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SENATE BILL 90

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Michael Padilla

AN ACT

RELATING TO LOCAL GOVERNMENT; ENACTING THE LOCAL GOVERNMENT
CAMPAIGN REPORTING ACT; REQUIRING TIMELY REPORTING OF CAMPAIGN
CONTRIBUTIONS AND EXPENDITURES; PROVIDING FOR PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Election Code is enacted
to read:

"[NEW MATERIAL] SHORT TITLE.--This act may be cited as the
"Local Government Campaign Reporting Act"."

SECTION 2. A new section of the Election Code is enacted
to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the Local
Government Campaign Reporting Act:

A. "campaign committee" means one or more persons
authorized by a candidate to raise, collect or expend

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1 contributions on the candidate's behalf for the purpose of
2 electing the candidate to office;

3 B. "candidate" means a person who seeks or
4 considers an office in a local government election covered by
5 the Local Government Campaign Reporting Act, who either has
6 filed a declaration of candidacy or has received contributions
7 or made expenditures of two hundred dollars (\$200) or more or
8 authorized another person or campaign committee to receive
9 contributions or make expenditures of two hundred dollars
10 (\$200) or more for the purpose of seeking election to a local
11 government office;

12 C. "contribution" means a gift, subscription, loan,
13 advance or deposit of money or other thing of value, including
14 the estimated value of an in-kind contribution, that is made or
15 received for a political purpose, including payment of a debt
16 incurred in an election campaign, but "contribution" does not
17 include the value of services provided without compensation or
18 unreimbursed travel or other personal expenses of individuals
19 who volunteer a portion or all of their time on behalf of a
20 candidate or campaign committee;

21 D. "election cycle" means the period beginning
22 thirty days after an election for an office and ending on the
23 subsequent election day for that office;

24 E. "expenditure" means a payment, transfer or
25 distribution or obligation or promise to pay, transfer or

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1 distribute any money or other thing of value for a political
2 purpose, including payment of a debt incurred in an election
3 campaign;

4 F. "local government" means a school board, a two-
5 year public post-secondary educational institution, a special
6 district with a population of more than five thousand according
7 to the most recent federal decennial census or a municipality
8 with a population of more than five thousand according to the
9 most recent federal decennial census that does not have
10 campaign reporting requirements in its charter;

11 G. "political purpose" means advocating the
12 election or defeat of a candidate in an election; and

13 H. "prescribed form" means a form or electronic
14 format prepared and prescribed by the secretary of state."

15 SECTION 3. A new section of the Election Code is enacted
16 to read:

17 "[NEW MATERIAL] REPORTS REQUIRED--TIME AND PLACE OF
18 FILING.--

19 A. A candidate or campaign committee that has
20 received contributions or made expenditures of more than two
21 hundred dollars (\$200) shall file with the secretary of state a
22 report of all contributions received and expenditures made on a
23 prescribed form, and the report shall be filed in the same or
24 similar electronic system as that used for the Campaign
25 Reporting Act. Except as otherwise provided in this section,

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1 all reports pursuant to the Local Government Campaign Reporting
2 Act shall be filed electronically and electronically
3 authenticated by the candidate using an electronic signature in
4 conformance with the Electronic Authentication of Documents Act
5 and the Uniform Electronic Transactions Act.

6 B. A candidate or campaign committee shall file a
7 campaign report of all contributions received and expenditures
8 made during an election cycle and not previously reported by
9 5:00 p.m.:

- 10 (1) on the sixtieth day before the election;
- 11 (2) on the thirtieth day before the election;
- 12 (3) five days before the election; and
- 13 (4) thirty days after the election.

14 C. If a reporting date set by Subsection B of this
15 section falls on a weekend or holiday, the report shall be
16 filed on the next business day.

17 D. If a candidate or campaign committee has not
18 received any contributions and has not made any expenditures
19 since the last report filed with the secretary of state, the
20 candidate or campaign committee shall only be required to file
21 a statement of no activity, which shall not be required to be
22 notarized, in lieu of a full report when that report would
23 otherwise be due.

24 E. A report of expenditures and contributions filed
25 after a deadline set forth in this section shall not be deemed

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1 to have been timely filed.

2 F. Except for candidates and campaign committees
3 that file a statement of no activity, each candidate or
4 campaign committee shall file a report of expenditures and
5 contributions pursuant to the filing schedules set forth in
6 this section, regardless of whether any expenditures were made
7 or contributions were received during the reporting period.
8 Reports shall be required until the candidate or campaign
9 committee delivers a report to the secretary of state stating
10 that:

11 (1) there are no outstanding campaign debts;

12 (2) all money has been expended in accordance
13 with the provisions of Section 6 of the Local Government
14 Campaign Reporting Act; and

15 (3) the bank account for campaign funds
16 maintained by the candidate or campaign committee has been
17 closed.

18 G. A candidate who does not ultimately file a
19 declaration of candidacy and does not file a statement of no
20 activity shall file reports in accordance with Subsection B of
21 this section.

22 H. A candidate may apply to the secretary of state
23 for exemption from electronic filing in case of hardship, which
24 shall be defined by the secretary of state."

25 SECTION 4. A new section of the Election Code is enacted

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1 to read:

2 "[NEW MATERIAL] CONTENTS OF REPORT.--

3 A. Each required report of expenditures and
4 contributions shall be typed or printed legibly, or on a
5 computer disc or format approved by the secretary of state, and
6 shall include:

7 (1) the name and address of the person to whom
8 an expenditure was made or from whom a contribution was
9 received; provided that for contributors, the name of the legal
10 entity or the first and last names of the individual shall be
11 the full name of the legal entity or individual, and initials
12 only shall not constitute a full name unless that is the
13 complete legal name;

14 (2) the occupation and type and name of
15 business, if any, of any person making contributions of two
16 hundred fifty dollars (\$250) or more in the aggregate per
17 election;

18 (3) the amount of the expenditure or
19 contribution or value thereof;

20 (4) the purpose of the expenditure; and

21 (5) the date that the expenditure was made or
22 the contribution was received.

23 B. Each report shall contain an opening and closing
24 cash balance for the bank account maintained for campaign funds
25 by the reporting individual during the reporting period and the

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1 name of the financial institution.

2 C. Each report shall specify the amount of each
3 unpaid debt and the identity of the person to whom the debt is
4 owed."

5 SECTION 5. A new section of the Election Code is enacted
6 to read:

7 "[NEW MATERIAL] REPORTS AND STATEMENTS--LATE FILING
8 PENALTY--FAILURE TO FILE.--

9 A. If a statement of no activity or a report of
10 expenditures and contributions contains false or incomplete
11 information or is filed after any deadline imposed by the Local
12 Government Campaign Reporting Act, the candidate, in addition
13 to any other penalties or remedies prescribed by the Election
14 Code, shall be liable for and shall pay to the secretary of
15 state fifty dollars (\$50.00) per day for each regular working
16 day after the time required by the Local Government Campaign
17 Reporting Act for the filing of statements of no activity or
18 reports of expenditures and contributions until the complete or
19 true statement or report is filed, up to a maximum of five
20 thousand dollars (\$5,000).

21 B. All sums collected for the penalty shall be
22 deposited in the general fund for credit to the current school
23 fund. A report or statement of exception shall be deemed
24 timely filed only if it is received by the secretary of state
25 by the date and time prescribed by law.

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1 C. Any candidate who fails or refuses to file a
2 report of expenditures and contributions or statement of no
3 activity or to pay a penalty imposed by the secretary of state
4 as required by the Local Government Campaign Reporting Act
5 shall not, in addition to any other penalties provided by law:

6 (1) have the candidate's name printed upon the
7 ballot if the violation occurs before or through the final date
8 for the withdrawal of candidates; or

9 (2) be issued a certificate of election, if
10 the violation occurs after the final date for withdrawal of
11 candidates or after the election, until the candidate satisfies
12 all reporting requirements of the Local Government Campaign
13 Reporting Act and pays all penalties owed.

14 D. Any candidate who loses an election and who
15 failed or refused to file a report of expenditures and
16 contributions or a statement of no activity or to pay a penalty
17 imposed by the secretary of state as required by the Local
18 Government Campaign Reporting Act shall not be, in addition to
19 any other penalties provided by law, permitted to file a
20 declaration of candidacy or nominating petition for any future
21 election until the candidate satisfies all reporting
22 requirements of that act and pays all penalties owed."

23 SECTION 6. A new section of the Election Code is enacted
24 to read:

25 "NEW MATERIAL CAMPAIGN FUNDS--LIMITATIONS ON USE.--

1 A. It is unlawful for a candidate or the
2 candidate's agent to make an expenditure of contributions
3 received, except for the following purposes:

4 (1) expenditures of the campaign;
5 (2) donations to the state general fund;
6 (3) donations to an organization to which a
7 federal income tax deduction would be permitted under
8 Subparagraph (A) of Paragraph (1) of Subsection (b) of Section
9 170 of the Internal Revenue Code of 1986, as amended;

10 (4) expenditures to eliminate the campaign
11 debt of the candidate for the office sought or expenditures
12 incurred by the candidate when seeking election to another
13 public office covered by the Local Government Campaign
14 Reporting Act;

15 (5) donations to a political committee or to
16 another candidate seeking election to public office; or

17 (6) disbursements to return unused funds pro
18 rata to the contributors if no campaign debt exists.

19 B. No contributions solicited for or received in a
20 federal election campaign may be used in a local government
21 election campaign."

22 SECTION 7. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is July 1, 2013.