S T A T E  O F  N E W  Y O R K

7055

2009-2010 Regular Sessions

I N  A S S E M B L Y

March 19, 2009

Introduced by M. of A. BALL -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state finance law, in relation to disqualifications to contract with the state

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 139-b of the state finance law, as amended by chapter 268 of the laws of 1971, is amended to read as follows:

S 139-b. Disqualification to contract with state. 1. Any person who, when called before a grand jury, head of a state department, temporary state commission or other state agency, or the organized crime task force in the department of law, which is empowered to compel the attendance of witnesses and examine them under oath, to testify in an investigation, concerning any transaction or contract had with the state, any political subdivision thereof, a public authority or with a public department, agency or official of the state or of any political subdivision thereof or of a public authority, refuses to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning such transaction or contract, and any firm, partnership or corporation of which he is a member, partner, director or officer shall be disqualified from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with the state or any public department, agency or official thereof, for goods, work or services, for a period of five years after such refusal or until a disqualification shall be removed pursuant to the provisions of section one hundred thirty-nine-c of this article.

2. It shall be the duty of the officer conducting the investigation before the grand jury, the head of a state department, the chairman of the temporary state commission or other state agency, or the organized crime task force in the department of law before which the refusal occurs to send notice of such refusal, together with the names of any

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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firm, partnership or corporation of which the person so refusing is known to be a member, partner, officer or director, to the state commissioner of transportation, except in the event the investigation concerns a public building transaction or contract said notice shall be sent to the state commissioner of general services, and the appropriate departments, agencies and officials of the state, political subdivisions thereof or public authorities with whom the person so refusing and any firm, partnership or corporation of which he is a member, partner, director or officer, is known to have a contract. However, when such refusal occurs before a body other than a grand jury, notice of refusal shall not be sent for a period of ten days after such refusal occurs. Prior to the expiration of this ten day period, any person, firm, partnership or corporation which has become liable to the cancellation or termination of a contract or disqualification to contract on account of such refusal may commence a special proceeding at a special term of the supreme court, held within the judicial district in which the refusal occurred, for an order determining whether the questions in response to which the refusal occurred were relevant and material to the inquiry. Upon the commencement of such proceeding, the sending of such notice of refusal to answer shall be subject to order of the court in which the proceeding was brought in a manner and on such terms as the court may deem just. If a proceeding is not brought within ten days, notice of refusal shall thereupon be sent as provided herein.

3. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISIONS ONE AND TWO OF THIS SECTION OR ANY OTHER PROVISION OF LAW, ANY PERSON WHO HAS A TRANSACTION OR HAS ENTERED INTO A CONTRACT WITH THE STATE, ANY POLITICAL SUBDIVISION THEREOF, A PUBLIC AUTHORITY OR WITH A PUBLIC DEPARTMENT, AGENCY OR OFFICIAL OF THE STATE OR OF ANY POLITICAL SUBDIVISION THEREOF OR OF A PUBLIC AUTHORITY AND EMPLOYS ILLEGAL ALIENS IN CARRYING OUT SUCH TRANSACTION OR CONTRACT, HE OR SHE AND ANY FIRM, PARTNERSHIP, LIMITED LIABILITY COMPANY OR CORPORATION OF WHICH HE OR SHE IS A MEMBER, PARTNER, DIRECTOR OR OFFICER SHALL BE DISQUALIFIED FROM THEREAFTER SELLING TO OR SUBMITTING TO OR RECEIVING AWARDS FROM OR ENTERING INTO ANY CONTRACTS WITH THE STATE OR ANY PUBLIC DEPARTMENT, AGENCY OR OFFICIAL, FOR GOODS, WORK OR SERVICES FOR A PERIOD OF TEN YEARS AFTER THE DISCOVERY OF THE USE OF SAID ILLEGAL ALIENS OR UNTIL A DISQUALIFICATION SHALL BE REMOVED PURSUANT TO THE PROVISIONS OF SECTION ONE HUNDRED THIRTY-NINE-C OF THIS ARTICLE.

S 2. This act shall take effect immediately.