

**CHAPTER 174. REPORTS OF POLITICAL CONTRIBUTIONS**

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**Authority**

The provisions of this Chapter 174 issued under section 201 of the Pennsylvania Election Code (25 P. S. § 2621); and section 3 of the act of June 5, 1937 (P. L. 1688, No. 352) (71 P. S. § 282), unless otherwise noted.

**Source**

The provisions of this Chapter 174 adopted February 21, 1975, 5 Pa.B. 332.

**§ 174.1. Business entity.**

(a) A rational and appropriate distinction may be made between enterprises operated for profit and those for nonprofit. The word “business” connotes being operated for profit. The purpose of Act 201 is to require disclosure of political contributions which could have been made with the object of obtaining financially remunerative nonbid contracts from government bodies. Nonprofit organizations would not normally benefit from these contracts, and are hereby deemed to fall outside the scope of the legislative intent.

(b) Only those business entities doing business in this Commonwealth are required to report on the current version of Form DSEB-504, as described in § 177.9 (relating to official forms). Parent companies of subsidiaries doing business in this Commonwealth but which do not do business here themselves shall also be excluded, even when a director of the parent corporation also serves on the board of directors of the subsidiary. In that case, that director’s knowledge is relevant only as it pertains to contributions of other directors of the subsidiary.

(c) With the exemption of the business official authorized under the Business Corporation Law or analogous laws to sign the report on behalf of the business entity, there is no duty of any other business official to inquire as to the making of any political contributions by other business officials or employees.

**Source**

The provisions of this § 174.1 amended October 6, 2000, effective October 7, 2000, 30 Pa.B. 5138. Immediately preceding text appears at serial page (201041).

**Cross References**

This section cited in 4 Pa. Code § 177.9 (relating to official forms).

**§ 174.2. Awarded nonbid contracts.**

(a) This phraseology is broadly inclusive, since the discretionary element in awarding such contracts provides the potential for abuse which Act 201 is attempting to uncover. Accordingly, the term “nonbid contract” includes all service purchase contracts, especially those for professional services, as well as those other nonbid contracts let by virtue of some selection process or exercise of governmental discretion.

(b) Excluded are services performed by business entities which may automatically participate in programs subject to governmental regulation; such as pharmacies participating in the paid prescription plan; lottery ticket salesmen.

(c) Similarly, public utility service, while on a nonbid basis, cannot be viewed as being “awarded,” since a utility exercises an actual or virtual monopoly within its service area, and its rates are not negotiated between the Commonwealth as a customer and the utility, but are subject to regulation.

(d) A bank acting as a State depository is not required to file unless it has been designated as such in 1974. Banks cashing welfare checks for a small handling charge are excluded, since this function is performed as a public service and the concept of an award or selection process is absent here.

(e) Banks which have been awarded consultantship or financial management contracts in 1974, or have had such contracts renewed in 1974, are required to file. Renewal means continuation of such a contract by virtue of any affirmative action taken by the contracting governmental body with respect to the continued existence of the contract.

**§ 174.3. Commonwealth.**

(a) The term “Commonwealth” shall include all departments, bureaus, commissions, agencies or other offices of the executive, legislative or judicial branches of state government. Also included shall be those independent agencies or commissions like the General State Authority and the Turnpike Commission, since a great many nonbid contracts are awarded by these governmental bodies. In addition, municipal authorities have been held to be agencies or instrumentalities of the Commonwealth, and business entities contracting with such bodies must also file.

(b) Excluded, however, are any interstate authorities such as the Delaware River Port Authority and the Delaware River Basin Commission, since they are not solely Commonwealth bodies, and since representatives of other states would be in a position to oversee the award of any nonbid contracts.

**§ 174.4. Political subdivision.**

(a) Although the statutory language uses the conjunction “and,” it would be completely contrary to the purpose of Act 201 to require nonbid contracts be awarded to a business entity by both the Commonwealth and a subdivision before the entity must report. Accordingly, a nonbid contract just with a political subdivision shall suffice.

(b) The definition of political subdivision shall include that set forth in the Statutory Construction Act (any county, city, borough, incorporated town, township, school district, vocational school district and county institutional district).

**§ 174.5. Preceding calendar year.**

Since the first report under section 1605 of the Pennsylvania Election Code (25 P. S. § 3225.1) is due in 1975, the preceding calendar year with respect to the award of nonbid contracts and the donation of political contributions is 1974.

**§ 174.6. Political contribution.**

(a) The term “political contribution” is defined as a donation of money or other valuable thing to a candidate for nomination or election, or to a political committee, for the purpose of defraying primary or election expenses, as the foregoing terms are defined at section 1601 of the Pennsylvania Election Code (25 P. S. § 3221).

(b) Section 1605 of the Pennsylvania Election Code (25 P. S. § 3225.1) is interpreted to apply to all offices, Federal or State, for which votes are cast by Pennsylvania electors. This would therefore exclude contributions made to candidates in other states.

**§ 174.7. Knowledge possessed.**

The whole tenor of section 1605 of the Pennsylvania Election Code (25 P. S. § 3225.1) suggests that the standard is actual knowledge of the persons specified. It is their actual knowledge which is viewed as constructive knowledge of the business entity.

**§ 174.8. Clause 1.**

No dollar minimum applies to a contribution made by the business officers specified herein.

**§ 174.9. Clause 2.**

The \$1,000 minimum applies to this clause alone. Moreover, the term “political contribution” here is a generic term used to describe the act of donation to political campaigns by an identifiable social unit, the family. Accordingly, this clause shall be interpreted to refer to one or more donations by members of the unit which in the aggregate exceed \$1,000. This means that not only is an indi-

vidual's contributions aggregated, but the contributions of all the members of the family as well. Otherwise, the intent of section 1605 of the Pennsylvania Election Code as amended (25 P. S. § 3225.1) could be frustrated by spreading one contribution in excess of \$1,000 among the members of the family so that each individual contribution would be less than \$1,000.

**§ 174.10. Unemancipated child.**

The term "unemancipated child" means a person below the age of 18 receiving at least one-half of his support, which could include room and board, from a parent or guardian.

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