

STATE OF NEW YORK

483

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. MYRIE, BIAGGI, KAPLAN, KRUEGER, SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

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 procurement to make a contrib-
12 ution to any officeholder of or with authority over the state
13 governmental entity or entities responsible for issuing such procurement
14 posting or solicitation, evaluating responses to the procurement posting
15 or solicitation for purposes of determining an award, or approving the
16 selection of an awardee, or awarding the final contract, or to any
17 candidate for an office of such governmental entity, including to such
18 officeholder's or candidate's authorized political committees or poli-
19 tical committees the officeholder or candidate exerts operational
20 control over. It shall further be unlawful, pursuant to section 14-120
21 of this article, to make contributions to political committees not
22 authorized or operationally controlled by the officeholder or candidate
23 for the purpose of transferring a contribution to the officeholder's or

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

LBD02547-01-1

1 candidate's authorized political committees or political committees they
2 exert operational control over.

3 (b) For purposes of this section the assembly and senate shall be
4 separate and distinct governmental entities when a particular posting or
5 solicitation for procurement is issued by only one respective house.

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

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

23 4. The restricted vendor contribution period described in this section
24 shall commence, with respect to a specific person, organization, group
25 of persons, or business entity when it files a statement of registration
26 pursuant to section one-e of the legislative law, or engages lobbying,
27 as defined by subdivision (c) of section one-c of the legislative law,
28 to generate a procurement opportunity or pilot program or submits a bid,
29 quotation, offer or response to the state governmental entity posting or
30 solicitation, at the earliest posting, on a state governmental entity's
31 website, in a newspaper of general circulation or in the procurement
32 opportunities newsletter in accordance with article four-C of the
33 economic development law of written notice, advertisement or solicita-
34 tion of a request for proposal, invitation for bids, or solicitations of
35 proposals, or any other method provided for by law or regulation for
36 soliciting a response from offerers intending to result in a procurement
37 contract with a state governmental entity. The restricted vendor
38 contribution period does not apply to a person, organization, group of
39 persons or business entity that is responding to a state governmental
40 entity's request for information or other informational exchanges occur-
41 ring prior to such governmental entity's posting or solicitation for
42 procurement provided it has not filed a statement of registration pursu-
43 ant to section one-e of the legislative law or engaged in lobbying, as
44 defined by subdivision (c) of section one-c of the legislative law, to
45 generate a procurement opportunity or pilot program.

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

49 (a) the person, organization, group of persons, or business entity is
50 the recipient of the final contract award, the restricted vendor
51 contribution period shall end six months after the final contract award
52 and approval by the state governmental entity and, where applicable, the
53 state comptroller and if the person, organization, group of persons or
54 business entity does not lobby on the execution of the contract after
55 its award; or

1 (b) the person, organization, group of persons, or business entity is
2 not the recipient of the final contract award, the restricted vendor
3 contribution period shall end with the final contract award and approval
4 by the state governmental entity and, where applicable, the state comp-
5 troller.

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

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

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

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

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