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HOUSE BILL 808

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Paul C. Bandy

AN ACT

RELATING TO TAX-EXEMPT ORGANIZATIONS; REQUIRING REGULAR
REPORTING OF CERTAIN CONTRIBUTIONS AND ELECTIONEERING
COMMUNICATIONS EXPENDITURES; PROVIDING FOR PENALTIES.

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

Section 1. A new section of the Campaign Reporting Act is
enacted to read:

"[NEW MATERIAL] REPORTING REQUIREMENTS--ELECTIONEERING
COMMUNICATION EXPENDITURES.--An entity granted an exemption
from federal income tax by the United States commissioner of
the internal revenue service pursuant to Section 501(c) of the
federal Internal Revenue Code of 1986, as amended, and that
engages in an electioneering communication during a primary or
general election shall file a disclosure report for that
election with the secretary of state as follows:

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1 A. if the electioneering communication occurs
2 during the primary election, the entity shall file a report of
3 activity listing:

4 (1) all expenditures related to the
5 electioneering communication, the purpose of the expenditure
6 and the name and address of the person or entity to whom an
7 expenditure was made;

8 (2) each donation, grant or allocation
9 received by the entity in excess of two hundred fifty dollars
10 (\$250) and not previously reported, regardless of whether it is
11 related to the electioneering communication;

12 (3) the name and address of the person or
13 entity from whom the donation, grant or allocation was
14 received; and

15 (4) the date the expenditure was made;

16 B. reports during a primary election shall be filed
17 as follows:

18 (1) by 5:00 p.m. on the second Monday in May a
19 report of activity occurring after the governor's proclamation
20 of the election but before the first Monday in May;

21 (2) by 5:00 p.m. on the Thursday before the
22 day of the primary election a report of activity occurring on
23 or after the first Monday in May but before 5:00 p.m. on the
24 Tuesday before the day of the primary election; and

25 (3) by 5:00 p.m. on the thirtieth day after

1 the primary election a report of activity occurring after 5:00
2 p.m. on the Tuesday before the day of the primary election but
3 before the day after the primary election and not previously
4 reported;

5 C. if the electioneering communication occurs
6 during the general election, the entity shall file a report of
7 activity listing:

8 (1) all expenditures related to the
9 electioneering communication, the purpose of the expenditure
10 and the name and address of the person or entity to whom the
11 expenditure was made;

12 (2) each donation, grant or allocation
13 received by the entity in excess of two hundred fifty dollars
14 (\$250) and not previously reported, regardless of whether it is
15 related to the electioneering communication;

16 (3) the name and address of the person or
17 entity from whom the donation, grant or allocation was
18 received; and

19 (4) the date the expenditure was made;

20 D. reports during a general election shall be filed
21 as follows:

22 (1) by 5:00 p.m. on the second Monday in
23 October a report of activity occurring after the primary
24 election but before the first Monday in October;

25 (2) by 5:00 p.m. on the Thursday before the

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1 day of the general election a report of activity occurring on
2 or after the first Monday in October but before 5:00 p.m. on
3 the Tuesday before the day of the general election; and

4 (3) by 5:00 p.m. on the thirtieth day after
5 the general election a report of activity occurring after 5:00
6 p.m. on the Tuesday before the day of the general election but
7 before the day after the general election and not previously
8 reported;

9 E. reports required by this section shall be filed
10 electronically by all reporting entities;

11 F. reporting entities may apply to the secretary of
12 state for exemption from electronic filing in case of hardship,
13 which shall be defined by the secretary of state; and

14 G. for the purposes of this section:

15 (1) "general election" means the period
16 beginning on the day after the primary election and ending on
17 the day of the general election; and

18 (2) "primary election" means the period
19 beginning on the day of the governor's proclamation of the
20 election and ending on the day of the primary election."

21 Section 2. A new section of the Campaign Reporting Act is
22 enacted to read:

23 "[NEW MATERIAL] REPORTS OF ACTIVITY--LATE FILING PENALTY--
24 FAILURE TO FILE.--

25 A. If a report of activity required to be filed

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1 for electioneering communications contains false or incomplete
2 information or is filed after any deadline imposed by the
3 Campaign Reporting Act, the reporting entity, in addition to
4 any other penalties or remedies prescribed by the Election
5 Code, shall be liable for and shall pay to the secretary of
6 state fifty dollars (\$50.00) per day for each regular working
7 day after the time required by the Campaign Reporting Act for
8 the filing of reports of activity until the complete or true
9 statement or report is filed, up to a maximum of five thousand
10 dollars (\$5,000).

11 B. If any reporting entity files a false,
12 incomplete or late report of activity due on the Thursday prior
13 to the election, the reporting entity shall be liable and pay
14 to the secretary of state five hundred dollars (\$500) for the
15 first working day and fifty dollars (\$50.00) for each
16 subsequent working day after the time required for the filing
17 of the report until the true and complete report is filed, up
18 to a maximum of five thousand dollars (\$5,000)."

19 Section 3. Section 1-19-26 NMSA 1978 (being Laws 1979,
20 Chapter 360, Section 2, as amended) is amended to read:

21 "1-19-26. DEFINITIONS.--As used in the Campaign Reporting
22 Act:

23 A. "advertising campaign" means an advertisement or
24 series of advertisements used for a political purpose and
25 disseminated to the public either in print, by radio or

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1 television broadcast or by any other electronic means,
2 including telephonic communications, and may include direct or
3 bulk mailings of printed materials;

4 B. "anonymous contribution" means a contribution
5 the contributor of which is unknown to the candidate or [~~his~~]
6 the candidate's agent or the political committee or its agent
7 who accepts the contribution;

8 C. "bank account" means an account in a financial
9 institution located in New Mexico;

10 D. "campaign committee" means two or more persons
11 authorized by a candidate to raise, collect or expend
12 contributions on the candidate's behalf for the purpose of
13 electing [~~him~~] the candidate to office;

14 E. "candidate" means an individual who seeks or
15 considers an office in an election covered by the Campaign
16 Reporting Act, including a public official, who either has
17 filed a declaration of candidacy or nominating petition or:

18 (1) for a non-statewide office, has received
19 contributions or made expenditures of one thousand dollars
20 (\$1,000) or more or authorized another person or campaign
21 committee to receive contributions or make expenditures of one
22 thousand dollars (\$1,000) or more for the purpose of seeking
23 election to the office; or

24 (2) for a statewide office, has received
25 contributions or made expenditures of two thousand five hundred

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1 dollars (\$2,500) or more or authorized another person or
2 campaign committee to receive contributions or make
3 expenditures of two thousand five hundred dollars (\$2,500) or
4 more for the purpose of seeking election to the office or for
5 candidacy exploration purposes in the years prior to the year
6 of the election;

7 F. "contribution" means a gift, subscription, loan,
8 advance or deposit of money or other thing of value, including
9 the estimated value of an in-kind contribution, that is made or
10 received for a political purpose, including payment of a debt
11 incurred in an election campaign, but does not include the
12 value of services provided without compensation or unreimbursed
13 travel or other personal expenses of individuals who volunteer
14 a portion or all of their time on behalf of a candidate or
15 political committee, nor does it include the administrative or
16 solicitation expenses of a political committee that are paid by
17 an organization that sponsors the committee;

18 G. "deliver" or "delivery" means to deliver by
19 certified or registered mail, telecopier, electronic
20 transmission or facsimile or by personal service;

21 H. "election" means any primary, general or
22 statewide special election in New Mexico and includes county
23 and judicial retention elections but excludes municipal, school
24 board and special district elections;

25 I. "electioneering communication":

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1 (1) means any radio, television, cable or
2 satellite broadcast and any print advertisement, including
3 direct or bulk mailings, that:

4 (a) refers to a clearly identified
5 candidate for state office;

6 (b) is made during a primary or general
7 election for the office sought by the candidate; and

8 (c) is targeted to the relevant
9 electorate; and

10 (2) does not include a communication appearing
11 in a news story, commentary or editorial distributed through
12 the print media or the facilities of any broadcasting station,
13 unless such print media or broadcasting station facilities are
14 owned or controlled by any political party, political committee
15 or candidate;

16 ~~[F.]~~ J. "election year" means an even-numbered year
17 in which an election covered by the Campaign Reporting Act is
18 held;

19 ~~[J.]~~ K. "expenditure" means a payment, transfer or
20 distribution or obligation or promise to pay, transfer or
21 distribute any money or other thing of value for a political
22 purpose, including payment of a debt incurred in an election
23 campaign or pre-primary convention, but does not include the
24 administrative or solicitation expenses of a political
25 committee that are paid by an organization that sponsors the

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1 committee;

2 ~~[K.]~~ L. "person" means an individual or entity;

3 ~~[L.]~~ M. "political committee" means two or more
4 persons, other than members of a candidate's immediate family
5 or campaign committee or a husband and wife who make a
6 contribution out of a joint account, who are selected,
7 appointed, chosen, associated, organized or operated primarily
8 for a political purpose; and "political committee" includes:

9 (1) political action committees or similar
10 organizations composed of employees or members of any
11 corporation, labor organization, trade or professional
12 association or any other similar group that raises, collects,
13 expends or contributes money or any other thing of value for a
14 political purpose;

15 (2) a single individual ~~[who by his]~~ whose
16 actions ~~[represents]~~ represent that ~~[he]~~ the individual is a
17 political committee; and

18 (3) a person or an organization of two or more
19 persons that within one calendar year expends funds in excess
20 of five hundred dollars (\$500) to conduct an advertising
21 campaign for a political purpose;

22 ~~[M.]~~ N. "political purpose" means influencing or
23 attempting to influence an election or pre-primary convention,
24 including a constitutional amendment or other question
25 submitted to the voters;

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