calendar year.

26 (j) A gift, subscription, loan, advance or deposit of money
27 or anything of value to a candidate shall be considered a
28 contribution both by the original source of the contribution and
29 by any intermediary or conduit if the intermediary or conduit:

30 (1) exercises any direction over the making of the

1 contribution; or

2 (2) solicits the contribution or arranges for the
3 contribution to be made and directly or indirectly makes the
4 candidate aware of such intermediary or conduit's role in
5 soliciting or arranging the contribution for the candidate.

6 (k) For purposes of subsection (j), a contribution shall not
7 be considered to be a contribution by an intermediary or conduit
8 to the candidate if any of the following situations occurs:

9 (1) The intermediary or conduit has been retained by the
10 candidate's committee for the purpose of fundraising and is
11 reimbursed for expenses incurred in soliciting contributions.

12 (2) In the case of an individual, the candidate has
13 expressly authorized the intermediary or conduit to engage in
14 fundraising, or the individual occupies a position within the
15 candidate's campaign organization and is authorized by the
16 organization to engage in fundraising.

17 (3) In the case of a political committee, the intermediary
18 or conduit is the authorized committee of the candidate.

19 (1) Regarding out-of-State contributions: (1) Neither
20 candidates nor their committees may accept a campaign
21 contribution from an out-of-State political action committee if
22 the political action committee's home state has less restrictive
23 disclosure laws than this Commonwealth, except as provided under
24 paragraph (2).

25 (2) A candidate or his committee may accept a campaign
26 contribution from an out-of-State political action committee if
27 that political action committee is registered in this
28 Commonwealth with the Department of State and, by such
29 registration, has affirmed that the contributor will comply with
30 the contribution, expenditure and reporting requirements of this

1 act, as well as the regulations relating to contributions,
2 expenditures and reporting promulgated under this act by the
3 Department of State and the State Ethics Commission.

4 (3) The Secretary of the Commonwealth shall list and certify
5 those states that have less restrictive disclosure laws than
6 this Commonwealth. The list shall be compiled and updated
7 annually and published in the Pennsylvania Bulletin no later
8 than January 1, 2011, and each January 1 thereafter. The list
9 should be made available on the Department of State Internet
10 website and provided in hard copy in campaign committee packets.

11 (m) The provisions of this section are applicable to any
12 contribution made for the purpose of influencing an election to
13 any public office in this Commonwealth except Federal offices.

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

19 (o) For purposes of this section, contribution limits shall
20 apply to each election separately, whether a primary, special,
21 municipal or general election, unless an annual limit or other
22 limit is specified.

23 (p) No person who has a fiduciary contract for services with
24 the General Assembly may engage in campaign finance activity for
25 candidates of the General Assembly, including, but not limited
26 to, making of contributions, fund raising activities, or
27 involvement in political action committees or candidate
28 political committees.

29 (q) Nothing in this section shall prohibit a municipality,
30 including a city of the first class, from instituting lower

1 limitations on contributions to candidates for local offices.

2 (r) A violation of the contribution limits set forth in this
3 section shall subject the violator to a fine equal to three
4 times the amount of money that exceeds the limits. This penalty
5 applies to both the person making the contribution and the
6 person receiving it.

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

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

11 (a) A late filing fee for each report or statement of
12 expenditures and contributions which is not filed within the
13 prescribed period shall be imposed as follows. Such fee shall be
14 [ten dollars (\$10)] twenty dollars (\$20) for each day or part of
15 a day excluding Saturdays, Sundays and holidays that a report is
16 overdue. An additional fee of ten dollars (\$10) is due for each
17 of the first six (6) days that a report is overdue. [The maximum
18 fee payable with respect to a single report is two hundred fifty
19 dollars (\$250).] A supervisor shall receive an overdue report or
20 statement even if any late filing fee due has not been paid but
21 the report or statement shall not be considered filed until all
22 fees have been paid upon the receipt by the supervisor of an
23 overdue report. No further late filing fees shall be incurred
24 once the report or statement is filed notwithstanding the fact
25 that the report or statement is not considered filed. The late
26 filing fee is the personal liability of the candidate or
27 treasurer of a political committee and cannot be paid from
28 contributions to the candidate or committee, nor may such fee be
29 considered an expenditure. A report or statement of expenditures
30 and contributions shall be deemed to have been filed within the

1 prescribed time if the letter transmitting the report or
2 statement which is received by the supervisor is transmitted by
3 first class mail and is postmarked by the United States Postal
4 Service on the day prior to the final day on which the report or
5 statement is to be received: Provided, That this sentence shall
6 not be applicable to the reporting requirements contained in
7 section 1628. All Department of State filing and disclosure
8 requirements for prior campaign activity must have been met in
9 order for a candidate to obtain a place on the ballot.

10 * * *

11 Section 5. Section 1633(a) of the act, amended November 26,
12 1978 (P.L.1313, No.318), is amended to read:

13 Section 1633. Contributions or Expenditures by National
14 Banks, Corporations or Unincorporated Associations.--(a) It is
15 unlawful for any National or State bank, partnership or any
16 corporation, incorporated under the laws of this or any other
17 state or any foreign country or any unincorporated association,
18 except those corporations formed primarily for political
19 purposes or as a political committee, to make a contribution or
20 expenditure in connection with the election of any candidate or
21 for any political purpose whatever except in connection with any
22 question to be voted on by the electors of this Commonwealth.
23 Furthermore, it shall be unlawful for any candidate, political
24 committee, or other person to knowingly accept or receive any
25 contribution prohibited by this section, or for any officer or
26 any director of any corporation, bank, or any unincorporated
27 association to consent to any contribution or expenditure by the
28 corporation, bank or unincorporated association, as the case may
29 be, prohibited by this section. In the event any portion of this
30 section regarding bans on contributions or expenditures by

1 national banks, corporations, or unincorporated associations is
2 nullified by a court decision, then the contribution limits
3 established for individuals by this act also shall be applied to
4 the entities currently covered by this section.

5 * * *

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

9 Section 1641. Reports by Business Entities; Publication by
10 Secretary of the Commonwealth.--

11 (a) Any business entity including but not limited to a
12 corporation, company, association, partnership or sole
13 proprietorship, which has been awarded [non-bid] contracts or
14 grants over fifty thousand dollars (\$50,000) from the
15 Commonwealth or its political subdivisions during the preceding
16 [calendar year] two-year period, shall report by February 15 of
17 each year to the Secretary of the Commonwealth a list including
18 the amount of the contract, description of the service provided
19 and location and an itemized list of all political contributions
20 known to the business entity by virtue of the knowledge
21 possessed by every officer, director, associate, partner,
22 limited partner or individual owner that has been made by:

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

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

30 For the purposes of this subsection, "immediate family" means a

1 person's spouse and any unemancipated child.

2 * * *

3 (c) The Department of State shall provide a list of all
4 corporations, companies, associations, partnerships or sole
5 proprietorships receiving grants, contracts and contracts in
6 excess of fifty thousand dollars (\$50,000) from the Commonwealth
7 to the Department of State not later than January 31 of each
8 year for the preceding two-year period.

9 Section 7. The dollar figures contained in section 1627.1 of
10 the act shall be adjusted biennially at a rate determined by the
11 Federal Election Commission as authorized under 11 CFR § 110.
12 The Secretary of the Commonwealth shall certify the calculation
13 of the rate as determined by the Federal Election Commission and
14 shall publish the new dollar figures in the Pennsylvania
15 Bulletin.

16 Section 8. The provisions of this act are severable. If any
17 provision of this act or its application to any person or
18 circumstance is held invalid, the invalidity shall not affect
19 other provisions or applications of this act which can be given
20 effect without the invalid provision or application.

21 Section 9. A comprehensive, fully searchable and user
22 friendly computerized database to track full implementation of
23 this act shall be made available to the public by the Department
24 of State through its Internet website on or before December 31,
25 2011.

26 Section 10. This act shall take effect January 1, 2011.