STATE OF NEW YORK

6932

2021-2022 Regular Sessions

IN SENATE

May 20, 2021

Introduced by Sen. RATH -- 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 restricted government participant contribution periods

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 14-131 to read as follows:

§ 14-131. Government participant contributions. 1. For the purposes of this section the following terms shall have the following meanings:

(a) "Relative of any individual" shall mean any person living in the same household as the individual and any person who is a direct descendant of the grandparents of such individual or of the grandparents of such individual's spouse or the spouse of such descendants;

(b) "Licensing" shall mean any activity respecting the grant, denial, renewal, revocation, enforcement, suspension, annulment, withdrawal, recall, cancellation or amendment of a license, permit or other form of permission conferring the right or privilege to engage in (i) a profession, trade, or occupation or (ii) any business or activity regulated by a regulatory agency of a city agency that in the absence of such license, permit or other form of permission would be prohibited;

(c) "Municipal agency" shall mean: (i) any department, board, bureau, commission, division, office, council, committee or officer of a municipality, whether permanent or temporary or (ii) an industrial development agency or local public benefit corporation as that term is defined in section sixty-six of the general construction law; and

(d) "Business entity" shall mean a business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of this state or any other state or foreign jurisdiction, including any subsidiary directly or indirectly

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

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controlled by the business entity, and any political organization, including but not limited to any political organization organized under section five hundred twenty-seven of the internal revenue code, that is directly or indirectly controlled by the business entity, and any owner, officer, director or partner of such business entity, or a relative of such person.

2. (a) It shall be unlawful during the restricted participant contribution period for any person, organization, group of persons or business entity or any owner, director or officer, or their relative, of such business entity that submits an application for any grant or license, or a bid, quotation, offer, response or application to a state or local entity in response to a solicitation or request for proposal for procurement, construction, reconstruction or repair, to make a contribution to any officeholder of the state or local governmental entity or entities responsible for, or responsible for choosing, directly or indirectly, the person or persons responsible for, issuing such posting, solicitation, license, request for proposal, evaluating such response, or responsible for approving or awarding the final procurement contract, license or grant, or to any candidate for an office of such governmental entity including to the authorized political committees of such officeholder or candidate.

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

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

3. The restricted participant contribution period described in this section shall commence, with respect to a specific person, organization, group of persons, or business entity that submits a bid, quotation, application, offer or response to the state or local governmental entity posting or solicitation, at the earliest of the date of application or bid, or the date of posting on a state or local governmental entity's website, in a newspaper of general circulation or in the procurement opportunities newsletter in accordance with article four-C of the economic development law of written notice, advertisement or solicitation of a request for proposal, invitation for bids, or solicitations of proposals, or any other method provided for by law or regulation for soliciting a response from offerors intending to result in a procurement contract grant or license with a state or local governmental entity or the date of application. The restricted participant contribution period does not apply to a person, organization, group of persons or business entity that is responding to a state governmental entity's request for information or other informational exchanges occurring prior to such governmental entity's posting or solicitation for participation.

4. The restricted participation contribution period described in this section shall end with respect to a specific person, organization, group of persons, or business entity as provided in paragraph (a) or (b) of this subdivision.

(a) If the person, organization, group of persons, or business entity is the recipient of the final contract grant or license award, the restricted vendor contribution period shall end one year after the final contract grant or license award and approval by the state or local governmental entity and, where applicable, the state comptroller.

(b) If the person, organization, group of persons, or business entity is not the recipient of the final contract, license or grant award, the restricted vendor contribution period shall end with the final contractor grant award and approval by the state or local governmental entity and, where applicable, the state comptroller, or the disapproval of the license or grant.

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

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

(b) Any person who, acting as or on behalf of an officeholder, candidate, or political committee, accepts a contribution in contravention of section 14-131 of this article shall be required to refund such contribution.

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