

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:

James B. Eldridge

DISTRICT/ADDRESS:

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:

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.

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

11 public office in the Commonwealth

12

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

16 substantially for the candidate’s or any other person’s personal use, provided, however,
17 that the director shall establish reasonable rules and regulations concerning such expenditures
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19 SECTION 4: Section 6 of Chapter 55 of the General Laws is hereby further amended by striking
20 the second paragraph and inserting therefore:--

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

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

33 “election”

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

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

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

50 Section 13B.

51 (1) Definitions used in this section:

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53 (A) "Quasi-public agency" means any authority or entity established by the General Court to
54 serve a public purpose including Bay State Skills Corporation, Boston Metropolitan District,

55 Centers of Excellence Corporation, Community Economic Development Assistance Corporation,
56 Community Development Finance Corporation, Government Land Bank, Massachusetts Bay
57 Transportation Authority, Massachusetts Business Development Corporation, Massachusetts
58 Convention Center Authority, Massachusetts Corporations for Educational
59 Telecommunications, Massachusetts Educational Loan Authority, Massachusetts Health and
60 Educational Facilities Authority, Massachusetts Horse Racing Authority, Massachusetts Housing
61 Finance Agency, Massachusetts Industrial Finance Agency, Massachusetts Industrial Service
62 Program, Massachusetts Port Authority, Massachusetts Product Development Corporation,
63 Massachusetts Technology Development Corporation, Massachusetts Technology Park
64 Corporation, Massachusetts Turnpike Authority, Massachusetts Water Resources Authority,
65 Pension Reserves Investment Management Board, State College Building Authority,
66 Southeastern Massachusetts University Building Authority, Thrift Institutions Fund for Economic
67 Development, University of Lowell Building Authority, University of Massachusetts Building
68 Authority, and the Water Pollution Abatement Trust

69

70 (B) "State agency" means any office, department, board, council, commission, institution or
71 other agency in the executive, legislative or judicial branch of state government.

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73 (C) "State contract" means an agreement or contract with the state or any state agency or
74 any quasi-public agency, having a value of fifty thousand dollars or more, or a combination or
75 series of such agreements or contracts having a value of one hundred thousand dollars or more
76 in a fiscal year, for (i) the rendition of personal services, (ii) the furnishing of any material,

77 supplies or equipment, (iii) the construction, alteration or repair of any public building or public
78 work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or
79 (vi) a grant, loan or loan guarantee.

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81 (D) "State contractor" means a person, business entity or nonprofit organization that enters
82 into a state contract. Such person, business entity or nonprofit organization shall be deemed to
83 be a state contractor until the termination of said contract. "State contractor" does not include
84 a municipality or any other political section of the state or an employee in the executive,
85 legislative or judicial branch of state government or a quasi-public agency, whether in the
86 classified or unclassified service and full or part-time, and only in such person's capacity as a
87 state or quasi-public agency employee.

88

89 (E) "Prospective state contractor" means a person, business entity or nonprofit organization
90 that (i) submits a bid in response to a bid solicitation by the state, a state agency or a quasi-
91 public agency, or a proposal in response to a request for proposals by the state, a state agency
92 or a quasi-public agency, until the contract has been entered into. "Prospective state
93 contractor" does not include a municipality or any other political section of the state or an
94 employee in the executive, legislative or judicial branch of state government or a quasi-public
95 agency, whether in the classified or unclassified service and full or part-time, and only in such
96 person's capacity as a state or quasi-public agency employee.

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98 (F) "Principal of a state contractor or prospective state contractor" means (i) an individual

99 who is a member of the board of directors of, or has an ownership interest in, a state
100 contractor or prospective state contractor, which is a business entity, except for an individual
101 who (I) owns less than twenty-five per cent of the shares of any such state contractor or
102 prospective state contractor that is a publicly traded corporation, or (II) is a member of the
103 board of directors of a nonprofit organization qualified under Section 501(c)(3) of the Internal
104 Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United
105 States, as from time to time amended, (ii) an individual who is employed by a state contractor
106 or prospective state contractor, which is a business entity, as president, treasurer or executive
107 or senior vice president, (iii) an individual who is the chief executive officer of a state contractor
108 or prospective state contractor, which is not a business entity, (iv) an employee of any state
109 contractor or prospective state contractor who has managerial or discretionary responsibilities
110 with respect to a state contract, (v) the spouse or a dependent child of an individual described
111 in this subparagraph, or (vi) a political committee established by or on behalf of an individual
112 described in this subparagraph.

113

114 (2) No principal of a state contractor or prospective state contractor, with regard to a state
115 contract, bid solicitation or request for proposals with or from a state agency in the executive
116 branch or a quasi-public agency, shall make a contribution to, or solicit contributions on behalf
117 of (i) an exploratory committee or candidate committee established by a candidate for
118 nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State
119 Auditor, State Secretary, or State Treasurer, (ii) a political committee authorized to make
120 contributions or expenditures to or for the benefit of such candidates, or (iii) a party

121 committee;

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123 (3) No principal of a state contractor or prospective state contractor, with regard to a state
124 contract, bid solicitation or request for proposals with or from the General Assembly, shall
125 make a contribution to, or solicit contributions on behalf of (i) an exploratory committee or
126 candidate committee established by a candidate for nomination or election to the office of
127 state senator or state representative, (ii) a political committee authorized to make
128 contributions or expenditures to or for the benefit of such candidates, or (iii) a party
129 committee;

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131 (4) If a principal of a state contractor makes or solicits a contribution prohibited under
132 subparagraph (A) or (B) of this section, the contracting state agency or quasi-public agency may,
133 void the existing contract with said contractor, and no state agency or quasi-public agency shall
134 award the state contractor a state contract or an extension or an amendment to a state
135 contract for one year after the election for which such contribution is made or solicited. Each
136 state contract shall include the provisions of subparagraph (2) or (3) of this section, whichever
137 is applicable, and this subparagraph as conditions of the contract; and

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139 (4) If a principal of a prospective state contractor makes or solicits a contribution prohibited
140 under subparagraph (2) or (3) of this section, no state agency or quasi-public agency shall
141 award the prospective state contractor the contract described in the bid solicitation or request
142 for proposals, or any other state contract for one year after the election for which such

143 contribution is made or solicited. Each state agency and quasi-public agency shall include the
144 provisions of subparagraph (2) or (3) of this section, whichever is applicable, and this
145 subparagraph in each bid solicitation and request for proposals issued by the agency. The chief
146 executive officer of each prospective state contractor shall: (i) Inform each individual described
147 in subparagraph (F) of subsection (1) of this section with regard to said prospective state
148 contractor concerning the provisions of subparagraph (2) or (3) of this section, whichever is
149 applicable, and this subparagraph, (ii) certify in a sworn statement that no such individual will
150 make or solicit a contribution in violation of the provisions of subparagraph (2) or (3) of this
151 section, whichever is applicable, and this subparagraph, and (iii) acknowledge in writing that if
152 any such contribution is made or solicited, the prospective state contractor shall be disqualified
153 from being awarded the contract described in the bid solicitation or request for proposals or
154 being awarded any other state contract for one year after the election for which such
155 contribution is made or solicited.

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157 (5) (A) Neither the Governor, Lieutenant Governor, Attorney General, State Auditor, State
158 Secretary, or State Treasurer, any candidate for any such office nor any agent of any such
159 official or candidate may solicit contributions on behalf of an exploratory committee or
160 candidate committee established by a candidate for nomination or election to any public office,
161 a political committee or a party committee, from a principal of a state contractor or prospective
162 state contractor with regard to a state contract, bid solicitation or request for proposals with or
163 from a state agency in the executive branch or a quasi-public agency or a holder of a valid
164 prequalification certificate.

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166 (B) Neither a member of the General Assembly, any candidate for any such office nor any
167 agent of any such official or candidate may solicit contributions on behalf of an exploratory
168 committee or candidate committee established by a candidate for nomination or election to
169 any public office, a political committee or a party committee, from a principal of a state
170 contractor or prospective state contractor with regard to a state contract, bid solicitation or
171 request for proposals with or from the General Assembly or a holder of a valid prequalification
172 certificate.

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174 (6) The provisions of this section shall not restrict a principal of a state contractor or
175 prospective state contractor from establishing an exploratory or candidate committee for said
176 principal's own campaign or from soliciting contributions for such committees from persons not
177 prohibited from making contributions under this subsection.

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179 (7) Each state agency and quasi-public agency shall prepare and forward to the Office of
180 Campaign and Political Finance, on a form prescribed by said director, a list of the state
181 contracts for which the agency is a party and a list of the principals of state contractors or
182 prospective state contractors for (A) such contracts, and (B) any bid solicitations or requests for
183 proposals issued by the agency. Each state agency and quasi-public agency shall forward to
184 said Office, on a form prescribed by the director, any changes additions or deletions to said
185 lists.

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

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