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

2199--B

2015-2016 Regular Sessions

I N S E N A T E

January 21, 2015

Introduced by Sens. CARLUCCI, PANEPINTO -- read twice and ordered printed, and when printed to be committed to the Committee on Elections -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Elections in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, in relation to establishing the New York state business contract database

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

Section 1. The election law is amended by adding a new section 14-125 to read as follows:

S 14-125. NEW YORK STATE BUSINESS CONTRACT DATABASE. 1. A. AS USED IN THIS SECTION:

(I) THE TERM "BUSINESS RELATIONSHIPS WITH THE STATE" SHALL MEAN ANY CONTRACT FOR THE PROCUREMENT OF GOODS, SERVICES OR CONSTRUCTION THAT IS ENTERED INTO OR IN EFFECT WITH THE STATE OF NEW YORK OR ANY AGENCY OR ENTITY AFFILIATED THERETO NOT AWARDED THROUGH A COMPETITIVE BID PROCESS PURSUANT TO ARTICLES NINE AND ELEVEN OF THE STATE FINANCE LAW. BUSINESS RELATIONSHIPS WITH THE STATE SHALL NOT MEAN ANY PERSON OR ENTITY REJECTED FROM PARTICIPATION IN SUCH A CONTRACT OR ANY PERSON OR ENTITY NOT PARTICIPATING IN SUCH A CONTRACT WITHIN TWENTY-FOUR MONTHS OF ANY ELECTION.

(II) THE TERM "NEW YORK STATE BUSINESS CONTRACT DATABASE" SHALL MEAN A DATABASE CREATED, OPERATED, MAINTAINED AND UPDATED BY THE STATE COMPTROLLER ACCESSIBLE TO THE PUBLIC WHICH CONTAINS THE NAMES OF PERSONS WHO HAVE BUSINESS RELATIONSHIPS WITH THE STATE. SUCH DATABASE SHALL BE CREATED, OPERATED, MAINTAINED AND UPDATED BY THE STATE COMPTROLLER IN A MANNER SO AS TO ENSURE ITS REASONABLE ACCURACY AND COMPLETENESS; PROVIDED, HOWEVER, THAT IN NO EVENT SHALL SUCH DATABASE BE UPDATED LESS

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

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FREQUENTLY THAN ONCE A MONTH IN ANY GENERAL ELECTION YEAR. SUCH DATABASE SHALL ENABLE MEMBERS OF THE PUBLIC TO DETERMINE IF A GIVEN PERSON HAS A BUSINESS RELATIONSHIP WITH THE STATE.

(III) THE TERM "PERSON" SHALL INCLUDE ANY CHIEF EXECUTIVE OFFICER, CHIEF FINANCIAL OFFICER OR CHIEF OPERATING OFFICER OF SUCH ENTITY OR PERSONS SERVING IN AN EQUIVALENT CAPACITY, ANY PERSON EMPLOYED IN A SENIOR MANAGERIAL CAPACITY REGARDING SUCH ENTITY, OR ANY PERSON WITH AN INTEREST IN SUCH ENTITY WHICH EXCEEDS TEN PERCENT OF THE VALUE OF SUCH ENTITY AT FAIR MARKET VALUE.

(IV) THE TERM "SENIOR MANAGERIAL CAPACITY" SHALL MEAN A HIGH LEVEL SUPERVISORY CAPACITY, EITHER BY VIRTUE OF TITLE OR DUTIES, IN WHICH SUBSTANTIAL DISCRETION AND OVERSIGHT IS EXERCISED OVER THE SOLICITATION, LETTING OR ADMINISTRATION OF BUSINESS TRANSACTIONS WITH THE STATE, INCLUDING CONTRACTS, FRANCHISES, CONCESSION, GRANTS, ECONOMIC DEVELOPMENT AGREEMENTS AND APPLICATION FOR LAND USE APPROVALS.

B. ANY DATABASE MAINTAINED BY THE COMPTROLLER AS OF THE EFFECTIVE DATE OF THIS SECTION MAY SERVE AS THE NEW YORK STATE BUSINESS CONTRACT DATABASE UPON CERTIFICATION BY THE COMPTROLLER TO THE STATE BOARD OF ELECTIONS THAT SUCH DATABASE FULFILLS THE REQUIREMENTS OF THIS SECTION. EVERY STATE AGENCY OR AUTHORITY OF THE STATE INCLUDING ANY ENTITY AFFILIATED THERETO SHALL PROVIDE THE COMPTROLLER WITH SUCH INFORMATION AS IS NECESSARY TO CONSTRUCT, MODIFY AND MAINTAIN SUCH DATABASE IN A TIMELY MANNER.

2. A. NEITHER A CANDIDATE NOR A POLITICAL COMMITTEE OF SUCH CANDIDATE SHALL ACCEPT CONTRIBUTIONS FOR ANY ELECTION FOR A PUBLIC OFFICE OR FOR NOMINATION TO ANY SUCH OFFICE WHICH IN THE AGGREGATE EXCEEDS FOUR HUNDRED DOLLARS FROM A PERSON OR ENTITY WHO HAS A BUSINESS RELATIONSHIP WITH THE STATE.

B. IF THE COMPLIANCE UNIT DETERMINES THAT ANY CONTRIBUTION TO A CANDIDATE OR TO THE POLITICAL COMMITTEE OF SUCH CANDIDATE VIOLATES THE PROVISIONS OF THIS SECTION, THE COMPLIANCE UNIT SHALL NOTIFY SUCH CANDIDATE WITHIN TWENTY DAYS OF SUCH DETERMINATION AND SUCH CANDIDATE OR CANDIDATE'S POLITICAL COMMITTEE SHALL MAKE A REASONABLE ATTEMPT TO RETURN SUCH CONTRIBUTION TO THE CONTRIBUTOR; PROVIDED, HOWEVER, THAT IF SUCH CANDIDATE OR THE POLITICAL COMMITTEE OF SUCH CANDIDATE IS UNABLE TO RETURN SUCH CONTRIBUTION, SUCH MONIES SHALL BE PAID TO THE STATE BOARD OF ELECTIONS AND SHALL BE RETAINED IN THE APPROPRIATE ACCOUNTS AS DESIGNATED BY THE DIVISION OF THE BUDGET FOR ENFORCEMENT ACTIVITIES BY THE BOARD OF ELECTIONS.

C. THE STATE BOARD OF ELECTIONS, IN CONJUNCTION WITH THE STATE COMPTROLLER, SHALL PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE DEEMED NECESSARY FOR THE ADMINISTRATION OF THIS SECTION.

S 2. This act shall take effect January 1, 2018.