

ASSEMBLY, No. 208

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman WEINBERG and Assemblyman ZISA

1 AN ACT concerning the penalty for certain violations of "The New  
2 Jersey Campaign Contributions and Expenditures Reporting Act"  
3 and amending P.L.1973, c.83.  
4

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

7  
8 1. Section 22 of P.L.1973, c.83 (C.19:44A-22) is amended to read  
9 as follows:

10 22. a. (1) (a) Except as provided in subsection e. or f. of this  
11 section and subject to the provisions of subparagraph (b) of this  
12 paragraph, any person, including any candidate, treasurer, candidate  
13 committee or joint candidates committee, political committee,  
14 continuing political committee, political party committee or legislative  
15 leadership committee, charged with the responsibility under the terms  
16 of this act for the preparation, certification, filing or retention of any  
17 reports, records, notices or other documents, who fails, neglects or  
18 omits to prepare, certify, file or retain any such report, record, notice  
19 or document at the time or during the time period, as the case may be,  
20 and in the manner prescribed by law, or who omits or incorrectly  
21 states or certifies any of the information required by law to be included  
22 in such report, record, notice or document, any person who proposes  
23 to undertake or undertakes a public solicitation, testimonial affair or  
24 other activity relating to contributions or expenditures in any way  
25 regulated by the provisions of this act who fails to comply with those  
26 regulatory provisions, and any other person who in any way violates  
27 any of the provisions of this act shall, in addition to any other penalty  
28 provided by law, be liable to a penalty of not more than \$3,000.00 for  
29 the first offense and not more than \$6,000.00 for the second and each  
30 subsequent offense.

31 (b) In the case of a failure to report within 48 hours the making or  
32 authorization by a continuing political committee of an expenditure in

**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.**

1 excess of \$500, or the incurring by such a committee of an obligation  
2 therefor, as required by paragraph (2) of subsection b. of section 8 of  
3 P.L.1973, c.83 (C.19:44A-8), the amount of the maximum penalty  
4 imposed for the violation shall be the greater of the amount prescribed  
5 under subparagraph (a) of this paragraph or the amount of the  
6 expenditure. In addition, if any person actively employed as a  
7 legislative agent, as defined by subsection g. of section 3 of P.L.1971,  
8 c.183 (C.52:13C-20), has control over the affairs of the committee  
9 when the failure to make such a timely report occurs, the commission  
10 shall institute a civil action to enjoin the person from engaging in any  
11 activity in pursuit of such employment for a period of up to six  
12 months, and the court may proceed with the disposition of that action  
13 in a summary manner.

14 (2) No person shall willfully and intentionally agree with another  
15 person to make a contribution to a candidate, candidate committee,  
16 joint candidates committee, political committee, continuing political  
17 committee, political party committee, or legislative leadership  
18 committee with the intent, or upon the condition, understanding or  
19 belief, that the recipient candidate or committee shall make or have  
20 made a contribution to another such candidate or committee, but this  
21 paragraph shall not be construed to prohibit a county or municipal  
22 committee of a political party from making a contribution or  
23 contributions to any candidate, candidate committee, joint candidates  
24 committee, political committee, continuing political committee,  
25 political party committee, or legislative leadership committee. A  
26 finding of a violation of this paragraph shall be made only upon clear  
27 and convincing evidence. A person who violates the provisions of this  
28 paragraph shall be liable to a penalty equal to three times the amount  
29 of the contribution which that person agreed to make to the recipient  
30 candidate or committee.

31 b. Upon receiving evidence of any violation of this section, the  
32 Election Law Enforcement Commission shall have power to hold, or  
33 to cause to be held under the provisions of subsection d. of this  
34 section, hearings upon such violation and, upon finding any person to  
35 have committed such a violation, to assess such penalty, within the  
36 limits prescribed in subsection a. of this section, as it deems proper  
37 under the circumstances, which penalty shall be paid forthwith into the  
38 State Treasury for the general purposes of the State.

39 c. In assessing any penalty under this section, the Election Law  
40 Enforcement Commission may provide for the remission of all or any  
41 part of such penalty conditioned upon the prompt correction of any  
42 failure, neglect, error or omission constituting the violation for which  
43 said penalty was assessed.

44 d. The commission may designate a hearing officer to hear  
45 complaints of violations of this act. Such hearing officer shall take  
46 testimony, compile a record and make factual findings, and shall

1 submit the same to the commission, which shall have power to assess  
2 penalties within the limits and under the conditions prescribed in  
3 subsections b. and c. of this section. The commission shall review the  
4 record and findings of the hearing officer, but it may also seek such  
5 additional testimony as it deems necessary. The commission's  
6 determination shall be by majority vote of the entire authorized  
7 membership thereof.

8 e. Any person who willfully and intentionally makes or accepts any  
9 contribution in violation of section 4 of P.L.1974, c.26 (C.19:44A-29)  
10 or section 18, 19 or 20 of P.L.1993, c.65 (C.19:44A-11.3,  
11 C.19:44A-11.4 or C.19:44A-11.5), shall be liable to a penalty of:

12 (1) Not more than \$5,000.00 if the cumulative total amount of  
13 those contributions is less than or equal to \$5,000.00;

14 (2) Not more than \$75,000.00 if the cumulative total amount of  
15 those contributions was more than \$5,000.00 but less than \$75,000;  
16 and

17 (3) Not more than \$100,000.00 if the cumulative total amount of  
18 those contributions is equal to or more than \$75,000.00.

19 f. In addition to any penalty imposed pursuant to subsection e. of  
20 this section, a person holding any elective public office shall forfeit  
21 that public office if the Election Law Enforcement Commission  
22 determines that the cumulative total amount of the illegal contributions  
23 was more than \$50,000.00 and that the violation had a significant  
24 impact on the outcome of the election.

25 g. Any penalty prescribed in this section shall be enforced in a  
26 summary proceeding under "the penalty enforcement law,"  
27 N.J.S.2A:58-1 et seq.  
28 (cf: P.L.1993, c.65, s.13)

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30 2. This act shall take effect immediately.

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#### STATEMENT

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35 This bill amends "The New Jersey Campaign Contributions and  
36 Expenditures Reporting Act" to increase the maximum civil penalty  
37 that the Election Law Enforcement Commission (ELEC) may impose  
38 upon a political action committee (PAC) for failure to make timely  
39 disclosure to the commission of campaign expenditures immediately  
40 before a primary or general election.

41 The Reporting Act provides that when a campaign financing  
42 organization (such as a candidate committee, PAC, or party  
43 committee) receives a contribution in excess of \$500 from a single  
44 source prior to an election but after the period covered by the  
45 organization's final pre-election report to ELEC, the organization must  
46 disclose to ELEC its receipt of that contribution within 48 hours.

1 Under a 1993 amendment to the Reporting Act, a similar provision  
2 was added providing that when a PAC (referred to in the statute as a  
3 "continuing political committee") spends more than \$500 during such  
4 a pre-election period to support or defeat a candidate or public  
5 question in the election, it must report the expenditure within 48  
6 hours.

7 The general civil penalty provisions of the Reporting Act provide  
8 that a violation of any of the Act's requirements and restrictions  
9 subjects the violator to a fine of up to \$3,000 for the first offense and  
10 up to \$6,000 for each subsequent offense. The bill provides that the  
11 maximum fine applicable to a PAC that makes a campaign expenditure  
12 subject to the 48-hour disclosure requirement and then fails promptly  
13 to report that expenditure shall be the greater of (a) the amounts  
14 indicated above, or (b) the amount of the expenditure.

15 In addition, the bill provides that, if anyone actively employed as a  
16 "legislative agent" within the meaning of that term as set forth in the  
17 "Legislative Activities Disclosure Act of 1971" has control over the  
18 affairs of the PAC when the failure to make such a timely disclosure  
19 occurs, ELEC shall institute a civil action to enjoin the person from  
20 engaging in any activity in pursuit of such employment for a period of  
21 up to six months.

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27 Increases maximum penalty for failure by PAC to disclose within 48  
28 hours campaign spending of more than \$500 during the pre-election  
period.