SENATE DOCKET, NO. FILED ON: 1/16/2009

**SENATE . . . . . . . . . . . . . . No.**

|  |
| --- |
|  |

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 passage of the accompanying bill:

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

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

PETITION OF:

|  |  |
| --- | --- |
| Name: | District/Address: |
| James B. Eldridge | Middlesex and Worcester |

The Commonwealth of Massachusetts

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**In the Year Two Thousand and Nine**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

An Act to Restore 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:*

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

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

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

public office in the Commonwealth

SECTION 3: Section 6 of Chapter 55 of the General Laws is hereby amended by striking in the first sentence the words “primarily for the candidate’s or any other person’s personal use” and inserting therefore:--

substantially for the candidate’s or any other person’s personal use, provided, however, that the director shall establish reasonable rules and regulations concerning such expenditures

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

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

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

“election”

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

Section 13A. No legislative or executive agent, as defined by section 39 of chapter 3, shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for the office of Governor, Lieutenant Governor, Attorney General, State Auditor, State Treasurer, State Secretary, state senator or state representative, a political committee established or controlled by any such candidate, a legislative caucus committee, a legislative leadership committee or a party committee, but this section shall not prevent such persons from being members of political organizations or committees. The soliciting or receiving of any gift, payment, contribution, assessment, subscription or promise of money or other thing of value by a non-elected political committee organized to promote the candidacy for public office of a legislative or executive agent, shall not be deemed to be a direct or indirect solicitation or receipt of such contribution by such person;

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

Section 13B.

(1) Definitions used in this section:  
  
      (A) "Quasi-public agency" means any authority or entity established by the General Court to serve a public purpose including Bay State Skills Corporation, Boston Metropolitan District, Centers of Excellence Corporation, Community Economic Development Assistance Corporation, Community Development Finance Corporation, Government Land Bank, Massachusetts Bay Transportation Authority, Massachusetts Business Development Corporation, Massachusetts Convention Center Authority, Massachusetts Corporations for Educational Telecommunications, Massachusetts Educational Loan Authority, Massachusetts Health and Educational Facilities Authority, Massachusetts Horse Racing Authority, Massachusetts Housing Finance Agency, Massachusetts Industrial Finance Agency, Massachusetts Industrial Service Program, Massachusetts Port Authority, Massachusetts Product Development Corporation, Massachusetts Technology Development Corporation, Massachusetts Technology Park Corporation, Massachusetts Turnpike Authority, Massachusetts Water Resources Authority, Pension Reserves Investment Management Board, State College Building Authority, Southeastern Massachusetts University Building Authority, Thrift Institutions Fund for Economic Development, University of Lowell Building Authority, University of Massachusetts Building Authority, and the Water Pollution Abatement Trust  
  
      (B) "State agency" means any office, department, board, council, commission, institution or other agency in the executive, legislative or judicial branch of state government.  
  
      (C) "State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a fiscal year, for (i) the rendition of personal services, (ii) the furnishing of any material, supplies or equipment, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee.  
  
      (D) "State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until the termination of said contract. "State contractor" does not include a municipality or any other political section of the state or an employee in the executive, legislative or judicial branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.  
  
      (E) "Prospective state contractor" means a person, business entity or nonprofit organization that (i) submits a bid in response to a bid solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into. "Prospective state contractor" does not include a municipality or any other political section of the state or an employee in the executive, legislative or judicial branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.  
  
      (F) "Principal of a state contractor or prospective state contractor" means (i) an individual who is a member of the board of directors of, or has an ownership interest in, a state contractor or prospective state contractor, which is a business entity, except for an individual who (I) owns less than twenty-five per cent of the shares of any such state contractor or prospective state contractor that is a publicly traded corporation, or (II) is a member of the board of directors of a nonprofit organization qualified under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive or senior vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, (iv) an employee of any state contractor or prospective state contractor who has managerial or discretionary responsibilities with respect to a state contract, (v) the spouse or a dependent child of an individual described in this subparagraph, or (vi) a political committee established by or on behalf of an individual described in this subparagraph.  
  
      (2) No principal of a state contractor or prospective state contractor, with regard to a state contract, bid solicitation or request for proposals with or from a state agency in the executive branch or a quasi-public agency, shall make a contribution to, or solicit contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Auditor, State Secretary, or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee;  
  
      (3) No principal of a state contractor or prospective state contractor, with regard to a state contract, bid solicitation or request for proposals with or from the General Assembly, shall make a contribution to, or solicit contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of state senator or state representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee;  
  
      (4) If a principal of a state contractor makes or solicits a contribution prohibited under subparagraph (A) or (B) of this section, the contracting state agency or quasi-public agency may, void the existing contract with said contractor, and no state agency or quasi-public agency shall award the state contractor a state contract or an extension or an amendment to a state contract for one year after the election for which such contribution is made or solicited. Each state contract shall include the provisions of subparagraph (2) or (3) of this section, whichever is applicable, and this subparagraph as conditions of the contract; and  
  
      (4) If a principal of a prospective state contractor makes or solicits a contribution prohibited under subparagraph (2) or (3) of this section, no state agency or quasi-public agency shall award the prospective state contractor the contract described in the bid solicitation or request for proposals, or any other state contract for one year after the election for which such contribution is made or solicited. Each state agency and quasi-public agency shall include the provisions of subparagraph (2) or (3) of this section, whichever is applicable, and this subparagraph in each bid solicitation and request for proposals issued by the agency. The chief executive officer of each prospective state contractor shall: (i) Inform each individual described in subparagraph (F) of subsection (1) of this section with regard to said prospective state contractor concerning the provisions of subparagraph (2) or (3) of this section, whichever is applicable, and this subparagraph, (ii) certify in a sworn statement that no such individual will make or solicit a contribution in violation of the provisions of subparagraph (2) or (3) of this section, whichever is applicable, and this subparagraph, and (iii) acknowledge in writing that if any such contribution is made or solicited, the prospective state contractor shall be disqualified from being awarded the contract described in the bid solicitation or request for proposals or being awarded any other state contract for one year after the election for which such contribution is made or solicited.  
  
      (5) (A) Neither the Governor, Lieutenant Governor, Attorney General, State Auditor, State Secretary, or State Treasurer, any candidate for any such office nor any agent of any such official or candidate may solicit contributions on behalf of an exploratory committee or candidate committee established by a candidate for nomination or election to any public office, a political committee or a party committee, from a principal of a state contractor or prospective state contractor with regard to a state contract, bid solicitation or request for proposals with or from a state agency in the executive branch or a quasi-public agency or a holder of a valid prequalification certificate.  
  
      (B) Neither a member of the General Assembly, any candidate for any such office nor any agent of any such official or candidate may solicit contributions on behalf of an exploratory committee or candidate committee established by a candidate for nomination or election to any public office, a political committee or a party committee, from a principal of a state contractor or prospective state contractor with regard to a state contract, bid solicitation or request for proposals with or from the General Assembly or a holder of a valid prequalification certificate.  
  
      (6) The provisions of this section shall not restrict a principal of a state contractor or prospective state contractor from establishing an exploratory or candidate committee for said principal's own campaign or from soliciting contributions for such committees from persons not prohibited from making contributions under this subsection.  
  
      (7) Each state agency and quasi-public agency shall prepare and forward to the Office of Campaign and Political Finance, on a form prescribed by said director, a list of the state contracts for which the agency is a party and a list of the principals of state contractors or prospective state contractors for (A) such contracts, and (B) any bid solicitations or requests for proposals issued by the agency. Each state agency and quasi-public agency shall forward to said Office, on a form prescribed by the director, any changes additions or deletions to said lists.

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

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