

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 961
Committee Substitute Favorable 4/15/09
Committee Substitute #2 Favorable 5/12/09

Short Title: Pay to Play Regulation.

(Public)

Sponsors:

Referred to:

April 1, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO PREVENT CONFLICT OF INTEREST AND ITS APPEARANCE
3 INVOLVING POLITICAL CONTRIBUTIONS BY STATE CONTRACTORS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Article 3 of Chapter 143 of the General Statutes is amended by
6 adding a new section to read:

7 "**§ 163-278.13D. Prohibition on contributions by entity affiliated with a vendor.**

8 (a) Definitions. – The following definitions apply in this section:

9 (1) Contribution. – As defined in G.S. 163-278.6(6). A contribution is made
10 during the term of a contract if it is dated or pledged on or after the first day
11 of the term of the contract, but not later than the last day of the term of the
12 contract, if it is delivered on or after the first day of the term of the contract,
13 but not later than the last day of the term of the contract, or if the entity
14 affiliated with the vendor pledges during the term of the contract to deliver
15 the contribution after the last day of the term of the contract. However, a
16 contribution will not be deemed to be made if: (i) the vendor or entity
17 affiliated with the vendor discovers the contribution within two months of
18 the date of such contribution; (ii) such contribution exceeds one thousand
19 dollars (\$1,000); and (iii) the vendor or entity affiliated with the vendor
20 obtains a return of the contribution within 60 calendar days of the date of
21 discovery of the contribution. A contribution is accepted during the term of a
22 contract if the relevant political campaign receives the contribution on or
23 after the first day of the term of the contract, but not later than the last day of
24 the term of the contract and does not return the contribution within 10 days,
25 or the relevant political campaign agrees on or after the first day of the term
26 of the contract to receive the contribution after the last day of the term of the
27 contract.

28 (2) Entity affiliated with a vendor. – An officer, director, member, or manager
29 of the vendor, if the vendor is an incorporated business or a limited liability
30 company, a partner or general manager if the vendor is an unincorporated
31 business entity, or any political committee of which the vendor is the parent
32 entity as provided in G.S. 163-278.19. Director of a vendor means any
33 director of the vendor whether or not receiving compensation. An advisory
34 director is not a director of a vendor if the advisory director: (i) is not elected
35 by the vendor's shareholders and the vendor is a company or bank; (ii) is not



1 authorized to vote on matters before the Board of Directors; and (iii)
2 provides solely general policy advice to the Board of Directors.

3 (3) Office with authority to award contract. – Any of the principal offices or
4 departments listed in G.S. 143A-11. Notwithstanding any other provision of
5 law or delegation of authority and for the purposes of subsection (b) of this
6 section, the head of the principal office or department shall be deemed to
7 award all contracts for that principal office or department and for any other
8 offices, agencies, or commissions administratively housed within that
9 principal office or department.

10 (4) Relevant political campaign. – A candidate for the office with authority to
11 award the contract, the officer holding the office with authority to award the
12 contract, or a political committee controlled by a candidate for or officer
13 holding the office with authority to award the contract.

14 (b) Prohibition. – No entity affiliated with a vendor that has entered into a contract for
15 supplies, materials, equipment, other tangible personal property, or services in excess of
16 twenty-five thousand dollars (\$25,000) with any of the principal offices or departments listed in
17 G.S. 143A-11 and subject to the provisions of Article 3 of Chapter 143 of the General Statutes
18 shall make during the term of the contract a contribution to a relevant political campaign. No
19 relevant political campaign shall knowingly accept a contribution during the term of the
20 contract from an entity affiliated with a vendor that has entered into a contract for supplies,
21 materials, equipment, other tangible personal property, or services in excess of twenty-five
22 thousand dollars (\$25,000) with any of the principal offices or departments listed in
23 G.S. 143A-11 and subject to the provisions of Article 3 of Chapter 143 of the General Statutes.
24 This subsection does not apply if the contributions by all entities affiliated with the vendor to
25 the relevant political campaign during the term of the contract do not exceed one thousand
26 dollars (\$1,000). The State Board of Elections shall adopt any procedures for reporting it deems
27 necessary for the enforcement of this subsection.

28 (c) Penalty. – A violation of this section is a Class 2 misdemeanor."

29 **SECTION 2.** This act becomes effective December 1, 2009, and applies to
30 contributions made on or after that date.