

SENATE, No. 949

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 27, 2020

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

SYNOPSIS

Increases disclosure of political contributions by business entities with public contracts; creates uniform law for contributions by such entities; repeals local option to set contribution limits for business entities.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning political contributions and disclosures by
2 certain business entities with certain government contracts,
3 amending P.L.2004, c.19, P.L.2005, c.51, and P.L.2005, c.271,
4 supplementing P.L.2004, c.19 (C.19:44A-20.3 et seq.), and
5 repealing various parts of the statutory law.

6
7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:

9
10 1. (New section) Notwithstanding the provisions of any other
11 law to the contrary:

12 a State agency in the Executive Branch shall not enter into a
13 contract having an anticipated value in excess of \$17,500, as
14 determined in advance and certified in writing by the State agency,
15 with a business entity if, during the preceding one-year period, that
16 business entity has made a contribution to any candidate committee of
17 the Governor and the Lieutenant Governor serving when the contract
18 is awarded, or to a political committee or continuing political
19 committee; and

20 a business entity that has entered into a contract having an
21 anticipated value in excess of \$17,500 with a State agency in the
22 Executive Branch shall not make a contribution to any candidate
23 committee of the Governor and the Lieutenant Governor serving when
24 the contract is awarded, or to a political committee or continuing
25 political committee, during the term of that contract.

26 No such committee shall accept such a contribution from a business
27 entity during the term of its contract with a State agency in the
28 Executive Branch.

29
30 2. Section 2 of P.L.2004, c.19 (C.19:44A-20.3) is amended to
31 read as follows:

32 2. Notwithstanding the provisions of any other law to the
33 contrary:

34 a State agency in the Legislative Branch shall not enter into a
35 contract having an anticipated value in excess of \$17,500, as
36 determined in advance and certified in writing by the State agency,
37 with a business entity, that requires approval by a presiding officer
38 of either or both houses of the Legislature**【**, except a contract that is
39 awarded pursuant to a fair and open process,**】** if, during the
40 preceding one-year period, that business entity has made a
41 contribution**【**, reportable by the recipient under P.L.1973, c.83
42 (C.19:44A-1 et seq.), to the State committee of the political party of
43 which that presiding officer, serving when the contract is awarded,
44 is a member, or**】** to a legislative leadership committee or any

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 candidate committee established by that presiding officer, or to a
2 political committee or continuing political committee; and
3 a business entity that has entered into a contract having an
4 anticipated value in excess of \$17,500 with a State agency in the
5 Legislative Branch, that requires approval by a presiding officer of
6 either or both houses of the Legislature~~], except a contract that is~~
7 ~~awarded pursuant to a fair and open process,]~~ shall not make a
8 contribution~~], reportable by the recipient under P.L.1973, c.83~~
9 ~~(C.19:44A-1 et seq.), to the State committee of the political party of~~
10 ~~which that presiding officer is a member, or]~~ to a legislative
11 leadership committee or any candidate committee established by
12 that presiding officer, or to a political committee or continuing
13 political committee, during the term of that contract.

14 No such committee shall accept such a contribution from a
15 business entity during the term of its contract with a State agency in
16 the Legislative Branch.
17 (cf: P.L.2004, c.19, s.2)

18
19 3. Section 3 of P.L.2004, c.19 (C.19:44A-20.4) is amended to
20 read as follows:

21 3. Notwithstanding the provisions of any other law to the
22 contrary:

23 a county, or any agency or instrumentality thereof, shall not enter
24 into a contract having an anticipated value in excess of \$17,500, as
25 determined in advance and certified in writing by the county,
26 agency or instrumentality, with a business entity~~], except a contract~~
27 ~~that is awarded pursuant to a fair and open process,]~~ if, during the
28 preceding one-year period, that business entity has made a
29 contribution ~~that is reportable by the recipient under P.L.1973,~~
30 ~~c.83 (C.19:44A-1 et seq.), to any county committee of a political~~
31 ~~party in that county if a member of that political party is serving in~~
32 ~~an elective public office of that county when the contract is awarded~~
33 ~~or]~~ to any candidate committee of any person serving in an elective
34 public office of that county when the contract is awarded or to a
35 political committee or continuing political committee; and

36 a business entity that has entered into a contract having an
37 anticipated value in excess of \$17,500 with a county, or any agency
38 or instrumentality thereof, ~~except a contract that is awarded~~
39 ~~pursuant to a fair and open process,]~~ shall not make such a
40 contribution ~~reportable by the recipient under P.L.1973, c.83~~
41 ~~(C.19:44A-1 et seq.), to any county committee of a political party in~~
42 ~~that county if a member of that political party is serving in an~~
43 ~~elective public office of that county when the contract is awarded~~
44 ~~or]~~ to any candidate committee of any person serving in an elective
45 public office of that county when the contract is awarded, during
46 the term of that contract or to a political committee or continuing
47 political committee.

1 No such committee shall accept such a contribution from a
2 business entity during the term of its contract with the county.

3 (cf: P.L.2004, c.19, s.3)

4
5 4. Section 4 of P.L.2004, c.19 (C.19:44A-20.5) is amended to
6 read as follows:

7 4. Notwithstanding the provisions of any other law to the
8 contrary:

9 a municipality, or any agency or instrumentality thereof, shall
10 not enter into a contract having an anticipated value in excess of
11 \$17,500, as determined in advance and certified in writing by the
12 municipality, agency or instrumentality, with a business entity[,
13 except a contract that is awarded pursuant to a fair and open
14 process,] if, during the preceding one-year period, that business
15 entity has made a contribution [that is reportable by the recipient
16 under P.L.1973, c.83 (C.19:44A-1 et seq.), to any municipal
17 committee of a political party in that municipality if a member of
18 that political party is serving in an elective public office of that
19 municipality when the contract is awarded or] to any candidate
20 committee of any person serving in an elective public office of that
21 municipality when the contract is awarded or to a political
22 committee or continuing political committee; and

23 a business entity that has entered into a contract having an
24 anticipated value in excess of \$17,500 with a municipality, or any
25 agency or instrumentality thereof, [except a contract that is
26 awarded pursuant to a fair and open process,] shall not make such a
27 contribution[, reportable by the recipient under P.L.1973, c.83
28 (C.19:44A-1 et seq.), to any municipal committee of a political
29 party in that municipality if a member of that political party is
30 serving in an elective public office of that municipality when the
31 contract is awarded or] to any candidate committee of any person
32 serving in an elective public office of that municipality when the
33 contract is awarded or to a political committee or continuing
34 political committee, during the term of that contract.

35 No such committee shall accept such a contribution from a
36 business entity during the term of its contract with the municipality.

37 (cf: P.L.2004, c.19, s.4)

38
39 5. Section 5 of P.L.2004, c.19 (C.19:44A-20.6) is amended to
40 read as follows:

41 5. [When a business entity is a natural person, a contribution
42 by that person's spouse or child, residing therewith, shall be deemed
43 to be a contribution by the business entity.]

44 When a business entity is other than a natural person, a
45 contribution by any person or other business entity having an
46 interest therein shall be deemed to be a contribution by the business
47 entity. The provision of this section shall apply to P.L.2004, c.19
48 (C.19:44A-20.3 et seq.), sections 2 and 3 of P.L.2005, c.271

1 (C.19:44A-20.26 and C.19:44A-20.27), and sections 1, 6, 7, and 19
2 of P.L. _____, c. _____ (C. _____) (pending before the Legislature as
3 this bill).
4 (cf: P.L.2004, c.19, s.5)

5
6 6. (New section) Notwithstanding the provisions of any other
7 law to the contrary:

8 a local board of education, or any agency or instrumentality
9 thereof, shall not enter into a contract having an anticipated value in
10 excess of \$17,500, as determined in advance and certified in writing
11 by the board, agency, or instrumentality, with a business entity if,
12 during the preceding one-year period, that business entity has made
13 a contribution to any candidate committee of any person serving in
14 an elective public office of that board when the contract is awarded
15 or to a political committee or continuing political committee; and

16 a business entity that has entered into a contract having an
17 anticipated value in excess of \$17,500 with a local board of
18 education, or any agency or instrumentality thereof, shall not make
19 such a contribution to any candidate committee of any person
20 serving in an elective public office of that board when the contract
21 is awarded or to a political committee or continuing political
22 committee, during the term of that contract.

23 No such committee shall accept such a contribution from a
24 business entity during the term of its contract with the local board
25 of education.

26
27 7. (New section) Notwithstanding the provisions of any other
28 law to the contrary:

29 a board of fire commissioners of a fire district, or any agency or
30 instrumentality thereof, shall not enter into a contract having an
31 anticipated value in excess of \$17,500, as determined in advance
32 and certified in writing by the board, agency, or instrumentality,
33 with a business entity if, during the preceding one-year period, that
34 business entity has made a contribution to any candidate committee
35 of any person serving in an elective public office of that board when
36 the contract is awarded or to a political committee or continuing
37 political committee; and

38 a business entity that has entered into a contract having an
39 anticipated value in excess of \$17,500 with a board of fire
40 commissioners of a fire district, or any agency or instrumentality
41 thereof, shall not make such a contribution to any candidate
42 committee of any person serving in an elective public office of that
43 board when the contract is awarded or to a political committee or
44 continuing political committee, during the term of that contract.

45 No such committee shall accept such a contribution from a
46 business entity during the term of its contract with the board.

47
48 8. Section 6 of P.L.2004, c.19 (C.19:44A-20.7) is amended to
49 read as follows:

1 6. As used in sections 2 through 11 of **【this act】** P.L.2004, c.19
2 (C.19:44A-20.3 through C.19:44A-20.12), sections 2 and 3 of
3 P.L.2005, c.271 (C.19:44A-20.26 and C.19:44A-20.27), and
4 sections 1, 6, 7, and 19 of P.L. , c. (C.) (pending
5 before the Legislature as this bill):

6 "business entity" means **【any natural or legal person, business**
7 **corporation, professional services corporation, limited liability**
8 **company, partnership, limited partnership, business trust,**
9 **association or any other legal commercial entity organized under**
10 **the laws of this State or of any other state or foreign jurisdiction】**

11 a for-profit entity as follows:

12 a corporation, the corporation, any officer or director of the
13 corporation, and any person or business entity that owns or controls
14 10 percent or more of the stock of the corporation;

15 a general partnership, the partnership and any partner;

16 a limited partnership, the limited partnership and any partner;

17 a professional corporation, the professional corporation and any
18 shareholder or officer;

19 a limited liability company, the limited liability company and
20 any member;

21 a limited liability partnership, the limited liability partnership
22 and any partner;

23 a sole proprietorship, the proprietor; and

24 any other form of for-profit entity organized under the laws of
25 this State or any other state or foreign jurisdiction, the entity and
26 any principal, officer, or partner.

27 The term shall include: (i) any subsidiary directly or indirectly
28 controlled by the business entity; and (ii) any political organization
29 organized under section 527 of the federal Internal Revenue Code
30 (26 U.S.C. s.501) that is directly or indirectly controlled by the
31 business entity, other than a candidate committee, political
32 committee, or political party committee.

33 With respect to an individual who is included within the
34 definition of business entity, the term shall include that individual's
35 spouse, civil union partner, and child residing with the individual,
36 except that a contribution made by such spouse, civil union partner,
37 or child to a candidate for whom the contributor is entitled to vote
38 or to a political party committee within whose jurisdiction the
39 contributor resides shall be excluded unless the contribution is in
40 violation of law; and

41 "contribution" means a contribution reportable by the recipient
42 under "The New Jersey Campaign Contributions and Expenditures
43 Reporting Act," P.L.1973, c.83 (C.19:44A-1 et seq.), of more than
44 \$1,000 in the aggregate by a business entity or collectively by
45 individuals or entities with an interest in the business entity;

46 "independent expenditure committee" means a person, a group of
47 two or more people, or an organization organized under section 527
48 of the federal Internal Revenue Code (26 U.S.C. s.527), or under
49 paragraph (4) of subsection c. of section 501 of the federal Internal

1 Revenue Code (26 U.S.C. s.501), that does not fall within the
2 definition of any other organization subject to the provisions of
3 P.L.1973, c.83 (C.19:44A-1 et seq.), that engages in influencing or
4 attempting to influence the outcome of any election or the
5 nomination, election, or defeat of any person to any State or local
6 elective public office, or the passage or defeat of any public
7 question, or in providing political information on any candidate or
8 public question, and raises or expends \$3,000 or more in the
9 aggregate for any such purpose annually, but does not coordinate its
10 activities with any candidate or political party;

11 "interest" means the ownership or control of more than 10% of
12 the profits or assets of a business entity or 10% of the stock in the
13 case of a business entity that is a corporation for profit, as
14 appropriate;

15 **["fair and open process" means, at a minimum, that the contract**
16 **shall be: publicly advertised in newspapers or on the Internet**
17 **website maintained by the public entity in sufficient time to give**
18 **notice in advance of the contract; awarded under a process that**
19 **provides for public solicitation of proposals or qualifications and**
20 **awarded and disclosed under criteria established in writing by the**
21 **public entity prior to the solicitation of proposals or qualifications;**
22 **and publicly opened and announced when awarded. The decision of**
23 **a public entity as to what constitutes a fair and open process shall**
24 **be final.】**

25 "State agency in the Executive Branch" means any of the principal
26 departments in the Executive Branch of the State Government, and any
27 division, board, bureau, office, commission or other instrumentality
28 within or created by such department, and any independent State
29 authority, board, commission, instrumentality, or agency; and

30 "State agency in the Legislative Branch" means the Legislature
31 of the State and any office, board, bureau or commission within or
32 created by the Legislative Branch.

33 (cf: P.L.2005, c.51, s.14)

34

35 9. Section 7 of P.L.2004, c.19 (C.19:44A-20.8) is amended to
36 read as follows:

37 7. a. Prior to awarding any contract, **【except a contract that is**
38 **awarded pursuant to a fair and open process,】** a State agency in the
39 Executive Branch or Legislative Branch, or a county, **【or】** a
40 municipality, a local board of education, or a fire district shall
41 require the business entity to which the contract is to be awarded to
42 provide a written certification that it has not made a contribution
43 that would bar the award of a contract **【pursuant to this act】.**

44 b. A business entity shall have a continuing duty to report to
45 the Election Law Enforcement Commission any contributions that
46 constitute a violation of **【this act】** P.L.2004, c.19 (C.19:44A-20.3 et
47 seq.) and sections 1, 6, and 7 of P.L. , c. (C.) (pending

1 before the Legislature as this bill) that are made during the duration
2 of a contract.

3 (cf: P.L.2005, c.51, s.15)
4

5 10. Section 8 of P.L.2004, c.19 (C.19:44A-20.9) is amended to
6 read as follows:

7 8. If a business entity makes a contribution that would cause it
8 to be ineligible to receive a public contract or, in the case of a
9 contribution made during the term of a public contract, that would
10 constitute a violation of this act, the business entity may request, in
11 writing, within 60 days of the date on which the contribution was
12 made, that the recipient thereof repay the contribution and, if
13 repayment is received within those 60 days, the business entity
14 would again be eligible to receive a contract or would no longer be
15 in violation, as appropriate.

16 The provisions of this section shall apply to P.L.2004, c.19
17 (C.19:44A-20.3 et seq.) and sections 1, 6, and 7 of P.L. _____,
18 c. _____ (C. _____)(pending before the Legislature as this bill).
19 (cf: P.L.2004, c.19, s.8)
20

21 11. Section 9 of P.L.2004, c.19 (C.19:44A-20.10) is amended to
22 read as follows:

23 9. A business entity which is determined by the Election Law
24 Enforcement Commission to have willfully and intentionally made
25 a contribution or failed to reveal a contribution in violation of **【this**
26 **act】** sections 2 through 4 of P.L.2004, c.19 (C.19:44A-20.3 through
27 C.19:44A-20.5) and sections 1, 6, and 7 of P.L. _____,
28 c. _____ (C. _____) (pending before the Legislature as this bill) may
29 be liable to a penalty of up to the value of its contract with the
30 public entity and may be debarred by the State Treasurer from
31 contracting with any public entity for up to five years.
32 (cf: P.L.2004, c.19, s.9)
33

34 12. Section 10 of P.L.2004, c.19 (C.19:44A-20.11) is amended
35 to read as follows:

36 10. Any person who is determined by the Election Law
37 Enforcement Commission to have willfully and intentionally
38 accepted a contribution in violation of the provisions of sections
39 **【1】** 2 through 4 of 【this act】 P.L.2004, c.19 (C.19:44A-20.3
40 through C.19:44A-20.5) and sections 1, 6, and 7 of P.L. _____,
41 c. _____ (C. _____) (pending before the Legislature as this bill) shall
42 be liable to a penalty for each such violation equal to the penalties
43 set forth in subsection e. of section 22 of P.L.1973, c.83 (C.19:44A-
44 22).
45 (cf: P.L.2004, c.19, s.10)
46

47 13. Section 11 of P.L.2004, c.19 (C.19:44A-20.12) is amended
48 to read as follows:

1 11. Nothing contained in this act shall be construed as
2 prohibiting the awarding of a contract when the public exigency
3 requires the immediate delivery of goods or performance of
4 emergency services as determined by the State Treasurer.

5 The provisions of this section shall apply to P.L.2004, c.19
6 (C.19:44A-20.3 et seq.) and to sections 1, 6, and 7 of P.L. _____,
7 c. _____ (C. _____) (pending before the Legislature as this bill).
8 (cf: P.L.2004, c.19, s.11)

10 14. Section 9 of P.L.2005, c.51 (C.19:44A-20.21) is amended to
11 read as follows:

12 9. It shall be a breach of the terms of the government contract
13 for a business entity to: (i) make or solicit a contribution in
14 violation of **【this act】** P.L.2004, c.19 (C.19:44A-20.3 et seq.) or
15 sections 1, 6, and 7 of P.L. _____, c. _____ (C. _____) (pending before
16 the Legislature as this bill); (ii) knowingly conceal or misrepresent
17 a contribution given or received; (iii) make or solicit contributions
18 through intermediaries for the purpose of concealing or
19 misrepresenting the source of the contribution; (iv) make or solicit
20 any contribution on the condition or with the agreement that it will
21 be contributed to a **【campaign】** committee **【of any candidate or**
22 **holder of the public office of Governor or Lieutenant Governor, or**
23 **to any State or county party committee】**; (v) engage or employ a
24 lobbyist or consultant with the intent or understanding that such
25 lobbyist or consultant would make or solicit any contribution,
26 which if made or solicited by the business entity itself, would
27 subject that entity to the restrictions of **【this act】** the acts; (vi) fund
28 contributions made by third parties, including consultants,
29 attorneys, family members, and employees; (vii) engage in any
30 exchange or contributions to circumvent the intent of **【this act】** the
31 acts; or (viii) directly or indirectly, through or by any other person
32 or means, do any act which would subject that entity to the
33 restrictions of **【this act】** the acts.

34 The provisions of this section shall apply to P.L.2004, c.19
35 (C.19:44A-20.3 et seq.) and to sections 1, 6, and 7 of P.L. _____,
36 c. _____ (C. _____) (pending before the Legislature as this bill).
37 (cf: P.L.2009, c.66, s.36)

39 15. Section 12 of P.L.2005, c.51 (C.19:44A-20.24) is amended
40 to read as follows:

41 12. Every contract and bid application and specifications
42 promulgated in connection therewith covered by **【this act】**
43 P.L.2004, c.19 (C.19:44A-20.3 et seq.) and sections 1, 6, and 7 of
44 P.L. _____, c. _____ (C. _____) (pending before the Legislature as
45 this bill) shall contain a provision describing the requirements of
46 **【this act】** the acts and a statement that compliance with **【this act】**
47 the acts shall be a material term and condition of said contract or

1 bid application and binding upon the parties thereto upon the entry
2 of all applicable contracts.

3 (cf: P.L.2005, c.51, s.12)

4
5 16. (New section) The provisions of sections 2 through 4 of
6 P.L.2004, c.19 (C.19:44A-20.3 through C.19:44A-20.5) and
7 sections 1, 6, and 7 of P.L. , c. (C.) (pending
8 before the Legislature as this bill) shall not apply in circumstances
9 where it is determined by the federal government or a court of
10 competent jurisdiction that its application would violate federal law
11 or regulation.

12
13 17. Section 2 of P.L.2005, c.271 (C.19:44A-20.26) is amended
14 to read as follows:

15 2. **[a.]** Not later than 10 days prior to entering into any
16 contract having an anticipated value in excess of \$17,500, **[except**
17 **for a contract that is required by law to be publicly advertised for**
18 **bids,]** a State agency in the Executive Branch or in the Legislative
19 Branch, or a county, municipality, independent authority, board of
20 education, or fire district shall require **[any]** the business entity
21 **[bidding thereon or negotiating therefor,]** to submit **[along with its**
22 **bid or price quote,]** a list of **[political]** contributions as set forth in
23 this **[subsection]** section that **[are reportable by the recipient**
24 **pursuant to the provisions of P.L.1973, c.83 (C.19:44A-1 et al.) and**
25 **that]** were made by the business entity during the preceding 12-
26 month period, along with the date and amount of each contribution
27 and the name of the recipient of each contribution. A business
28 entity contracting with a State agency shall disclose contributions to
29 any State, county, or municipal committee of a political party,
30 legislative leadership committee, candidate committee of a
31 candidate for, or holder of, a State elective office, or any political
32 committee, continuing political committee, or independent
33 expenditure committee. A business entity contracting with a
34 county, municipality, independent authority**[,]** other than an
35 independent authority that is a State agency, board of education, or
36 fire district shall disclose contributions to: any State, county, or
37 municipal committee of a political party; any legislative leadership
38 committee; or any candidate committee of a candidate for, or holder
39 of, an elective office of that public entity, of that county in which
40 that public entity is located, of another public entity within that
41 county, or of a legislative district in which that public entity is
42 located or, when the public entity is a county, of any legislative
43 district which includes all or part of the county, or any political
44 committee, continuing political committee, or independent
45 expenditure committee.

46 The provisions of this section shall not apply to a contract when
47 a public emergency requires the immediate delivery of goods or
48 services.

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

15 c. As used in this section:

16 "business entity" means a for-profit entity that is a natural or
17 legal person, business corporation, professional services
18 corporation, limited liability company, partnership, limited
19 partnership, business trust, association or any other legal
20 commercial entity organized under the laws of this State or of any
21 other state or foreign jurisdiction;

22 "interest" means the ownership or control of more than 10% of
23 the profits or assets of a business entity or 10% of the stock in the
24 case of a business entity that is a corporation for profit, as
25 appropriate; and

26 "State agency" means any of the principal departments in the
27 Executive Branch of the State Government, and any division, board,
28 bureau, office, commission or other instrumentality within or
29 created by such department, the Legislature of the State and any
30 office, board, bureau or commission within or created by the
31 Legislative Branch, and any independent State authority,
32 commission, instrumentality or agency.

33 d. Any business entity that fails to comply with the provisions
34 of this section shall be subject to a fine imposed by the New Jersey
35 Election Law Enforcement Commission in an amount to be
36 determined by the commission which may be based upon the
37 amount that the business entity failed to report. **】**

38 (cf: P.L.2007, c.304, s.1)

39

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

42 3. a. Any business entity making a contribution of money or
43 any other thing of value, including an in-kind contribution, or
44 pledge to make a contribution of any kind to a candidate for or the
45 holder of any public office having ultimate responsibility for the
46 awarding of public contracts, or to a political party committee,
47 legislative leadership committee, political committee **【or】**,
48 continuing political committee, or independent expenditure

1 committee, which has received in any calendar year **【\$50,000】**
2 \$17,500 or more in the aggregate through agreements or contracts
3 with a single public entity, shall file an annual disclosure statement
4 with the New Jersey Election Law Enforcement Commission,
5 established pursuant to section 5 of P.L.1973, c.83 (C.19:44A-5),
6 setting forth all such contributions in any amount made by the
7 business entity during the 12 months prior to the reporting deadline.

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

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

14 (2) the name of the candidate for or the holder of any public
15 office having ultimate responsibility for the awarding of public
16 contracts, candidate committee, joint candidates committee,
17 political party committee, legislative leadership committee,
18 independent expenditure committee, political committee or
19 continuing political committee receiving the contribution; and

20 (3) the amount of money the business entity received from the
21 public entity through contract or agreement, the dates, and
22 information identifying each contract or agreement and describing
23 the goods, services or equipment provided or property sold.

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

26 **【d.** When a business entity is a natural person, a contribution by
27 that person's spouse or child, residing therewith, shall be deemed to
28 be a contribution by the business entity. When a business entity is
29 other than a natural person, a contribution by any person or other
30 business entity having an interest therein shall be deemed to be a
31 contribution by the business entity. When a business entity is other
32 than a natural person, a contribution by: all principals, partners,
33 officers, or directors of the business entity, or their spouses; any
34 subsidiaries directly or indirectly controlled by the business entity;
35 or any political organization organized under section 527 of the
36 Internal Revenue Code that is directly or indirectly controlled by
37 the business entity, other than a candidate committee, election fund,
38 or political party committee, shall be deemed to be a contribution
39 by the business entity.

40 As used in this section:

41 "business entity" means a for-profit entity that is a natural or
42 legal person, business corporation, professional services
43 corporation, limited liability company, partnership, limited
44 partnership, business trust, association or any other legal
45 commercial entity organized under the laws of this State or of any
46 other state or foreign jurisdiction; and

47 "interest" means the ownership or control of more than 10% of
48 the profits or assets of a business entity or 10% of the stock in the

1 case of a business entity that is a corporation for profit, as
2 appropriate.

3 e. Any business entity that fails to comply with the provisions
4 of this section shall be subject to a fine imposed by the New Jersey
5 Election Law Enforcement Commission in an amount to be
6 determined by the commission which may be based upon the
7 amount that the business entity failed to report.】

8 (cf: P.L.2007, c.304, s.2)

9
10 19. (New section) A county, municipality, local board of
11 education, or board of commissioners of a fire district, or any agency
12 or instrumentality thereof, shall not adopt any ordinance, resolution, or
13 regulation that limits the awarding of public contracts to business
14 entities or that limits the contributions that business entities awarded a
15 contract can make during the term of the contract. The provisions of
16 P.L.2004, c.19 (C.19:44A-20.3 et seq.) and sections 1, 6, and 7 of
17 P.L. , c. (C.) (pending before the Legislature as
18 this bill) shall supersede and preempt any such ordinance, resolution,
19 or regulation. Any such ordinance, resolution, or regulation in effect
20 on the effective date of P.L. , c. (C.) (pending before the
21 Legislature as this bill) shall be null and void.

22

23 20. The following sections of law are repealed:

24 Section 6 of P.L.2003, c.24 (C.48:3-93.3);

25 Sections 1 through 8, inclusive, sections 10 and 11, and section
26 13 of P.L.2005, c.51 (C.19:44A-20.13 through C.19:44A-20.20;
27 C.19:44A-20.22 and C.19:44A-20.23; and C.19:44A-20.25); and

28 Section 1 of P.L.2005, c.271 (C.40A:11-51).

29

30 21. This act shall take effect on the 90th day following the date
31 of enactment. Public entities may take such anticipatory
32 administrative action in advance of the effective date as may be
33 necessary for the implementation of the act.

34

35

36

STATEMENT

37

38 This bill modifies the current law regulating the awarding of
39 public contracts to business entities that make campaign
40 contributions, commonly referred to as the “pay to play” law.

41 Specifically, the bill provides that political party committees,
42 namely the State committee of a political party or any county or
43 municipal committee of a political party, would no longer be barred
44 from receiving a contribution from a business entity seeking to
45 enter into or holding a contract with the State, or a State agency, a
46 county or municipality. Instead, a business entity seeking to enter
47 into or holding a public contract would be barred from making a
48 contribution to a political committee, or continuing political

1 committee, in addition to candidate committees and legislative
2 leadership committees.

3 In addition the bill would:

4 1) create one uniform “pay to play” law applicable at all levels of
5 government, including the Executive Branch, State authorities, the
6 Legislative Branch, counties, and municipalities, and to add
7 sections covering local elective boards of education and fire
8 districts;

9 2) eliminate provisions of existing law that exclude contracts
10 awarded pursuant to a “fair and open process” from “pay to play”
11 proscriptions and provide instead that only contracts that are valued
12 at \$17,500 or less will be excluded;

13 3) increase the amount that may be contributed by business
14 entities from the current \$300 to \$1,000;

15 4) modify the definition in the law of the term “business entity”
16 to match the definition set forth in Governor Corzine’s Executive
17 Order No.117 of 2008;

18 5) modify the disclosure requirement for business entity that
19 contracts with a single State agency, or a county, municipality,
20 independent authority, board of education, or fire district for
21 \$17,500 or more and makes a contribution of money or other thing
22 of value to an independent expenditure committee to disclose all
23 such contributions; and

24 6) add a definition of “independent expenditure committee” for
25 the purpose of the reports required to be made by business entities
26 of their contributions.

27 As part of these changes to create a uniform “pay to play” law,
28 the bill repeals sections of law that:

29 1) prohibit a government aggregator that is a county or
30 municipality from awarding a contract to a licensed power supplier
31 if that supplier has made a contribution to the committee of any
32 candidate for public office;

33 2) apply “pay to play” in the context of State Executive Branch
34 contracting; and

35 3) allow local governments to adopt their own “pay to play”
36 ordinances and policies.