

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:

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

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

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

14 (II) THE TERM "NEW YORK STATE BUSINESS CONTRACT DATABASE" SHALL MEAN A
15 DATABASE CREATED, OPERATED, MAINTAINED AND UPDATED BY THE STATE COMP-
16 TROLLER ACCESSIBLE TO THE PUBLIC WHICH CONTAINS THE NAMES OF PERSONS WHO
17 HAVE BUSINESS RELATIONSHIPS WITH THE STATE. SUCH DATABASE SHALL BE
18 CREATED, OPERATED, MAINTAINED AND UPDATED BY THE STATE COMPTROLLER IN A
19 MANNER SO AS TO ENSURE ITS REASONABLE ACCURACY AND COMPLETENESS;
20 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.

LBD03505-03-6

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

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

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

16 B. ANY DATABASE MAINTAINED BY THE COMPTROLLER AS OF THE EFFECTIVE DATE
17 OF THIS SECTION MAY SERVE AS THE NEW YORK STATE BUSINESS CONTRACT DATA-
18 BASE UPON CERTIFICATION BY THE COMPTROLLER TO THE STATE BOARD OF
19 ELECTIONS THAT SUCH DATABASE FULFILLS THE REQUIREMENTS OF THIS SECTION.
20 EVERY STATE AGENCY OR AUTHORITY OF THE STATE INCLUDING ANY ENTITY AFFIL-
21 IATED THERETO SHALL PROVIDE THE COMPTROLLER WITH SUCH INFORMATION AS IS
22 NECESSARY TO CONSTRUCT, MODIFY AND MAINTAIN SUCH DATABASE IN A TIMELY
23 MANNER.

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

29 B. IF THE COMPLIANCE UNIT DETERMINES THAT ANY CONTRIBUTION TO A CANDI-
30 DATE OR TO THE POLITICAL COMMITTEE OF SUCH CANDIDATE VIOLATES THE
31 PROVISIONS OF THIS SECTION, THE COMPLIANCE UNIT SHALL NOTIFY SUCH CANDI-
32 DATE WITHIN TWENTY DAYS OF SUCH DETERMINATION AND SUCH CANDIDATE OR
33 CANDIDATE'S POLITICAL COMMITTEE SHALL MAKE A REASONABLE ATTEMPT TO
34 RETURN SUCH CONTRIBUTION TO THE CONTRIBUTOR; PROVIDED, HOWEVER, THAT IF
35 SUCH CANDIDATE OR THE POLITICAL COMMITTEE OF SUCH CANDIDATE IS UNABLE TO
36 RETURN SUCH CONTRIBUTION, SUCH MONIES SHALL BE PAID TO THE STATE BOARD
37 OF ELECTIONS AND SHALL BE RETAINED IN THE APPROPRIATE ACCOUNTS AS DESIG-
38 NATED BY THE DIVISION OF THE BUDGET FOR ENFORCEMENT ACTIVITIES BY THE
39 BOARD OF ELECTIONS.

40 C. THE STATE BOARD OF ELECTIONS, IN CONJUNCTION WITH THE STATE COMP-
41 TROLLER, SHALL PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE DEEMED
42 NECESSARY FOR THE ADMINISTRATION OF THIS SECTION.

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