

SENATE BILL No. 414

By Committee on Commerce

2-5

1 AN ACT concerning campaign finance; prohibiting certain contributions
2 by contractors with public entities.

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4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. (a) The state or any municipality shall not enter into an
6 agreement or otherwise contract to procure, from any business entity,
7 services or any material, supplies or equipment, or to acquire, sell or lease
8 any land or building, where the value of the transaction exceeds \$10,000,
9 if that business entity has solicited or made any contribution of money, or
10 pledge of contribution, including in-kind contributions to a candidate or
11 candidate committee for a candidate or holder of any publicly elected
12 office of any state or of such municipality:

13 (1) Within the 18 months immediately preceding the commencement
14 of negotiations for the contract or agreement;

15 (2) during the term of office of the elected official; or

16 (3) within the 18 months immediately preceding the last day of the
17 term of the elected official.

18 (b) No business entity which agrees to any contract or agreement with
19 the state or any municipality, either for the rendition of services or
20 furnishing of any material, supplies or equipment or for the acquisition,
21 sale or lease of any land or building, if the value of the transaction exceeds
22 \$10,000, shall knowingly solicit or make any contribution of money, or
23 pledge of a contribution, including in-kind contributions, to a candidate or
24 candidate committee for the election of any candidate or holder of the state
25 elected office or of such locally elected office prior to the completion of
26 the contract or agreement.

27 (c) For purposes of this act, the terms "state" and "municipality" shall
28 have the meanings as defined in K.S.A. 75-6102, and amendments thereto.

29 (d) For the purposes of this act, the terms "candidate," "contribution,"
30 "state office" and "local office" have the meanings as defined in K.S.A.
31 25-4143, and amendments thereto.

32 (e) For the purposes of this act, "business entity" means any natural
33 or legal person, business corporation, professional services corporation,
34 limited liability company, partnership, limited partnership, business trust,
35 association or any other legal commercial entity organized under the laws
36 of this state or any other state or foreign jurisdiction. The definition of a

1 business entity includes:

- 2 (1) All principals who own or control more than 10% of the profits or
3 assets of a business entity or 10% of the stock in the case of a business
4 entity that is a corporation for profit, as appropriate;
- 5 (2) any subsidiaries directly or indirectly controlled by the business
6 entity;
- 7 (3) any political organization organized under section 527 of the
8 internal revenue code that is directly or indirectly controlled by the
9 business entity, other than a candidate committee; and
- 10 (4) if a business entity is a natural person, that person's spouse and
11 any child residing at the home.

12 Sec. 2. Prior to awarding any contract or agreement to procure
13 services or any material, supplies or equipment from, or for the
14 acquisition, sale or lease of any land or building from or to, any business
15 entity, the state or municipality shall require, as part of the procurement
16 process, the business entity to report all contributions the business entity
17 made during the preceding four years to any candidate or candidate
18 committee organization of the state or of such municipality on a form
19 developed by the Kansas governmental ethics commission. Such reports
20 shall be subject to review by the commission.

21 Sec. 3. Prior to awarding any contract or agreement to procure
22 services or any material, supplies or equipment from, or for the
23 acquisition, sale or lease of any land or building from or to, any business
24 entity, the state or such municipality shall require the business entity to
25 provide a written certification that it has not made a contribution that
26 would bar the award of the contract pursuant to this act. The business
27 entity shall have a continuing duty to report any contribution it makes
28 during the term of the contract. Such reports shall be subject to review by
29 the commission.

30 Sec. 4. If a business entity inadvertently makes a contribution that
31 would otherwise bar it from receiving a contract or makes a contribution
32 during the term of a contract in violation of this act, the entity may request
33 a full reimbursement from the recipient and, if such reimbursement is
34 received within 30 days after the date on which the contribution was made,
35 the business entity would again be eligible to receive a contract or would
36 no longer be in violation, as appropriate. It shall be presumed that
37 contributions made within 60 days of a primary or general election were
38 not made inadvertently.

39 Sec. 5. It shall be a breach of the terms of a state government contract
40 or of a municipal government contract for a business entity to:

- 41 (1) Make or solicit a contribution in violation of this act;
- 42 (2) knowingly conceal or misrepresent a contribution given or
43 received;

1 (3) make or solicit contributions through intermediaries for the
2 purpose of concealing or misrepresenting the source of the contribution;

3 (4) make or solicit any contribution on the condition or with the
4 agreement that it will be contributed to a campaign committee of any
5 candidate or holder of the public office of the state or of such municipality;

6 (5) engage or employ a lobbyist or consultant with the intent or
7 understanding that such lobbyist or consultant would make or solicit any
8 contribution, which if made or solicited by the business entity itself, would
9 subject that entity to the restrictions of this act;

10 (6) fund contributions made by third parties, including consultants,
11 attorneys, family members and employees;

12 (7) engage in any exchange or contributions to circumvent the intent
13 of this act; or

14 (8) directly or indirectly, through or by any other person or means, do
15 any act which would subject that entity to the restrictions of this act.

16 Sec. 6. This act shall not prohibit the awarding of a contract when the
17 public exigency requires the immediate delivery of goods or performance
18 of services as determined by the state agency head or the governing body
19 of the municipality.

20 Sec. 7. Every contract and bid application and specifications covered
21 by this act shall contain a provision describing the requirements of this act
22 and a statement that compliance with this act shall be a material term and
23 condition of the contract or bid application.

24 Sec. 8. This act shall take effect and be in force from and after its
25 publication in the statute book.