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HOUSE BILL 738

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

ROBERT A. PERLS

AN ACT

RELATING TO ELECTIONS; PROVIDING FOR PUBLIC FINANCING OF
ELECTIONS FOR THE STATE CORPORATION COMMISSION; AMENDING AND
ENACTING SECTIONS OF THE CAMPAIGN REPORTING ACT; CREATING THE
PUBLIC FINANCING ELECTION FUND; MAKING AN APPROPRIATION.

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]~~ PUBLIC FINANCING-- STATE CORPORATION
COMMISSION-- REGULATIONS. --

A. Elections to the state corporation commission
shall be publicly financed pursuant to the provisions of this
section.

B. If a candidate for the state corporation
commission agrees to receive public funds for an election

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1 campaign, the candidate shall agree to expend no more than the
2 maximum amount of one hundred thousand dollars (\$100,000) in a
3 primary or general election campaign. The maximum amount
4 provided in this subsection shall be adjusted annually to
5 account for annual changes in the consumer price index.

6 C. To be eligible to receive public funds for an
7 election for the state corporation commission, a candidate shall
8 execute an affidavit agreeing to the spending limits provided in
9 this section and affirming that the candidate agrees to be bound
10 by the provisions of this section.

11 D. Before receiving public funds, a candidate shall
12 be required first to raise five percent of the maximum amount
13 that may be expended in the election campaign from contributions
14 by individuals that in the aggregate total one hundred dollars
15 (\$100) or less from each individual. For the purposes of
16 determining this qualifying threshold amount, a candidate and
17 the candidate's spouse may not contribute more than one hundred
18 dollars (\$100) each. Neither in-kind contributions nor loans
19 may be used to meet the qualifying threshold amount.

20 E. Once a candidate raises the qualifying threshold
21 amount required in Subsection D of this section, the candidate
22 shall receive one dollar (\$1.00) for every one dollar (\$1.00)
23 the candidate raises from allowable contributions by individuals
24 that exceed the qualifying threshold amount, up to the maximum
25 amount allowed for the election campaign.

1 F. A candidate who is not opposed in an election is
2 not eligible for the public funds provided in this section.

3 G. Contributions to a candidate who agrees to be
4 bound by the provisions of this section shall be subject to the
5 following limits and restrictions for each primary or general
6 election:

7 (1) contributions by an individual to a
8 candidate may not exceed one hundred dollars (\$100), but the
9 candidate and the candidate's spouse may contribute, including
10 the maximum one hundred dollars (\$100) each is allowed to
11 contribute for the qualifying threshold amount, up to a total of
12 five hundred dollars (\$500) each;

13 (2) contributions by a political committee to a
14 candidate may not exceed five hundred dollars (\$500);

15 (3) a corporation may not directly contribute
16 any corporate funds to a candidate;

17 (4) the campaign committee of a candidate for
18 an office other than the state corporation commission may not
19 contribute from his campaign funds to the campaign of a
20 candidate for the state corporation commission;

21 (5) no more than twenty-five percent of the
22 maximum amount that may be spent on an election may be
23 contributed by political committees or other entities, as
24 opposed to individuals and matching public funds; and

25 (6) no employer may provide any bonus, salary

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1 increase or loan to his employees for the purpose of arranging
2 for or encouraging contributions to be made with that money to a
3 candidate for the state corporation commission.

4 H. If a candidate who is opposed in a primary or
5 general election for the state corporation commission does not
6 agree to be bound by the provisions of this section, or if an
7 independent political committee makes expenditures in opposition
8 to a candidate who has agreed to be bound by the provisions of
9 this section, then the following provisions apply:

10 (1) the spending and other limits on the
11 candidate who agreed to be bound by the provisions of this
12 section shall be waived, and that candidate may raise additional
13 funds from any authorized source, without restrictions unless
14 otherwise provided by law, and shall receive additional dollar-
15 for-dollar matching public funds up to the limit of the amount
16 spent by the opposing candidate or political committee; and

17 (2) the opposing candidate who does not agree
18 to be bound by the provisions of this section or the independent
19 political committee that makes expenditures in opposition to a
20 candidate who has agreed to be bound by the provisions of this
21 section shall, notwithstanding any other laws, be required to
22 submit campaign contribution and expenditure reports every three
23 days.

24 I. The secretary of state may adopt regulations
25 necessary to implement the provisions of this section. "

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

3 "[NEW MATERIAL] PUBLIC FINANCING ELECTION FUND--
4 CREATION. --

5 A. The "public financing election fund" is created
6 as a revolving fund in the state treasury. The fund shall
7 consist of appropriations, loan repayments, gifts, grants,
8 donations and interest earned on investment of the fund. Money
9 in the fund shall not revert at the end of a fiscal year.

10 B. The purpose of the public financing election fund
11 is to provide public funds for election campaigns for the state
12 corporation commission.

13 C. The public financing election fund shall be
14 administered by the secretary of state. Administrative costs of
15 the secretary of state shall not be paid from the fund. Money
16 in the fund shall be expended only on warrants drawn by the
17 secretary of finance and administration pursuant to vouchers
18 signed by the secretary of state or the secretary of state's
19 authorized representative in accordance with the provisions of
20 the Campaign Reporting Act. "

21 Section 3. Section 1-19-29.1 NMSA 1978 (being Laws 1993,
22 Chapter 46, Section 6, as amended) is amended to read:

23 "1-19-29.1. CAMPAIGN FUNDS--LIMITATION ON USE. --

24 A. It is unlawful for any candidate or his agent to
25 make an expenditure of contributions received, except for the

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1 following purposes or as otherwise provided in this section:

2 (1) expenditures of the campaign;

3 (2) expenditures of legislators that are
4 reasonably related to performing the duties of the office held,
5 including mail, telephone and travel expenditures to serve
6 constituents, but excluding personal and legislative session
7 living expenses;

8 (3) donations to the [state] general fund;

9 (4) donations to an organization to which a
10 federal income tax deduction would be permitted under
11 Subparagraph (A) of Paragraph (1) of Subsection (b) of Section
12 170 of the Internal Revenue Code of 1986, as amended;

13 (5) expenditures to eliminate the campaign debt
14 of the candidate for the office sought or expenditures incurred
15 by the candidate when seeking election to another public office
16 covered by the Campaign Reporting Act, except the state
17 corporation commission;

18 (6) donations to a political party or to
19 another candidate seeking election to public office, except the
20 state corporation commission; or

21 (7) disbursements to return unused funds pro
22 rata to the contributors if no campaign debt exists.

23 B. A judge subject to a nonpartisan retention
24 election or a candidate for judicial office shall solicit or
25 accept campaign funds and return unused funds in accordance with

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1 the provisions of the Code of Judicial Conduct.

2 C. No contributions solicited for or received in a
3 federal election campaign may be used in a state election
4 campaign. "

5 Section 4. Section 1-19-34.2 NMSA 1978 (being Laws 1993,
6 Chapter 46, Section 13, as amended) is amended to read:

7 "1-19-34.2. REGULATED INDUSTRY SOLICITATIONS
8 PROHIBITED--STATE CORPORATION COMMISSION CAMPAIGN SOLICITATION
9 AND ACCEPTANCE PROHIBITED.--

10 A. It is unlawful for an elected state official,
11 public officer or employee who works for a regulatory office or
12 a candidate who seeks election to a regulatory office or anyone
13 authorized by a candidate to solicit funds on his behalf to
14 knowingly solicit a contribution from an entity or its officers
15 or employees or a person that is directly regulated by the
16 office.

17 B. It is unlawful for an elected member of or
18 candidate for the state corporation commission, an employee of
19 the state corporation commission or anyone authorized to act on
20 their behalf to knowingly solicit or accept a contribution from
21 an entity, its officers or employees or a person that is
22 directly regulated by the state corporation commission.

23 C. For purposes of this section, an entity or person
24 is directly regulated by an office when the entity's or person's
25 charges for services offered to the public are set or directly

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1 subject to approval by the regulatory office or when a license
2 to do business in the state is determined by the regulatory
3 office; provided that an entity or person is directly regulated
4 by the state corporation commission only when the charges for
5 services offered to the public are set or directly subject to
6 approval by the state corporation commission."

7 Section 5. APPROPRIATION. -- Three hundred thousand dollars
8 (\$300,000) is appropriated from the general fund to the public
9 financing election fund for the purpose of providing public
10 funds for election campaigns for the state corporation
11 commission. Any unexpended or unencumbered balance remaining in
12 the fund at the end of a fiscal year shall not revert to the
13 general fund.