

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 877 Session of 2011

INTRODUCED BY DePASQUALE, STURLA, BRIGGS, CALTAGIRONE, COHEN,  
D. COSTA, DALEY, DAVIS, DEASY, DeLUCA, J. EVANS, FABRIZIO,  
FREEMAN, GIBBONS, GINGRICH, GOODMAN, HARKINS, HORNAMAN,  
JOSEPHS, KAVULICH, KORTZ, MOUL, MURPHY, MURT, M. O'BRIEN,  
SANTARSIERO, SCHRODER, M. SMITH, STABACK, THOMAS, TRUITT AND  
WHITE, MARCH 1, 2011

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 1, 2011

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," providing for disclosure of contributions by  
12 contractors.

13 The General Assembly of the Commonwealth of Pennsylvania  
14 hereby enacts as follows:

15 Section 1. The act of June 3, 1937 (P.L.1333, No.320), known  
16 as the Pennsylvania Election Code, is amended by adding a  
17 section to read:

18 Section 1641.1. Disclosure of Contributions by  
19 Contractors.--

20 (a) The following shall apply regarding contract awards:

21 (1) No Commonwealth agency may award a contract to an

applicant under 62 Pa.C.S. §§ 513 (relating to competitive sealed proposals), 514 (relating to small procurements), 515 (relating to sole source procurement), 516 (relating to emergency procurement), 518 (relating to competitive selection procedures for certain services) or 519 (relating to selection procedure for insurance and notary bonds) unless the applicant has submitted to the agency a completed and signed disclosure statement that sets forth the information required under subsection (c) and is otherwise in compliance with this section.

(2) Except as provided in paragraph (3), an applicant shall submit a completed and signed disclosure statement to the agency with other bid or proposal materials relating to the contract on or prior to the time and date established by the agency for receipt of bids or proposals.

(3) For contracts awarded under 62 Pa.C.S. §§ 514, 515 or 516 that do not require the submission of bids or offers, an applicant shall submit a completed disclosure statement as directed by the agency, but prior to the agency's award of the contract.

(4) A bid or offer made without a completed and signed disclosure statement shall not be considered a responsive bid or offer.

(b) The following shall apply regarding disclosure updates:

(1) A contractor who has been awarded a contract under 62 Pa.C.S. §§ 513, 514, 515, 516, 518 or 519 shall, during the term of the contract and for one year thereafter, submit an updated disclosure statement to the agency within five days following making a reportable contribution or learning that an affiliate has made a reportable contribution. Each updated disclosure statement shall include all reportable contributions made since

1 the date of the first disclosure statement submitted.

2 (2) Each contract awarded under 62 Pa.C.S. §§ 513, 514, 515,  
3 518 or 519 shall contain a provision requiring the contractor to  
4 submit an updated disclosure statement as required under  
5 paragraph (1).

6 (c) The following shall apply regarding disclosure  
7 requirements:

8 (1) The Department of General Services shall develop a form  
9 of disclosure statement to be used by applicants and contractors  
10 under this section.

11 (2) All invitations for bids, requests for proposals and  
12 other agency communications with prospective contractors  
13 regarding a contract awarded under 62 Pa.C.S. §§ 513, 514, 515,  
14 516, 518 or 519, shall include a disclosure statement form and  
15 information regarding the disclosure requirements of this  
16 section.

17 (3) The Department of General Services and the Department of  
18 State shall post the disclosure statement form and information  
19 regarding the disclosure requirements of this section on their  
20 respective publicly accessible Internet websites and shall  
21 otherwise make the forms and information available upon request.

22 (d) The following shall apply to content of disclosure  
23 statements and updates:

24 (1) Each disclosure statement submitted pursuant to  
25 subsection (a) shall include the following information:

26 (i) The name, business address and telephone number of the  
27 applicant or contractor.

28 (ii) The contract number or other identifying information  
29 regarding the contract sought by the applicant or awarded to the  
30 contractor.

1 (iii) The names, business addresses and telephone numbers of  
2 all lobbyists and lobbying firms paid by the applicant to lobby  
3 a Commonwealth agency to influence the awarding of a contract  
4 within one year prior to the date of an applicant's bid, offer  
5 or proposal.

6 (iv) A list of all reportable contributions made within two  
7 years prior to the date of the applicant's bid, offer or  
8 proposal. For each reportable contribution made, the applicant  
9 shall identify the recipient of the contribution and the date  
10 and amount of the contribution.

11 (v) All fundraising events hosted by an applicant or any of  
12 the applicant's affiliates within two years prior to the date of  
13 the applicant's bid, offer or proposal for the purpose of  
14 soliciting or receiving reportable contributions and the date  
15 and amount of reportable contributions solicited or received at  
16 each event. An updated disclosure statement shall be submitted  
17 during the term of a contract within five days following a  
18 fundraising event described in this subclause hosted by a  
19 contractor or an affiliate of a contractor.

20 (vi) The name, business address and telephone number of all  
21 subcontractors which the applicant intends to use on the  
22 contract or which the contractor is using on the contract.

23 (2) (Reserved).

24 (e) The following shall apply to disclosure statements and  
25 updates to be posted:

26 (1) A Commonwealth agency shall promptly transmit to the  
27 Department of State a copy of the disclosure statement and each  
28 updated disclosure statement it receives from an applicant or  
29 contractor under this section.

30 (2) The Department of State shall post each disclosure

statement and each updated disclosure statement received under  
this section on its publicly accessible Internet website no  
later than five days after the disclosure statement or update  
has been received by the department. Each disclosure statement  
and related updates shall remain posted for a period of time  
encompassing the length of the contract and one year thereafter.  
To the extent practicable, each disclosure statement and related  
updates shall be posted together.

(3) The Department of State shall also make disclosure  
statements and updated disclosure statements received under this  
section available for public inspection and copying.

(f) An applicant or contractor who makes a material  
misstatement or omission in a disclosure statement or updated  
disclosure statement may be debarred or suspended under 62  
Pa.C.S. § 531 (relating to debarment or suspension).

(g) This section shall apply to bids, offers or proposals  
that are solicited on or after the effective date of this  
section.

(h) As used in this section, the following words and phrases  
shall have the meanings given to them in this subsection:

"Affiliate." Any of the following:

(1) A parent, subsidiary or otherwise affiliated entity of  
an applicant or a contractor.

(2) An officer, director, associate, controlling  
shareholder, individual owner, partner or limited partner of an  
applicant or a contractor.

(3) An officer, director, associate, controlling  
shareholder, individual owner, partner or limited partner of a  
parent, subsidiary or otherwise affiliated entity of an  
applicant or a contractor.

1     (4) A political committee controlled by an applicant or a  
2 contractor.

3     (5) A political committee controlled by a parent, subsidiary  
4 or otherwise affiliated entity of an applicant or a contractor.

5     (6) A lobbyist or lobbying firm identified on an applicant's  
6 disclosure statement or a contractor's updated disclosure  
7 statement.

8     (7) A member of the immediate family of an individual  
9 described in clauses (1), (2), (3), (4), (5) and (6).

10     "Applicant." A bidder, offeror or other person seeking a  
11 contract, which is to be awarded under 62 Pa.C.S. §§ 513  
12 (relating to competitive sealed proposals), 514 (relating to  
13 small procurements), 515 (relating to sole source procurement),  
14 516 (relating to emergency procurement), 518 (relating to  
15 competitive selection procedures for certain services) or 519  
16 (relating to selection procedure for insurance and notary  
17 bonds).

18     "Bidder." As defined in 62 Pa.C.S. § 103 (relating to  
19 definitions).

20     "Commonwealth agency." As defined in 62 Pa.C.S. § 103  
21 (relating to definitions).

22     "Contract." As defined in 62 Pa.C.S. § 103 (relating to  
23 definitions).

24     "Contractor." As defined in 62 Pa.C.S. § 103 (relating to  
25 definitions).

26     "Elected official." An individual elected by the public to  
27 serve a term in an elective office. The term shall include an  
28 individual appointed to fill an unexpired term in an elective  
29 office.

30     "Elective office." A position in a governmental body to

1 which an individual is required under the Constitution of the  
2 Commonwealth or by State law to be elected by the public.

3 "Immediate family." A parent, spouse, child, brother or  
4 sister.

5 "Lobbying." As defined in 65 Pa.C.S. § 13A03 (relating to  
6 definitions).

7 "Lobbying firm." As defined in 65 Pa.C.S. § 13A03 (relating  
8 to definitions).

9 "Lobbyist." As defined in 65 Pa.C.S. § 13A03 (relating to  
10 definitions).

11 "Offeror." As defined in 62 Pa.C.S. § 103 (relating to  
12 definitions).

13 "Reportable contribution." Any of the following:

14 (1) A contribution made by an applicant or contractor or an  
15 affiliate of an applicant or a contractor to:

16 (i) a candidate for nomination or election to an elective  
17 office or to the candidate's political committee;

18 (ii) an elected official or to the elected official's  
19 candidate political committee; or

20 (iii) a political committee not described in subclause (i)  
21 with the purpose and intent that the political committee will,  
22 directly or indirectly, make the contribution available to a  
23 candidate for nomination or election to an elective office or to  
24 the candidate's political committee, or to an elected official  
25 or the elected official's candidate political committee.

26 (2) A contribution made by a person to a candidate for  
27 nomination or election to an elective office or to the  
28 candidate's political committee, or to an elected official or to  
29 the elected official's candidate political committee, for which  
30 a person who is an applicant or contractor or any of their

1 respective affiliates acts as an intermediary.

2 Section 2. This act shall take effect in 60 days.