

ASSEMBLY, No. 1878

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman AURA K. DUNN

District 25 (Morris and Somerset)

SYNOPSIS

Requires business entity that was issued or applied for certain permit or license to file annual disclosure statement with ELEC; requires annual disclosure statement for certain businesses that make contributions to independent expenditure committees.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 3/17/2021)

1 **AN ACT** concerning the filing of annual disclosure statements and
 2 amending P.L.2005, c.271 (C.19:44A-20.27).

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 5 *of New Jersey:*

6

7 1. Section 3 of P.L.2005, c.271 (C.19:44A-20.27) is amended
 8 to read as follows:

9 3. a. Any business entity making a contribution of money or
 10 any other thing of value, including an in-kind contribution, or
 11 pledge to make a contribution of any kind to a candidate for or the
 12 holder of any public office having ultimate responsibility for the
 13 awarding of public contracts, or to a political party committee,
 14 legislative leadership committee, political committee **【or】**
 15 continuing political committee, **【which】** or independent
 16 expenditure committee, that has received in any calendar year
 17 \$50,000 or more in the aggregate through agreements or contracts
 18 with a public entity, or that in this State has been issued or has
 19 applied for a permit or license to operate as such a business entity
 20 that is issued to no greater than 40 applicants therefor, as limited to
 21 that number by statute, State regulation, gubernatorial executive
 22 order, or decision of the issuing agency, shall file an annual
 23 disclosure statement with the New Jersey Election Law
 24 Enforcement Commission, established pursuant to section 5 of
 25 P.L.1973, c.83 (C.19:44A-5), setting forth all such contributions
 26 made by the business entity during the 12 months prior to the
 27 reporting deadline.

28 b. The commission shall prescribe forms and procedures for the
 29 reporting required in subsection a. of this section which shall
 30 include, but not be limited to:

31 (1) the name and mailing address of the business entity making
 32 the contribution, and the amount contributed during the 12 months
 33 prior to the reporting deadline;

34 (2) the name of the candidate for or the holder of any public
 35 office having ultimate responsibility for the awarding of public
 36 contracts, candidate committee, joint candidates committee,
 37 political party committee, legislative leadership committee, political
 38 committee or continuing political committee receiving the
 39 contribution; **【and】**

40 (3) if applicable, the amount of money the business entity
 41 received from the public entity through contract or agreement, the
 42 dates, and information identifying each contract or agreement and
 43 describing the goods, services or equipment provided or property
 44 sold ; and

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】 in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 (4) if applicable, the permit or license that has been issued to the
2 business entity or for which the business entity has applied.

3 c. The commission shall maintain a list of such reports for
4 public inspection both at its office and through its Internet site.

5 d. When a business entity is a natural person, a contribution by
6 that person's spouse or child, residing therewith, shall be deemed to
7 be a contribution by the business entity. When a business entity is
8 other than a natural person, a contribution by any person or other
9 business entity having an interest therein shall be deemed to be a
10 contribution by the business entity. When a business entity is other
11 than a natural person, a contribution by: all principals, partners,
12 officers, or directors of the business entity, or their spouses; any
13 subsidiaries directly or indirectly controlled by the business entity;
14 or any political organization organized under section 527 of the
15 Internal Revenue Code that is directly or indirectly controlled by
16 the business entity, other than a candidate committee, election fund,
17 or political party committee, shall be deemed to be a contribution
18 by the business entity.

19 As used in this section:

20 **["business"]** "Business entity" means a for-profit entity that is a
21 natural or legal person, business corporation, professional services
22 corporation, limited liability company, partnership, limited
23 partnership, business trust, association or any other legal
24 commercial entity organized under the laws of this State or of any
25 other state or foreign jurisdiction [; and] .

26 "Decision of the issuing agency" means final agency action
27 consistent with the "Administrative Procedures Act," P.L.1968,
28 c.410 (C.52:14B-1 et seq.), or instance in which the issuing agency
29 has not issued, for a period of greater than three years, any permits
30 or licensees which would result in greater than 40 total permits or
31 licenses to operate as a particular business entity.

32 **["interest"]** Interest means the ownership or control of more
33 than 10% of the profits or assets of a business entity or 10% of the
34 stock in the case of a business entity that is a corporation for profit,
35 as appropriate.

36 "Issuing agency" means the State agency issuing a permit or
37 license to operate as a particular business entity.

38 "State agency" means any of the principal departments in the
39 Executive Branch of the State Government, and any division, board,
40 bureau, office, commission or other instrumentality within or
41 created by such department, the Legislature of the State and any
42 office, board, bureau or commission within or created by the
43 Legislative Branch, and any independent State authority,
44 commission, instrumentality or agency.

45 e. Any business entity that fails to comply with the provisions
46 of this section shall be subject to a fine imposed by the New Jersey
47 Election Law Enforcement Commission in an amount to be

1 determined by the commission which may be based upon the
2 amount that the business entity failed to report.
3 (cf: P.L.2007, c.304, s.2)

4
5 2. Section 3 of P.L.1973, c.83 (C.19:44A-3) is amended to read
6 as follows:

7 3. As used in this act, unless a different meaning clearly
8 appears from the context:

9 a. (Deleted by amendment, P.L.1993, c.65.)

10 b. (Deleted by amendment, P.L.1993, c.65.)

11 c. The term "candidate" means: (1) an individual seeking
12 election to a public office of the State or of a county, municipality
13 or school district at an election; except that the term shall not
14 include an individual seeking party office; (2) an individual who
15 shall have been elected or failed of election to an office, other than
16 a party office, for which he sought election and who receives
17 contributions and makes expenditures for any of the purposes
18 authorized by section 17 of P.L.1993, c.65 (C.19:44A-11.2) during
19 the period of his service in that office; and (3) an individual who
20 has received funds or other benefits or has made payments solely
21 for the purpose of determining whether the individual should
22 become a candidate as defined in paragraphs (1) and (2) of this
23 subsection.

24 d. The terms "contributions" and "expenditures" include all
25 loans and transfers of money or other thing of value to or by any
26 candidate, candidate committee, joint candidates committee,
27 political committee, continuing political committee, political party
28 committee **【or】** legislative leadership committee, or, for the
29 purposes of section 3 of P.L.2005, c.271 (C.19:44A-20.27),
30 independent expenditure committee, and all pledges or other
31 commitments or assumptions of liability to make any such transfer;
32 and for purposes of reports required under the provisions of this act
33 shall be deemed to have been made upon the date when such
34 commitment is made or liability assumed.

35 e. The term "election" means any election described in section
36 4 of this act.

37 f. The term "paid personal services" means personal, clerical,
38 administrative or professional services of every kind and nature
39 including, without limitation, public relations, research, legal,
40 canvassing, telephone, speech writing or other such services,
41 performed other than on a voluntary basis, the salary, cost or
42 consideration for which is paid, borne or provided by someone
43 other than the committee, candidate or organization for whom such
44 services are rendered. In determining the value, for the purpose of
45 reports required under this act, of contributions made in the form of
46 paid personal services, the person contributing such services shall
47 furnish to the treasurer through whom such contribution is made a
48 statement setting forth the actual amount of compensation paid by

1 said contributor to the individuals actually performing said services
2 for the performance thereof. But if any individual or individuals
3 actually performing such services also performed for the contributor
4 other services during the same period, and the manner of payment
5 was such that payment for the services contributed cannot readily
6 be segregated from contemporary payment for the other services,
7 the contributor shall in his statement to the treasurer so state and
8 shall either (1) set forth his best estimate of the dollar amount of
9 payment to each such individual which is attributable to the
10 contribution of his paid personal services, and shall certify the
11 substantial accuracy of the same, or (2) if unable to determine such
12 amount with sufficient accuracy, set forth the total compensation
13 paid by him to each such individual for the period of time during
14 which the services contributed by him were performed. If any
15 candidate is a holder of public office to whom there is attached or
16 assigned, by virtue of said office, any aide or aides whose services
17 are of a personal or confidential nature in assisting him to carry out
18 the duties of said office, and whose salary or other compensation is
19 paid in whole or part out of public funds, the services of such aide
20 or aides which are paid for out of public funds shall be for public
21 purposes only; but they may contribute their personal services, on a
22 voluntary basis, to such candidate for election campaign purposes.

23 g. (Deleted by amendment, P.L.1983, c.579.)

24 h. The term "political information" means any statement
25 including, but not limited to, press releases, pamphlets, newsletters,
26 advertisements, flyers, form letters, or radio or television programs
27 or advertisements which reflects the opinion of the members of the
28 organization on any candidate or candidates for public office, on
29 any public question, or which contains facts on any such candidate,
30 or public question whether or not such facts are within the personal
31 knowledge of members of the organization.

32 i. The term "political committee" means any two or more
33 persons acting jointly, or any corporation, partnership, or any other
34 incorporated or unincorporated association which is organized to, or
35 does, aid or promote the nomination, election or defeat of any
36 candidate or candidates for public office, or which is organized to,
37 or does, aid or promote the passage or defeat of a public question in
38 any election, if the persons, corporation, partnership or incorporated
39 or unincorporated association raises or expends \$1,000.00 or more
40 to so aid or promote the nomination, election or defeat of a
41 candidate or candidates or the passage or defeat of a public
42 question; provided that for the purposes of this act, the term
43 "political committee" shall not include a "continuing political
44 committee," as defined by subsection n. of this section, a "political
45 party committee," as defined by subsection p. of this section, a
46 "candidate committee," as defined by subsection q. of this section, a
47 "joint candidates committee," as defined by subsection r. of this
48 section **[or]**, a "legislative leadership committee," as defined by

1 subsection s. of this section, or an “independent expenditure
2 committee,” as defined by subsection t. of this section.

3 j. The term "public solicitation" means any activity by or on
4 behalf of any candidate, political committee, continuing political
5 committee, candidate committee, joint candidates committee,
6 legislative leadership committee or political party committee
7 whereby either (1) members of the general public are personally
8 solicited for cash contributions not exceeding \$20.00 from each
9 person so solicited and contributed on the spot by the person so
10 solicited to a person soliciting or through a receptacle provided for
11 the purpose of depositing contributions, or (2) members of the
12 general public are personally solicited for the purchase of items
13 having some tangible value as merchandise, at a price not exceeding
14 \$20.00 per item, which price is paid on the spot in cash by the
15 person so solicited to the person so soliciting, when the net
16 proceeds of such solicitation are to be used by or on behalf of such
17 candidate, political committee, continuing political committee,
18 candidate committee, joint candidates committee, legislative
19 leadership committee or political party committee.

20 k. The term "testimonial affair" means an affair of any kind or
21 nature including, without limitation, cocktail parties, breakfasts,
22 luncheons, dinners, dances, picnics or similar affairs directly or
23 indirectly intended to raise campaign funds in behalf of a person
24 who holds, or who is or was a candidate for nomination or election
25 to a public office in this State, or directly or indirectly intended to
26 raise funds in behalf of any political party committee or in behalf of
27 a political committee, continuing political committee, candidate
28 committee, joint candidates committee or legislative leadership
29 committee.

30 l. The term "other thing of value" means any item of real or
31 personal property, tangible or intangible, but shall not be deemed to
32 include personal services other than paid personal services.

33 m. The term "qualified candidate" means:

34 (1) Joint candidates for election to the offices of Governor and
35 Lieutenant Governor whose names appear on the general election
36 ballot; who have deposited and expended \$150,000.00 pursuant to
37 section 7 of P.L.1974, c.26 (C.19:44A-32); and who, not later than
38 September 1 preceding a general election in which the offices of
39 Governor and Lieutenant Governor are to be filled, (a) notify the
40 Election Law Enforcement Commission in writing that the
41 candidates intend that application will be made on the candidates'
42 behalf for monies for general election campaign expenses under
43 subsection b. of section 8 of P.L.1974, c.26 (C.19:44A-33), and (b)
44 sign a statement of agreement, in a form to be prescribed by the
45 commission, to participate in interactive gubernatorial election
46 debates under the provisions of sections 9 through 11 of P.L.1989,
47 c.4 (C.19:44A-45 through C.19:44A-47); or

1 (2) Joint candidates for election to the offices of Governor and
2 Lieutenant Governor whose names do not appear on the general
3 election ballot; who have deposited and expended \$150,000.00
4 pursuant to section 7 of P.L.1974, c.26 (C.19:44A-32); and who,
5 not later than September 1 preceding a general election in which the
6 offices of Governor and Lieutenant Governor are to be filled, (a)
7 notify the Election Law Enforcement Commission in writing that
8 the candidates intend that application will be made on the
9 candidates' behalf for monies for general election campaign
10 expenses under subsection b. of section 8 of P.L.1974, c.26
11 (C.19:44A-33), and (b) sign a statement of agreement, in a form to
12 be prescribed by the commission, to participate in interactive
13 gubernatorial election debates under the provisions of sections 9
14 through 11 of P.L.1989, c.4 (C.19:44A-45 through C.19:44A-47);
15 or

16 (3) Any candidate for nomination for election to the office of
17 Governor whose name appears on the primary election ballot; who
18 has deposited and expended \$150,000.00 pursuant to section 7 of
19 P.L.1974, c.26 (C.19:44A-32); and who, not later than the last day
20 for filing petitions to nominate candidates to be voted upon in a
21 primary election for a general election in which the office of
22 Governor is to be filled, (a) notifies the Election Law Enforcement
23 Commission in writing that the candidate intends that application
24 will be made on the candidate's behalf for monies for primary
25 election campaign expenses under subsection a. of section 8 of
26 P.L.1974, c.26 (C.19:44A-33), and (b) signs a statement of
27 agreement, in a form to be prescribed by the commission, to
28 participate in two interactive gubernatorial primary debates under
29 the provisions of sections 9 through 11 of P.L.1989, c.4 (C.19:44A-
30 45 through C.19:44A-47); or

31 (4) Any candidate for nomination for election to the office of
32 Governor whose name does not appear on the primary election
33 ballot; who has deposited and expended \$150,000.00 pursuant to
34 section 7 of P.L.1974, c.26 (C.19:44A-32); and who, not later than
35 the last day for filing petitions to nominate candidates to be voted
36 upon in a primary election for a general election in which the office
37 of Governor is to be filled, (a) notifies the Election Law
38 Enforcement Commission in writing that the candidate intends that
39 application will be made on the candidate's behalf for monies for
40 primary election campaign expenses under subsection a. of section
41 8 of P.L.1974, c.26 (C.19:44A-33), and (b) signs a statement of
42 agreement, in a form to be prescribed by the commission, to
43 participate in two interactive gubernatorial primary debates under
44 the provisions of sections 9 through 11 of P.L.1989, c.4 (C.19:44A-
45 45 through C.19:44A-47).

46 n. The term "continuing political committee" means any group
47 of two or more persons acting jointly, or any corporation,
48 partnership, or any other incorporated or unincorporated

1 association, including a political club, political action committee,
2 civic association or other organization, which in any calendar year
3 contributes or expects to contribute at least \$2,500.00 to the aid or
4 promotion of the candidacy of an individual, or of the candidacies
5 of individuals, for elective public office, or the passage or defeat of
6 a public question or public questions, and which may be expected to
7 make contributions toward such aid or promotion or passage or
8 defeat during a subsequent election, provided that the group,
9 corporation, partnership, association or other organization has been
10 determined to be a continuing political committee under subsection
11 b. of section 8 of P.L.1973, c.83 (C.19:44A-8); provided that for the
12 purposes of this act, the term "continuing political committee" shall
13 not include a "political party committee," as defined by subsection
14 p. of this section, **【or】** a "legislative leadership committee," as
15 defined by subsection s. of this section, or an "independent
16 expenditure committee," as defined by subsection t. of this section.

17 o. The term "statement of agreement" means a written
18 declaration, by a candidate for nomination for election to the office
19 of Governor, or by joint candidates for election to the offices of
20 Governor and Lieutenant Governor who intend that application will
21 be made on behalf of the candidate for the office of Governor to
22 receive monies for the primary election or on behalf of the
23 candidates for the office of Governor and the office of Lieutenant
24 Governor for general election campaign expenses under subsection
25 a. or subsection b., respectively, of section 8 of P.L.1974, c.26
26 (C.19:44A-33), that the candidates undertake to abide by the terms
27 of any rules established by any private organization sponsoring a
28 gubernatorial primary or general election debate, as appropriate, to
29 be held under the provisions of sections 9 through 11 of P.L.1989,
30 c.4 (C.19:44A-45 through C.19:44A-47) and in which the
31 candidates are to participate. The statement of agreement shall
32 include an acknowledgment of notice to the candidates who sign it
33 that failure on the candidates' part to participate in any of the
34 gubernatorial debates may be cause for the termination of the
35 payment of such monies on the candidates' behalf and for the
36 imposition of liability for the return to the commission of such
37 monies as may previously have been so paid.

38 p. The term "political party committee" means the State
39 committee of a political party, as organized pursuant to R.S.19:5-4,
40 any county committee of a political party, as organized pursuant to
41 R.S.19:5-3, or any municipal committee of a political party, as
42 organized pursuant to R.S.19:5-2.

43 q. The term "candidate committee" means a committee
44 established pursuant to subsection a. of section 9 of P.L.1973, c.83
45 (C.19:44A-9) for the purpose of receiving contributions and making
46 expenditures.

47 r. The term "joint candidates committee" means a committee
48 established pursuant to subsection a. of section 9 of P.L.1973, c.83

1 (C.19:44A-9) by at least two candidates for the same elective public
2 offices in the same election in a legislative district, county,
3 municipality or school district, but not more candidates than the
4 total number of the same elective public offices to be filled in that
5 election, for the purpose of receiving contributions and making
6 expenditures. For the purpose of this subsection: the offices of
7 member of the Senate and members of the General Assembly shall
8 be deemed to be the same elective public offices in a legislative
9 district; the offices of member of the board of chosen freeholders
10 and county executive shall be deemed to be the same elective public
11 offices in a county; and the offices of mayor and member of the
12 municipal governing body shall be deemed to be the same elective
13 public offices in a municipality.

14 s. The term "legislative leadership committee" means a
15 committee established, authorized to be established, or designated
16 by the President of the Senate, the Minority Leader of the Senate,
17 the Speaker of the General Assembly or the Minority Leader of the
18 General Assembly pursuant to section 16 of P.L.1993, c.65
19 (C.19:44A-10.1) for the purpose of receiving contributions and
20 making expenditures.

21 t. The term "independent expenditure committee" means a
22 person, a group of two or more persons, or an organization
23 organized under section 527 of the federal Internal Revenue Code
24 (26 U.S.C. s.527) or under paragraph (4) of subsection (c) of
25 section 501 of the federal Internal Revenue Code (26 U.S.C. s.501)
26 that does not fall within the definition of any other organization
27 subject to the provisions of P.L.1973, c.83 (C.19:44A-1 et seq.),
28 that engages in influencing or attempting to influence the outcome
29 of any election or the nomination, election, or defeat of any person
30 to any State or local elective public office, or the passage or defeat
31 of any public question, legislation, or regulation, or in providing
32 political information on any candidate or public question,
33 legislation, or regulation, and raises or expends \$3,000 or more in
34 the aggregate for any such purpose annually, but does not
35 coordinate its activities with any candidate or political party as
36 determined by the Election Law Enforcement Commission.

37 u. The term "independent expenditure" means an expenditure
38 by a person expressly advocating, or the functional equivalent
39 thereof, the election or defeat of: (1) a clearly identified candidate
40 that is not made in concert or cooperation with or at the request or
41 suggestion of the candidate, the candidate's committee, a political
42 party committee, or an agent thereof; or (2) a public question,
43 legislation, or regulation, that is not made in concert or cooperation
44 with or at the request or suggestion of the sponsors, organizers, or
45 committee supporting or opposing the question, legislation, or
46 regulation, a political party, or agents thereof. The "functional
47 equivalent" of expressly advocating means specific advocacy that
48 can be interpreted by a reasonable person as advocating the election

1 or defeat of a candidate, or the passage or defeat of a public
2 question, legislation, or regulation, taking into account whether the
3 communication involved mentions a candidate, a political party, or
4 a challenger to a candidate, or takes a position on a candidate's
5 character, qualifications, or fitness for office, or that can be
6 interpreted by a reasonable person as taking a position on the merits
7 of a public question, legislation, or regulation, or taking a position
8 in favor or against the passage or defeat of a public question,
9 legislation, or regulation.

10 (cf: P.L.2009, c.66, s.5)

11
12 3. The New Jersey Election Law Enforcement Commission
13 shall, within 90 days of enactment, adopt, immediately upon filing
14 with the Office of Administrative Law, the rules and regulations
15 necessary for the implementation of this act, P.L. , c. (pending
16 before the Legislature as this bill), which rules and regulations shall
17 be effective for a period not to exceed 360 days following the date
18 of enactment of this act and may thereafter be amended, adopted, or
19 readopted by the department in accordance with the "Administrative
20 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

21
22 4. This act shall take effect January 1 of the year next
23 following enactment that occurs more than 90 days following such
24 enactment.

25 26 27 STATEMENT

28
29 This bill requires any business entity that was issued or applied
30 for a permit or license to operate as such a business to file an annual
31 disclosure statement if the permit or license is issued to no greater
32 than 40 applicants for that permit or license, consistent with a law,
33 regulation, executive order, or decision of the issuing agency
34 establishing that limit. The bill also

35 Under current law, a business entity that has received in any
36 calendar year \$50,000 or more in the aggregate through agreements
37 or contracts with a public entity and that has made a contribution to
38 a candidate for or holder of any public office having ultimate
39 responsibility for the awarding of public contracts, or to a political
40 party committee, legislative leadership committee, political
41 committee or continuing political committee, must file an annual
42 disclosure statement specifying its contributions with the New
43 Jersey Election Law Enforcement Commission (ELEC). The bill
44 requires those business entities that have received in any calendar
45 year \$50,000 or more in the aggregate through agreements or
46 contracts with a public entity to also file an annual disclosure
47 statement if the business entity has made a contribution to an

1 independent expenditure committee in the preceding 12 months
2 before the deadline for filing the statement.

3 The bill requires that if a business entity has received or applied
4 for a permit or license to operate as that business entity, the
5 issuance of which permit or license is capped at 40 by any law,
6 regulation, executive order, or decision of the issuing agency, the
7 business entity must also file an annual disclosure statement with
8 ELEC. The bill defines “decision of the issuing agency” to mean
9 final agency action consistent with the “Administrative Procedures
10 Act,” or an instance in which the issuing agency has not issued, for
11 a period of greater than three years, any permits or licensees which
12 would result in greater than 40 total permits or licenses to operate
13 as a particular business entity.

14 Under the bill, an “issuing agency” means the State agency
15 issuing a permit or license to operate as a particular business entity.
16 The term “independent expenditure committee” means a person, a
17 group of two or more persons, a 527 organization, or a 501(c)(4)
18 organization that does not fall within the definition of any other
19 organization under “The New Jersey Campaign Contributions and
20 Expenditures Reporting Act,” that engages in influencing or
21 attempting to influence the outcome of any election or the
22 nomination, election, or defeat of any person to any State or local
23 elective public office, or the passage or defeat of any public
24 question, legislation, or regulation, or in providing political
25 information on any candidate or public question, legislation, or
26 regulation, and raises or expends \$3,000 or more in the aggregate
27 annually for any of those purposes, but does not coordinate its
28 activities with any candidate or political party as determined by the
29 Election Law Enforcement Commission.