

STATE OF NEW YORK

5839--A

2021-2022 Regular Sessions

IN ASSEMBLY

February 26, 2021

Introduced by M. of A. GALEF, ABINANTI, PAULIN, J. RIVERA, GOTTFRIED, MAGNARELLI, ENGLEBRIGHT, COLTON, HEVESI, SANTABARBARA, LAVINE, CAHILL, JACOBSON, STECK, ASHBY, GOODELL, TAGUE, B. MILLER, FERNANDEZ, REYES, RA, MONTESANO, MORINELLO, J. M. GIGLIO -- Multi-Sponsored by -- M. of A. DAVILA, MANKTELOW, McDONOUGH, SIMON -- read once and referred to the Committee on Election Law -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, in relation to government vendor contributions

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 14-131
2 to read as follows:

3 § 14-131. Government vendor contributions. 1. For the purpose of this
4 section, "state governmental entity" shall mean any public authority,
5 public benefit corporation or not-for-profit corporation, the majority
6 of whose board members are officials of the state or are appointed by
7 such officials.

8 2. (a) It shall be unlawful during the restricted vendor contribution
9 period for any person, organization, group of persons, or business enti-
10 ty that submits a bid, quotation, offer or response to a state govern-
11 mental entity posting or solicitation for a procurement opportunity
12 subject to comptroller approval pursuant to section one hundred twelve
13 of the state finance law and/or subject to the provisions of section
14 twenty-eight hundred seventy-nine and section twenty-eight hundred
15 seventy-nine-a of the public authorities law, to make a contribution to
16 any officeholder of or with authority over the state governmental entity
17 or entities responsible for issuing such procurement posting or solici-
18 itation, evaluating responses to the procurement posting or solicitation
19 for purposes of determining an award, or approving the selection of an
20 awardee, or awarding the final contract, or to any candidate for an

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

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1 office of such governmental entity, including to such officeholder's or
2 candidate's authorized political committees or political committees the
3 officeholder or candidate exerts operational control over. It shall
4 further be unlawful, pursuant to section 14-120 of this article, to make
5 contributions to political committees not authorized or operationally
6 controlled by the officeholder or candidate for the purpose of trans-
7 ferring a contribution to the officeholder's or candidate's authorized
8 political committees or political committees they exert operational
9 control over.

10 (b) The state governmental entity directly responsible for issuing
11 such posting or solicitation for procurement shall include a notice of
12 the prohibition established by this section and the state governmental
13 entity responsible for evaluating responses to such posting or solicita-
14 tion shall provide to any person, organization, group of persons, or
15 business entity that submits a proposal in response to such posting or
16 solicitation a notice of the prohibition established by this section and
17 the restricted vendor contribution period commencement date.

18 3. As used in this section "business entity" means a business corpo-
19 ration, professional services corporation, limited liability company,
20 partnership, limited partnership, business trust, association or any
21 other legal commercial entity organized under the laws of this state or
22 any other state or foreign jurisdiction, including any subsidiary
23 directly or indirectly controlled by the business entity, and any poli-
24 tical organization, including but not limited to any political organiza-
25 tion organized under section 527 of the Internal Revenue Code, that is
26 directly or indirectly controlled by the business entity.

27 4. The restricted vendor contribution period described in this section
28 shall commence, with respect to a specific person, organization, group
29 of persons, or business entity when it files a statement of registration
30 pursuant to section one-e of the legislative law, or engages lobbying,
31 as defined by subdivision (c) of section one-c of the legislative law,
32 to generate a procurement opportunity or pilot program or submits a bid,
33 quotation, offer or response to the state governmental entity posting or
34 solicitation, at the earliest posting, on a state governmental entity's
35 website, in a newspaper of general circulation or in the procurement
36 opportunities newsletter in accordance with article four-C of the
37 economic development law of written notice, advertisement or solicita-
38 tion of a request for proposal, invitation for bids, or solicitations of
39 proposals, or any other method provided for by law or regulation for
40 soliciting a response from offerers intending to result in a procurement
41 contract with a state governmental entity that is subject to comptroller
42 approval pursuant to section one hundred twelve of the state finance law
43 and/or subject to the provisions of section twenty-eight hundred seven-
44 ty-nine and section twenty-eight hundred seventy-nine-a of the public
45 authorities law. The restricted vendor contribution period does not
46 apply to a person, organization, group of persons or business entity
47 that is responding to a state governmental entity's request for informa-
48 tion or other informational exchanges occurring prior to such govern-
49 mental entity's posting or solicitation for procurement provided it has
50 not filed a statement of registration pursuant to section one-e of the
51 legislative law or engaged in lobbying, as defined by subdivision (c) of
52 section one-c of the legislative law, to generate a procurement opportu-
53 nity or pilot program.

54 5. The restricted vendor contribution period described in this section
55 shall end with respect to a specific person, organization, group of
56 persons, or business entity if:

1 (a) the person, organization, group of persons, or business entity is
2 the recipient of the final contract award, the restricted vendor
3 contribution period shall end six months after the final contract award
4 and approval by the state governmental entity and, where applicable, the
5 state comptroller and if the person, organization, group of persons or
6 business entity does not lobby on the execution of the contract after
7 its award; or

8 (b) the person, organization, group of persons, or business entity is
9 not the recipient of the final contract award, the restricted vendor
10 contribution period shall end with the final contract award and approval
11 by the state governmental entity and, where applicable, the state comp-
12 troller.

13 6. The restricted vendor contribution period shall recommence if a
14 person, organization, group of persons or business entity engages in
15 activity pursuant to subdivision four of this section.

16 § 2. Section 14-126 of the election law is amended by adding a new
17 subdivision 8 to read as follows:

18 8. (a) Any person, organization, group of persons, or business entity
19 as that term is used in section 14-131 of this article, who, under
20 circumstances evincing an intent to violate such law, makes a contrib-
21 ution in contravention of section 14-131 of this article shall be
22 subject to a civil penalty not to exceed the greater of ten thousand
23 dollars or an amount equal to two hundred percent of the contribution,
24 to be recoverable in a special proceeding or civil action to be brought
25 by the state board of elections chief enforcement counsel.

26 (b) Any person who, acting as or on behalf of an officeholder, candi-
27 date, or political committee, accepts a contribution or receives a
28 transfer in contravention of section 14-131 of this article shall be
29 required to refund such contribution.

30 § 3. This act shall take effect on the one hundred eightieth day after
31 it shall have become a law.