

SENATE No. 347

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to Restore Public Confidence in Government by Eliminating "Pay-to-Play" Opportunities

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Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1: Section 1 of Chapter 55 of the General Laws is hereby amended by
2 inserting the following definitions:--

3 "Expense directly related to the campaign of a candidate," an expense directly involved
4 in an election campaign including, without limitation, expenses such as postage, printing,
5 advertising, staffing, polling, and other such expenditures, as further regulated by the director,
6 but shall not include expenses which merely enhances a candidate's political future.

7 SECTION 2: Section 6 of Chapter 55 of the General Laws is hereby amended by striking
8 in the first sentence the words "the office of governor, lieutenant governor, attorney general,
9 state secretary, treasurer and receiver general, or auditor" and inserting therefore:-- public office
10 in the Commonwealth

11 SECTION 3: Section 6 of Chapter 55 of the General Laws is hereby amended by striking
12 in the first sentence the words "primarily for the candidate's or any other person's personal use"
13 and inserting therefore:-- substantially for the candidate's or any other person's personal use,

14 provided, however, that the director shall establish reasonable rules and regulations concerning
15 such expenditures

16 SECTION 4: Section 6 of Chapter 55 of the General Laws is hereby further amended by
17 striking the second paragraph and inserting therefore:--

18 Any other political committee, except as hereafter provided, duly organized, may receive,
19 pay and expend money or other things of value for the reasonable and necessary expenses
20 directly related to the principle for which the committee was organized so long as such
21 expenditure is not substantially for any person's personal use, provided, however, that the
22 director shall establish reasonable rules and regulations concerning such expenditures; and
23 provided, further, that such committee may contribute to other political committees provided,
24 further, that the aggregate of all such contributions made by such a committee shall not exceed in
25 any one calendar year the sum of one hundred dollars to each committee; and provided further,
26 that the aggregate of all such contributions made by such a committee shall not exceed in any
27 one calendar year the sum of fifteen hundred dollars.

28 SECTION 5: Section 7A of Chapter 55 of the General Laws is hereby amended by
29 striking the words "calendar year" wherever it appears and inserting in place thereof:-- "election"

30 SECTION 6: Chapter 55 of the General Laws is hereby amended by inserting after
31 section 13 the following new sections:--

32 Section 13A. No legislative or executive agent, as defined by section 39 of chapter 3,
33 shall directly or indirectly solicit or receive any gift, payment, contribution, assessment,
34 subscription or promise of money or other thing of value for the political campaign purposes of
35 any candidate for the office of Governor, Lieutenant Governor, Attorney General, State Auditor,

36 State Treasurer, State Secretary, state senator or state representative, a political committee
37 established or controlled by any such candidate, a legislative caucus committee, a legislative
38 leadership committee or a party committee, but this section shall not prevent such persons from
39 being members of political organizations or committees. The soliciting or receiving of any gift,
40 payment, contribution, assessment, subscription or promise of money or other thing of value by a
41 non-elected political committee organized to promote the candidacy for public office of a
42 legislative or executive agent, shall not be deemed to be a direct or indirect solicitation or receipt
43 of such contribution by such person;

44 Violation of any provision of this section shall be punished by imprisonment for not more
45 than one year or by a fine of not more than one thousand dollars.

46 Section 13B.

47 (1) Definitions used in this section: (A) "Quasi-public agency" means any authority or
48 entity established by the General Court to serve a public purpose including Bay State Skills
49 Corporation, Boston Metropolitan District, Centers of Excellence Corporation, Community
50 Economic Development Assistance Corporation, Community Development Finance Corporation,
51 Government Land Bank, Massachusetts Bay Transportation Authority, Massachusetts Business
52 Development Corporation, Massachusetts Convention Center Authority, Massachusetts
53 Corporations for Educational Telecommunications, Massachusetts Educational Loan Authority,
54 Massachusetts Health and Educational Facilities Authority, Massachusetts Horse Racing
55 Authority, Massachusetts Housing Finance Agency, Massachusetts Industrial Finance Agency,
56 Massachusetts Industrial Service Program, Massachusetts Port Authority, Massachusetts Product
57 Development Corporation, Massachusetts Technology Development Corporation, Massachusetts

58 Technology Park Corporation, Massachusetts Turnpike Authority, Massachusetts Water
59 Resources Authority, Pension Reserves Investment Management Board, State College Building
60 Authority, Southeastern Massachusetts University Building Authority, Thrift Institutions Fund
61 for Economic Development, University of Lowell Building Authority, University of
62 Massachusetts Building Authority, and the Water Pollution Abatement Trust (B) "State
63 agency" means any office, department, board, council, commission, institution or other agency in
64 the executive, legislative or judicial branch of state government. (C) "State contract" means
65 an agreement or contract with the state or any state agency or any quasi-public agency, having a
66 value of fifty thousand dollars or more, or a combination or series of such agreements or
67 contracts having a value of one hundred thousand dollars or more in a fiscal year, for (i) the
68 rendition of personal services, (ii) the furnishing of any material, supplies or equipment, (iii) the
69 construction, alteration or repair of any public building or public work, (iv) the acquisition, sale
70 or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan
71 guarantee. (D) "State contractor" means a person, business entity or nonprofit organization
72 that enters into a state contract. Such person, business entity or nonprofit organization shall be
73 deemed to be a state contractor until the termination of said contract. "State contractor" does not
74 include a municipality or any other political section of the state or an employee in the executive,
75 legislative or judicial branch of state government or a quasi-public agency, whether in the
76 classified or unclassified service and full or part-time, and only in such person's capacity as a
77 state or quasi-public agency employee. (E) "Prospective state contractor" means a person,
78 business entity or nonprofit organization that (i) submits a bid in response to a bid solicitation by
79 the state, a state agency or a quasi-public agency, or a proposal in response to a request for
80 proposals by the state, a state agency or a quasi-public agency, until the contract has been entered

81 into. "Prospective state contractor" does not include a municipality or any other political section
82 of the state or an employee in the executive, legislative or judicial branch of state government or
83 a quasi-public agency, whether in the classified or unclassified service and full or part-time, and
84 only in such person's capacity as a state or quasi-public agency employee. (F) "Principal of a
85 state contractor or prospective state contractor" means (i) an individual who is a member of the
86 board of directors of, or has an ownership interest in, a state contractor or prospective state
87 contractor, which is a business entity, except for an individual who (I) owns less than twenty-five
88 per cent of the shares of any such state contractor or prospective state contractor that is a publicly
89 traded corporation, or (II) is a member of the board of directors of a nonprofit organization
90 qualified under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent
91 corresponding internal revenue code of the United States, as from time to time amended, (ii) an
92 individual who is employed by a state contractor or prospective state contractor, which is a
93 business entity, as president, treasurer or executive or senior vice president, (iii) an individual
94 who is the chief executive officer of a state contractor or prospective state contractor, which is
95 not a business entity, (iv) an employee of any state contractor or prospective state contractor who
96 has managerial or discretionary responsibilities with respect to a state contract, (v) the spouse or
97 a dependent child of an individual described in this subparagraph, or (vi) a political committee
98 established by or on behalf of an individual described in this subparagraph. (2) No principal
99 of a state contractor or prospective state contractor, with regard to a state contract, bid
100 solicitation or request for proposals with or from a state agency in the executive branch or a
101 quasi-public agency, shall make a contribution to, or solicit contributions on behalf of (i) an
102 exploratory committee or candidate committee established by a candidate for nomination or
103 election to the office of Governor, Lieutenant Governor, Attorney General, State Auditor, State

104 Secretary, or State Treasurer, (ii) a political committee authorized to make contributions or
105 expenditures to or for the benefit of such candidates, or (iii) a party committee; (3) No
106 principal of a state contractor or prospective state contractor, with regard to a state contract, bid
107 solicitation or request for proposals with or from the General Assembly, shall make a
108 contribution to, or solicit contributions on behalf of (i) an exploratory committee or candidate
109 committee established by a candidate for nomination or election to the office of state senator or
110 state representative, (ii) a political committee authorized to make contributions or expenditures
111 to or for the benefit of such candidates, or (iii) a party committee; (4) If a principal of a state
112 contractor makes or solicits a contribution prohibited under subparagraph (A) or (B) of this
113 section, the contracting state agency or quasi-public agency may, void the existing contract with
114 said contractor, and no state agency or quasi-public agency shall award the state contractor a
115 state contract or an extension or an amendment to a state contract for one year after the election
116 for which such contribution is made or solicited. Each state contract shall include the provisions
117 of subparagraph (2) or (3) of this section, whichever is applicable, and this subparagraph as
118 conditions of the contract; and (4) If a principal of a prospective state contractor makes or
119 solicits a contribution prohibited under subparagraph (2) or (3) of this section, no state agency or
120 quasi-public agency shall award the prospective state contractor the contract described in the bid
121 solicitation or request for proposals, or any other state contract for one year after the election for
122 which such contribution is made or solicited. Each state agency and quasi-public agency shall
123 include the provisions of subparagraph (2) or (3) of this section, whichever is applicable, and this
124 subparagraph in each bid solicitation and request for proposals issued by the agency. The chief
125 executive officer of each prospective state contractor shall: (i) Inform each individual described
126 in subparagraph (F) of subsection (1) of this section with regard to said prospective state

127 contractor concerning the provisions of subparagraph (2) or (3) of this section, whichever is
128 applicable, and this subparagraph, (ii) certify in a sworn statement that no such individual will
129 make or solicit a contribution in violation of the provisions of subparagraph (2) or (3) of this
130 section, whichever is applicable, and this subparagraph, and (iii) acknowledge in writing that if
131 any such contribution is made or solicited, the prospective state contractor shall be disqualified
132 from being awarded the contract described in the bid solicitation or request for proposals or
133 being awarded any other state contract for one year after the election for which such contribution
134 is made or solicited. (5) (A) Neither the Governor, Lieutenant Governor, Attorney General,
135 State Auditor, State Secretary, or State Treasurer, any candidate for any such office nor any
136 agent of any such official or candidate may solicit contributions on behalf of an exploratory
137 committee or candidate committee established by a candidate for nomination or election to any
138 public office, a political committee or a party committee, from a principal of a state contractor or
139 prospective state contractor with regard to a state contract, bid solicitation or request for
140 proposals with or from a state agency in the executive branch or a quasi-public agency or a
141 holder of a valid prequalification certificate. (B) Neither a member of the General Assembly,
142 any candidate for any such office nor any agent of any such official or candidate may solicit
143 contributions on behalf of an exploratory committee or candidate committee established by a
144 candidate for nomination or election to any public office, a political committee or a party
145 committee, from a principal of a state contractor or prospective state contractor with regard to a
146 state contract, bid solicitation or request for proposals with or from the General Assembly or a
147 holder of a valid prequalification certificate. (6) The provisions of this section shall not
148 restrict a principal of a state contractor or prospective state contractor from establishing an
149 exploratory or candidate committee for said principal's own campaign or from soliciting

150 contributions for such committees from persons not prohibited from making contributions under
151 this subsection. (7) Each state agency and quasi-public agency shall prepare and forward to
152 the Office of Campaign and Political Finance, on a form prescribed by said director, a list of the
153 state contracts for which the agency is a party and a list of the principals of state contractors or
154 prospective state contractors for (A) such contracts, and (B) any bid solicitations or requests for
155 proposals issued by the agency. Each state agency and quasi-public agency shall forward to said
156 Office, on a form prescribed by the director, any changes additions or deletions to said lists.

157 (8) The Office of Campaign and Political Finance shall (A) compile a master list of
158 principals of state contractors and prospective state contractors for all state agencies and quasi-
159 public agencies, based on the information received under section (1) of this subsection, (B)
160 publish the master list on the Office's Internet web site, and (C) provide copies of the master list
161 to campaign treasurers upon request. The office shall update the master list every three months.
162 Any campaign treasurer who acts in reliance on such master list in good faith shall have a
163 complete defense in any action against the campaign treasurer for depositing a contribution in
164 violation of subsection (5) of this section.

165 (9) Violation of any provision of this section shall be punished by imprisonment for
166 not more than one year or by a fine of not more than one thousand dollars.