

Title 40A.
Chapter 11.
Part R. (New)
Power to Regulate
Contributions by
Contractors
§1 - C.40A:11-51 &
Note to 18A:18A-37
§2 - C.19:44A-20.26
& Note to 40A:11-
51 & 18A:18A-37
§3 - C.19:44A-20.27

P.L. 2005, CHAPTER 271, *approved January 5, 2006*
Assembly Committee Substitute (*First Reprint*) for
Assembly, Nos. 3013 and 3421

1 AN ACT authorizing units of local government to impose limits on
2 political contributions by contractors and supplementing Title 40A
3 of the New Jersey Statutes and Title ¹[52] 19¹ of the Revised
4 Statutes.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 1. a. A county, municipality, independent authority, board of
10 education, or fire district is hereby authorized to establish by
11 ordinance, resolution or regulation, as may be appropriate, measures
12 limiting the awarding of public contracts therefrom to business entities
13 that have made a contribution pursuant to P.L.1973, c.83 (C.19:44A-1
14 et seq.) and limiting the contributions that the holders of a contract
15 can make during the term of a contract, notwithstanding the provisions
16 and parameters of sections 1 through 12 of P.L.2004, c.19 (C.19:44A-
17 20.2 et al.) and section 22 of P.L.1973, c.83 (C.19:44A-22).

18 b. The provisions of P.L.2004, c.19 shall not be construed to
19 supersede or preempt any ordinance, resolution or regulation of a unit
20 of local government that limits political contributions by business
21 entities performing or seeking to perform government contracts. Any
22 ordinance, resolution or regulation in effect on the effective date of
23 P.L.2004, c.19 shall remain in effect and those adopted after that
24 effective date shall be valid and enforceable.

25 ¹c. An ordinance, resolution or regulation adopted or promulgated
26 as provided in this section shall be filed with the Secretary of State.¹
27

28 2. a. ¹[Prior] Not later than 10 days prior¹ to entering into any
29 contract having an anticipated value in excess of ¹[the amount
30 established pursuant to section 2 of P.L.1954, c.48 (C.52:34-7), as

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted October 25, 2004.

1 adjusted pursuant to section 2 of P.L.1985, c.349 (C.52:34-7.1),
2 whether or not] \$17,500, except for a contract that is required by law
3 to be¹ publicly advertised for bids, a State agency, county,
4 municipality, independent authority, board of education, or fire district
5 shall require any business entity bidding thereon or negotiating
6 therefor, to submit along with its bid or price quote, a list of ¹[all]¹
7 political contributions ¹as set forth in this subsection¹ that are
8 reportable by the recipient pursuant to the provisions of P.L.1973,
9 c.83 (C.19:44A-1 et seq.) and that were made by the business entity
10 during the preceding 12 month period, along with the date and amount
11 of each contribution and the name of the recipient of each
12 contribution. ¹A business entity contracting with a State agency shall
13 disclose contributions to any State, county, or municipal committee of
14 a political party, legislative leadership committee, candidate committee
15 of a candidate for, or holder of, a State elective office, or any
16 continuing political committee. A business entity contracting with a
17 county, municipality, independent authority, other than an independent
18 authority that is a State agency, board of education, or fire district
19 shall disclose contributions to: any State, county, or municipal
20 committee of a political party; any legislative leadership committee; or
21 any candidate committee of a candidate for, holder of, an elective
22 office of that public entity, of that county in which that public entity
23 is located, of another public entity within that county, or of a
24 legislative district in which that public entity is located or, when the
25 public entity is a county, of any legislative district which includes all
26 or part of the county, or any continuing political committee.

27 The provisions of this section shall not apply to a contract when a
28 public emergency requires the immediate delivery of goods or
29 services.¹

30 b. When a business entity is a natural person, a contribution by
31 that person's spouse or child, residing therewith, shall be deemed to be
32 a contribution by the business entity. When a business entity is other
33 than a natural person, a contribution by any person or other business
34 entity having an interest therein shall be deemed to be a contribution
35 by the business entity. ¹When a business entity is other than a natural
36 person, a contribution by: all principals, partners, officers, or directors
37 of the business entity or their spouses; any subsidiaries directly or
38 indirectly controlled by the business entity; or any political
39 organization organized under section 527 of the Internal Revenue
40 Code that is directly or indirectly controlled by the business entity,
41 other than a candidate committee, election fund, or political party
42 committee, shall be deemed to be a contribution by the business
43 entity.¹

44 c. As used in this section:

45 "business entity" means a natural or legal person, business
46 corporation, professional services corporation, limited liability

1 company, partnership, limited partnership, business trust, association
2 or any other legal commercial entity organized under the laws of this
3 State or of any other state or foreign jurisdiction;

4 "interest" means the ownership or control of more than 10% of the
5 profits or assets of a business entity or 10% of the stock in the case of
6 a business entity that is a corporation for profit, as appropriate; and

7 "State agency" means any of the principal departments in the
8 Executive Branch of the State Government, and any division, board,
9 bureau, office, commission or other instrumentality within or created
10 by such department, the Legislature of the State and any office, board,
11 bureau or commission within or created by the Legislative Branch, and
12 any independent State authority, commission, instrumentality or
13 agency.

14 ¹d. Any business entity that fails to comply with the provisions of
15 this section shall be subject to a fine imposed by the New Jersey
16 Election Law Enforcement Commission in an amount to be determined
17 by the commission which may be based upon the amount that the
18 business entity failed to report.¹

19
20 ¹3. a. Any business entity making a contribution of money or any
21 other thing of value, including an in-kind contribution, or pledge to
22 make a contribution of any kind to a candidate for or the holder of any
23 public office having ultimate responsibility for the awarding of public
24 contracts, or to a political party committee, legislative leadership
25 committee, political committee or continuing political committee,
26 which has received in any calendar year \$50,000 or more in the
27 aggregate through agreements or contracts with a public entity, shall
28 file an annual disclosure statement with the New Jersey Election Law
29 Enforcement Commission, established pursuant to section 5 of
30 P.L.1973, c.83 (C.19:44A-5), setting forth all such contributions made
31 by the business entity during the 12 months prior to the reporting
32 deadline.

33 b. The commission shall prescribe forms and procedures for the
34 reporting required in subsection a. of this section which shall include,
35 but not be limited to:

36 (1) the name and mailing address of the business entity making the
37 contribution, and the amount contributed during the 12 months prior
38 to the reporting deadline;

39 (2) the name of the candidate for or the holder of any public office
40 having ultimate responsibility for the awarding of public contracts,
41 candidate committee, joint candidates committee, political party
42 committee, legislative leadership committee, political committee or
43 continuing political committee receiving the contribution; and

44 (3) the amount of money the business entity received from the
45 public entity through contract or agreement, the dates, and information
46 identifying each contract or agreement and describing the goods,

1 services or equipment provided or property sold.

2 c. The commission shall maintain a list of such reports for public
3 inspection both at its office and through its Internet site.

4 d. When a business entity is a natural person, a contribution by
5 that person's spouse or child, residing therewith, shall be deemed to be
6 a contribution by the business entity. When a business entity is other
7 than a natural person, a contribution by any person or other business
8 entity having an interest therein shall be deemed to be a contribution
9 by the business entity. When a business entity is other than a natural
10 person, a contribution by: all principals, partners, officers, or directors
11 of the business entity, or their spouses; any subsidiaries directly or
12 indirectly controlled by the business entity; or any political
13 organization organized under section 527 of the Internal Revenue
14 Code that is directly or indirectly controlled by the business entity,
15 other than a candidate committee, election fund, or political party
16 committee, shall be deemed to be a contribution by the business entity.

17 As used in this section:

18 "business entity" means a natural or legal person, business
19 corporation, professional services corporation, limited liability
20 company, partnership, limited partnership, business trust, association
21 or any other legal commercial entity organized under the laws of this
22 State or of any other state or foreign jurisdiction; and

23 "interest" means the ownership or control of more than 10% of the
24 profits or assets of a business entity or 10% of the stock in the case of
25 a business entity that is a corporation for profit, as appropriate.

26 e. Any business entity that fails to comply with the provisions of
27 this section shall be subject to a fine imposed by the New Jersey
28 Election Law Enforcement Commission in an amount to be determined
29 by the commission which may be based upon the amount that the
30 business entity failed to report.¹

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32 ¹[3.] 4.¹ This act shall take effect immediately.

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37 Permits units of local government to limit award of public contracts to
38 business entities that make political contributions; requires certain
39 business entities to file annual disclosure statement.