SENATE, No. 3025

STATE OF NEW JERSEY
212th LEGISLATURE

INTRODUCED DECEMBER 17, 2007

Sponsored by:
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District 32 (Bergen and Hudson)
Assemblyman JOSEPH CRYAN
District 20 (Union)

Co-Sponsored by:
Assemblymen Prieto, Chivukula, Assemblywomen Jasey and Lampitt

SYNOPSIS
Clarifies that certain political contribution disclosures that must be made annually to ELEC and prior to entering into certain public contracts apply only to for-profit business entities and not to nonprofit entities.

CURRENT VERSION OF TEXT
As introduced

(Sponsorship Updated As Of: 1/8/2008)
AN ACT concerning certain political contribution disclosures made annually to ELEC and prior to entering into certain public contracts and amending P.L.2005, c.271.

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

1. Section 2 of P.L.2005, c.271 (C.19:44A-20.26) is amended to read as follows:

2. a. Not later than 10 days prior to entering into any contract having an anticipated value in excess of $17,500, except for a contract that is required by law to be publicly advertised for bids, a State agency, county, municipality, independent authority, board of education, or fire district shall require any business entity bidding thereon or negotiating therefor, to submit along with its bid or price quote, a list of political contributions as set forth in this subsection that are reportable by the recipient pursuant to the provisions of P.L.1973, c.83 (C.19:44A-1 et seq.) and that were made by the business entity during the preceding 12-month period, along with the date and amount of each contribution and the name of the recipient of each contribution. A business entity contracting with a State agency shall disclose contributions to any State, county, or municipal committee of a political party, legislative leadership committee, candidate committee of a candidate for, or holder of, a State elective office, or any continuing political committee. A business entity contracting with a county, municipality, independent authority, other than an independent authority that is a State agency, board of education, or fire district shall disclose contributions to: any State, county, or municipal committee of a political party; any legislative leadership committee; or any candidate committee of a candidate for, holder of, an elective office of that public entity, of that county in which that public entity is located, of another public entity within that county, or of a legislative district in which that public entity is located or, when the public entity is a county, of any legislative district which includes all or part of the county, or any continuing political committee.

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

b. When a business entity is a natural person, a contribution by that person's spouse or child, residing therewith, shall be deemed to be a contribution by the business entity. When a business entity is other than a natural person, a contribution by any person or other business entity having an interest therein shall be deemed to be a contribution by the business entity. When a business entity is other

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

Matter underlined thus is new matter.
than a natural person, a contribution by: all principals, partners, 
officers, or directors of the business entity or their spouses; any 
subsidiaries directly or indirectly controlled by the business entity; 
or any political organization organized under section 527 of the 
Internal Revenue Code that is directly or indirectly controlled by 
the business entity, other than a candidate committee, election fund, 
or political party committee, shall be deemed to be a contribution 
by the business entity.

c. As used in this section:
"business entity" means a for-profit entity that is a natural or 
legal person, business corporation, professional services 
corporation, limited liability company, partnership, limited 
partnership, business trust, association or any other legal 
commercial entity organized under the laws of this State or of any 
other state or foreign jurisdiction;
"interest" means the ownership or control of more than 10% of 
the profits or assets of a business entity or 10% of the stock in the 
case of a business entity that is a corporation for profit, as 
appropriate; and
"State agency" means any of the principal departments in the 
Executive Branch of the State Government, and any division, board, 
bureau, office, commission or other instrumentality within or 
created by such department, the Legislature of the State and any 
office, board, bureau or commission within or created by the 
Legislative Branch, and any independent State authority, 
commission, instrumentality or agency.

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

Section 3 of P.L.2005, c.271 (C.19:44A-20.27) is amended 
to read as follows:

3. a. Any business entity making a contribution of money or 
any other thing of value, including an in-kind contribution, or 
pledge to make a contribution of any kind to a candidate for or the 
holder of any public office having ultimate responsibility for the 
awarding of public contracts, or to a political party committee, 
legislative leadership committee, political committee or continuing 
political committee, which has received in any calendar year 
$50,000 or more in the aggregate through agreements or contracts 
with a public entity, shall file an annual disclosure statement with 
the New Jersey Election Law Enforcement Commission, established 
pursuant to section 5 of P.L.1973, c.83 (C.19:44A-5), setting forth 
all such contributions made by the business entity during the 12 
months prior to the reporting deadline.
b. The commission shall prescribe forms and procedures for the reporting required in subsection a. of this section which shall include, but not be limited to:
   (1) the name and mailing address of the business entity making the contribution, and the amount contributed during the 12 months prior to the reporting deadline;
   (2) the name of the candidate for or the holder of any public office having ultimate responsibility for the awarding of public contracts, candidate committee, joint candidates committee, political party committee, legislative leadership committee, political committee or continuing political committee receiving the contribution; and
   (3) the amount of money the business entity received from the public entity through contract or agreement, the dates, and information identifying each contract or agreement and describing the goods, services or equipment provided or property sold.

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

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

As used in this section:
"business entity" means a for-profit entity that is a natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of this State or of any other state or foreign jurisdiction; and
"interest" means the ownership or control of more than 10% of the profits or assets of a business entity or 10% of the stock in the case of a business entity that is a corporation for profit, as appropriate.

e. Any business entity that fails to comply with the provisions of this section shall be subject to a fine imposed by the New Jersey Election Law Enforcement Commission in an amount to be
determined by the commission which may be based upon the amount that the business entity failed to report. (cf: P.L.2005, c.271, s.3)

3. This act shall take effect immediately.

STATEMENT

This bill amends N.J.S.A.19:44A-20.27 to clarify that only for-profit business entities, and therefore not nonprofit entities, that receive $50,000 or more in public contracts are required to file annual disclosure statements of political contributions with the Election Law Enforcement Commission (ELEC). It also amends N.J.S.A.19:44A-20.26 to clarify that the disclosure of certain political contributions that must be made prior to entering into certain public contracts apply to for-profit business entities and, therefore, do not apply to nonprofit entities.