

2012 -- S 2978

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO ELECTIONS - STATE VENDOR'S POLITICAL CONTRIBUTIONS

Introduced By: Senator Michael J. McCaffrey

Date Introduced: May 17, 2012

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 17-27-1 of the General Laws in Chapter 17-27 entitled "Reporting
2 of Political Contributions by State Vendors" is hereby amended to read as follows:

3 **17-27-1. Definitions.** -- As used in this chapter:

4 (1) "Aggregate amount" means the total of all contributions made to a particular general
5 officer, candidate for general office, or political party within the time period set forth;

6 (2) "Business entity" means a sole proprietorship, partnership, firm, corporation, holding
7 company, joint stock company, receivership, trust, or any other entity recognized in law through
8 which business for profit is conducted;

9 (3) "Contribution" means a transfer of money, paid personal services, or other thing of
10 value reportable under the terms of chapter 25 of this title;

11 (4) "Executive officer" means any person who is appointed or elected as an officer of a
12 business entity by either the incorporators, stockholders, or directors of the business entity who is
13 in charge of a principal business unit, division, or function of the business entity, or participates
14 or has authority to participate other than in the capacity of a director in major policymaking
15 functions of the business entity or who is actively engaged in soliciting business from the state or
16 conducting, other than in a ministerial capacity, business with the state; ~~provided, that officers of~~
17 ~~the business entity who are located outside the state, are not residents of the state, and do not~~
18 ~~participate in the business of the business entity within this state shall be exempted from the~~
19 ~~requirements of this chapter;~~

1 (5) "Goods or services" shall ~~not~~ include, but not be limited to, cost reimbursement
2 contracts or contingency fee contracts ~~services provided to a state agency by:~~

3 ~~(i) Any public utility company; or~~

4 ~~(ii) A federal or state banking institution or other depository institution solely in~~
5 ~~connection with depository accounts held by the institution on behalf of a state agency;~~

6 (6) "State agency" means a branch, department, division, agency, commission, board,
7 office, bureau, or authority of the government of the state of Rhode Island;

8 (7) (i) "State vendor" means:

9 (A) A person or business entity that sells goods or provides services to any state agency,

10 (B) A person or business entity which has an ownership interest of ten (10%) percent or
11 more in a business entity that sells goods or provides services to any state agency, or

12 (C) A person who is an executive officer of a business entity that sells goods or provides
13 services to any state agency,

14 (D) The spouse or minor child of a person qualifying as a state vendor under the terms of
15 subparagraphs (A), (B) or (C) of this paragraph, ~~unless the spouse works for a vendor in~~
16 ~~competition for state business with the reporting business entity, or~~

17 (E) A business of the business entity that is a parent or subsidiary of a business entity
18 that sells goods or provides services to any state agency, or

19 (F) A person or business entity that bids to sell goods or provide services to any state
20 agency.

21 (ii) "State vendor" does not mean:

22 (A) A municipality,

23 ~~(B) A corporation established pursuant to Section 501(c)(3) of the Internal Revenue~~
24 ~~Code, 26 U.S.C. section 501(c)(3),~~

25 ~~(C) A hospital,~~

26 ~~(B)(D)~~ A state or federal agency, or

27 ~~(C)(E)~~ A person receiving reimbursement for an approved state expense. ~~The director of~~
28 ~~administration is authorized to provide as a public record a list of further exemptions consistent~~
29 ~~with the purposes of this chapter.~~

30 (8) "Officeholder" means the governor, lieutenant governor, attorney general, secretary
31 of state, treasurer and members of the joint committee on legislative services or candidate for the
32 aforementioned offices. The governor shall be considered the officeholder responsible for
33 awarding all contracts by all officers and employees of, and vendors and others doing business
34 with, executive branch state agencies not within the jurisdiction of the lieutenant governor, the

1 attorney general, the secretary of state, the treasurer or members of the joint committee on
2 legislative services.

3 (9) "Affiliated entity" means:

4 (i) Any subsidiary of the bidding or contracting business entity;

5 (ii) Any member of the same unitary business group as the bidding or contracting
6 business entity;

7 (iii) Any organization recognized by the United States Internal Revenue Service as a tax-
8 exempt organization described in section 501(c) of the Internal Revenue Code of 1986 (or any
9 successor provision of federal tax law) established by the bidding or contracting business entity;

10 or

11 (iv) Any political committee of the bidding or contracting business entity.

12 SECTION 2. Chapter 17-27 of the General Laws entitled "Reporting of Political
13 Contributions by State Vendors" is hereby amended by adding thereto the following sections:

14 **17-27-6. Prohibition of political contributions.** – (a) Any state vendor who contracts
15 annually with state agencies, more than five thousand dollars (\$5,000) in the aggregate, and any
16 affiliated entities of such state vendor, are prohibited from making any contributions to any
17 political committees established to promote the candidacy of: (1) The officeholder responsible for
18 awarding the contracts; or (2) Any other declared candidate for that office. This prohibition shall
19 be effective for the duration of the term of office of the incumbent officeholder awarding the
20 contracts or for a period of two (2) years following the expiration or termination of the contracts,
21 whichever is longer.

22 (b) Any state vendor whose aggregate pending bids and proposals for contract with state
23 agencies total more than five thousand dollars (\$5,000), or whose aggregate pending bids and
24 proposals for contract with state agencies combined with the state vendor's aggregate annual total
25 value of state contracts exceed twenty five thousand dollars (\$25,000), and any affiliated entities
26 of such state vendor, are prohibited from making any contributions to any political committee
27 established to promote the candidacy of the officeholder responsible for awarding the contract on
28 which the business entity has submitted a bid or proposal during the period beginning on the date
29 the invitation for bids or request for proposal is issued and ending on the day after the date the
30 contract is awarded.

31 (c) All contracts between state agencies and a state vendor that violates subsection (a) or
32 (b) shall be voidable. If a state vendor violates subsection (a) three (3) or more times within a
33 thirty-six (36) month period, then all contracts between state agencies and that state vendor shall
34 be void, and that state vendor shall not bid or respond to any invitation to bid or request for

1 proposals from any state agency or otherwise enter into any contract with any state agency for
2 three (3) years from the date of the last violation. A notice of each violation and the penalty
3 imposed shall be published on the website of the board of elections.

4 (d) Any political committee that has received a contribution in violation of subsection (a)
5 or (b) shall pay to the state an amount equal to the value of the contribution no more than thirty
6 (30) days after notice of the violation from the board of elections. Payments received by the state
7 pursuant to this subsection shall be deposited into the general revenue fund.

8 **17-27-7. Severability.** – If the provisions of this act or its application to any person or
9 circumstance are held invalid, the invalidity of that provision or application does not affect the
10 other provisions or applications of this act that can be given effect without the invalid provision
11 or application.

12 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO ELECTIONS - STATE VENDOR'S POLITICAL CONTRIBUTIONS

1 This act would expand and clarify those state vendors and their related businesses which
2 are disqualified from making certain political contributions.

3 This act would take effect upon passage.

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