

SENATE No. 1482

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act restoring public confidence in government by eliminating "pay-to-play" opportunities.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|--------------------------|------------------------------------|
| <i>James B. Eldridge</i> | <i>Middlesex and Worcester</i> |
| <i>James Arciero</i> | <i>2nd Middlesex</i> |
| <i>Mark C. Montigny</i> | <i>Second Bristol and Plymouth</i> |

SENATE No. 1482

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 1482) of James B. Eldridge, James Arciero and Mark C. Montigny for legislation to restore public confidence in government by eliminating pay-to-play opportunities . State Administration and Regulatory Oversight.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1577 OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act restoring public confidence in government by eliminating "pay-to-play" opportunities.

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. This Act may be cited as the “Lobbyist and State Contractor Political
2 Responsibility Act of 2013.”

3 SECTION 2. Chapter 55 of the General Laws, as appearing in the 2010 Official Edition,
4 is hereby amended by inserting after section 13 the following two sections:-

5 Section 13A. (a) No legislative or executive agent, as defined by section 39 of chapter 3,
6 shall directly or indirectly make, solicit or receive any contribution, or coordinate contributions
7 for: (1) any candidate or candidates for governor, lieutenant governor, governor’s council,
8 attorney general, state secretary, auditor, treasurer, district attorney, state senator or state
9 representative; or (2) any political committee organized to promote any such candidate. This
10 section shall not prevent these legislative or executive agents from being members of political
11 organizations or political committees. The soliciting or receiving of any gift, payment,
12 contribution, assessment, subscription or promise of money or other thing of value by a non-
13 elected political committee organized to promote the candidacy for public office of any of these
14 legislative or executive agents shall not be considered a direct or indirect solicitation or receipt of
15 a contribution by such a legislative or executive agent.

16 (b) No legislative or executive agent, as defined by section 39 of chapter 3, shall make, or
17 promise, expressly or impliedly, any independent expenditure or electioneering communication
18 in support of or opposition to any candidate or candidates for governor, lieutenant governor,
19 governor’s council, attorney general, state secretary, auditor, treasurer, district attorney, state
20 senator or state representative.

21 (c) Violation of any provision of this section shall be punished by imprisonment for not
22 more than one year or by a fine of not more than \$10,000.

23 Section 13B. (a) As used in this section, the following terms shall have the following
24 meanings:

25 (1) “Quasi-public agency” shall mean any authority or entity established by the
26 General Court to serve a public purpose including, but not limited to: Bay State Skills
27 Corporation; Boston Metropolitan District; Centers of Excellence Corporation; Community
28 Economic Development Assistance Corporation; Community Development Finance
29 Corporation; Government Land Bank; Massachusetts Bay Transportation Authority;
30 Massachusetts Business Development Corporation; Massachusetts Convention Center Authority;
31 Massachusetts Corporations for Educational Telecommunications; Massachusetts Educational
32 Loan Authority; Massachusetts Health and Educational Facilities Authority; Massachusetts
33 Horse Racing Authority; Massachusetts Housing Finance Agency; Massachusetts Industrial
34 Finance Agency; Massachusetts Industrial Service Program; Massachusetts Port Authority;
35 Massachusetts Product Development Corporation; Massachusetts Technology Development
36 Corporation; Massachusetts Technology Park Corporation; Massachusetts Turnpike Authority;
37 Massachusetts Water Resources Authority; Pension Reserves Investment Management Board;
38 State College Building Authority; Southeastern Massachusetts University Building Authority;
39 Thrift Institutions Fund for Economic Development; University of Lowell Building Authority;
40 University of Massachusetts Building Authority; and the Water Pollution Abatement Trust

41 (2) “State agency” shall mean any office, department, board, council,
42 commission, institution or other agency in the executive, legislative or judicial branch of state
43 government.

44 (3) “State contract” shall mean any agreement or contract with the state or any
45 state agency or any quasi-public agency for: (i) the rendition of personal services; (ii) the
46 furnishing of any materials, supplies or equipment; (iii) the construction, alteration or repair of
47 any public building or public work; (iv) the acquisition, sale or lease of any land or building; (v)
48 a licensing arrangement; or (vi) a grant, loan or loan guarantee.

49 (4) “State contractor” shall mean any individual, group, association, corporation
50 or other entity that enters into a state contract. Such person, business entity or nonprofit
51 organization shall be deemed to be a state contractor until the termination of said contract. “State
52 contractor” does not include a municipality or any other political subdivision of the state, or an

53 employee in the executive, legislative or judicial branch of state government or a quasi-public
54 agency, whether in the classified or unclassified service and full or part-time, in such person's
55 capacity as a state or quasi-public agency employee.

56 (5) "Prospective state contractor" shall mean any individual, group, association,
57 corporation or other entity that submits a bid in response to a bid solicitation by the state, a state
58 agency or a quasi-public agency, or a proposal in response to a request for proposals by the state,
59 a state agency or a quasi-public agency, until the contract has been entered into. "Prospective
60 state contractor" does not include a municipality or any other political subdivision of the state, or
61 an employee in the executive, legislative or judicial branch of state government or a quasi-public
62 agency, whether in the classified or unclassified service and full or part-time, in such person's
63 capacity as a state or quasi-public agency employee.

64 (6) "Principal of a state contractor" shall mean: (i) any individual who is a
65 member of the board of directors of, or has an ownership interest of seven and a half per cent or
66 more in, a state contractor, except for an individual who is a member of the board of directors of
67 a nonprofit organization qualified under Section 501(c)(3) of the Internal Revenue Code of 1986,
68 or any subsequent corresponding internal revenue code of the United States, as from time to time
69 amended; (ii) any individual who is employed by a state contractor as president, treasurer or
70 executive or senior vice president; (iii) any employee of any state contractor who has managerial
71 or discretionary responsibilities with respect to a state contract; (iv) the spouse or any dependent
72 child of an individual described in this paragraph, or (v) any political committee established by
73 or on behalf of an individual described in this paragraph.

74 (7) "Principal of a prospective state contractor" shall mean: (i) any individual who
75 is a member of the board of directors of, or has an ownership interest of seven and a half per cent
76 or more in, a prospective state contractor, except for an individual who is a member of the board
77 of directors of a nonprofit organization qualified under section 501(c)(3) of the Internal Revenue
78 Code of 1986, or any subsequent corresponding internal revenue code of the United States, as
79 from time to time amended; (ii) any individual who is employed by a prospective state contractor
80 as president, treasurer or executive or senior vice president; (iii) any employee of any
81 prospective state contractor who has managerial or discretionary responsibilities with respect to a
82 state contract; (iv) the spouse or any dependent child of an individual described in this paragraph,
83 or (v) any political committee established by or on behalf of an individual described in this
84 paragraph.

85 (b) No state contractor, prospective state contractor, principal of a state contractor or
86 principal of a prospective state contractor, shall, during the period between the initial bid
87 solicitation by the state and the termination of the contract:

88 (1) Directly or indirectly make any contribution or promise expressly or impliedly
89 to make any contribution to any political party, political committee or candidate, or to any person
90 for any political purpose or use;

91 (2) Knowingly solicit any contribution from any person for any purpose during
92 any period;

93 (3) Coordinate contributions to any political party, political committee or
94 candidate, or to any person for any political purpose or use; or

95 (4) Promise, expressly or impliedly, to make any independent expenditure or
96 electioneering communication in support of, or opposition to, any candidate, political party or
97 political committee.

98 (c) If a state contractor or principal of a state contractor makes or solicits a contribution
99 or makes an independent expenditure or electioneering communication prohibited under
100 subsection (b) of this section, the contracting state agency or quasi-public agency shall void the
101 existing contract with the state contractor, and no state agency or quasi-public agency shall
102 award the state contractor a state contract or an extension or an amendment to a state contract for
103 one year after the election for which any such contribution is made or solicited. Each state
104 contract shall include the provisions of subsection (b) and this subsection of this section as part
105 of the conditions of the contract.

106 (d) If a prospective state contractor or principal of a prospective state contractor makes or
107 solicits a contribution or makes an independent expenditure or electioneering communication
108 prohibited under subsection (b) of this section, no state agency or quasi-public agency shall
109 award the prospective state contractor the contract described in the bid solicitation or request for
110 proposals, or any other state contract for one year after the election for which such independent
111 expenditure or electioneering communication is made or solicited. Each state agency and quasi-
112 public agency shall include the provisions of subsection (b) and this subparagraph of this section
113 in each bid solicitation and request for proposals issued by the agency. The chief executive
114 officer of each prospective state contractor shall: (i) inform each individual described in
115 paragraph (7) of subsection (a) of this section with regard to said prospective state contractor
116 concerning the provisions of subsection (b) and this subsection; (ii) certify in a sworn statement
117 that no such individual shall make or solicit a contribution in violation of the provisions of
118 subsection (b) and this subsection; and (iii) acknowledge in writing that if any such contribution
119 is made or solicited, the prospective state contractor shall be disqualified from being awarded the
120 contract described in the bid solicitation or request for proposals or being awarded any other
121 state contract for one year after the election for which such contribution is made or solicited.

122 (e) No candidate or political committee may directly or indirectly solicit contributions
123 from a state contractor, prospective state contractor, principal of a state contractor or principal of
124 a prospective state contractor.

125 (f) The provisions of this section shall not restrict a principal of a state contractor or
126 principal of a prospective state contractor from soliciting contributions for that principal's own
127 campaign or any political committee organized to promote that principal's own campaign.

128 (g) Each state agency and quasi-public agency shall prepare and forward to the Office of
129 Campaign and Political Finance, on a form prescribed by the director: (i) a list of the state
130 contracts for which the agency is a party; (ii) a list of the state contractors, and principals of state
131 contractors associated with those state contractors, for those contracts for which the agency is a
132 party; and (iii) a list of prospective state contractors, and the principals of prospective state
133 contractors associated with those prospective state contractors, that have submitted a bid or
134 proposal in response to a request for bids or proposals by the agency. Each state agency and
135 quasi-public agency shall forward to that Office, on a form prescribed by the director, any
136 changes, additions or deletions to the lists.

137 (h) The Office of Campaign and Political Finance shall: (i) compile a master list of state
138 contractors, prospective state contractors, principals of state contractors and principals of
139 prospective state contractors for all state agencies and quasi-public agencies, based on the
140 information received under subsection (g) of this section; (ii) publish the master list on the
141 Office's web site; and (iii) provide copies of the master list to any campaign treasurer upon
142 request. The office shall update the master list every three months. Any campaign treasurer who
143 acts in reliance on such master list in good faith shall have a complete defense in any action
144 against the campaign treasurer for depositing a contribution in violation of subsection (e) of this
145 section.

146 (i) Violation of any provision of this section shall be punished by imprisonment for not
147 more than one year or by a fine of not more than \$10,000.