

# STATE OF NEW YORK

6935

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:

1 Section 1. The election law is amended by adding a new section 14-131  
2 to read as follows:

3 § 14-131. Government participant contributions. 1. For the purposes of  
4 this section the following terms shall have the following meanings:

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

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

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

21 (d) "Business entity" shall mean a business corporation, professional  
22 services corporation, limited liability company, partnership, limited  
23 partnership, business trust, association or any other legal commercial  
24 entity organized under the laws of this state or any other state or  
25 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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1 controlled by the business entity, and any political organization,  
2 including but not limited to any political organization organized under  
3 section five hundred twenty-seven of the internal revenue code, that is  
4 directly or indirectly controlled by the business entity, and any owner,  
5 officer, director or partner of such business entity, or a relative of  
6 such person; and

7 (e) "State governmental entity" shall mean any public authority,  
8 public benefit corporation, or not-for-profit corporation, the majority  
9 of whose board members are officials of the state or are appointed by  
10 such officials.

11 2. The "restricted participant contribution period" as used in this  
12 section shall:

13 (a) commence, with respect to a specific person, relative of any  
14 person, organization, group of persons, or business entity that (i)  
15 submits a bid, quotation, application, offer, or response to the state,  
16 state governmental entity, or local governmental entity posting or  
17 solicitation, at the earliest of the date of application or bid, or the  
18 date of posting on a state's, state governmental entity's, or local  
19 governmental entity's website, in a newspaper of general circulation or  
20 in the procurement opportunities newsletter in accordance with article  
21 four-C of the economic development law of written notice, advertisement  
22 or solicitation of a request for proposal, invitation for bids, or  
23 solicitations of proposals, or any other method provided for by law or  
24 regulation for soliciting a response from offerors intending to result  
25 in a procurement construction, reconstruction, or repair contract grant  
26 or license with a state or local governmental entity or the date of  
27 application, (ii) submits or receives a bid for any acquisition or  
28 disposition of real property (other than a public auction or competitive  
29 sealed bid transaction) with the state, a state governmental entity, or  
30 local governmental entity, or (iii) submits an application for or  
31 receives the approval or of a benefit given or awarded at the discretion  
32 of the state, a state governmental entity, or local governmental entity.

33 The restricted participant contribution period does not apply to a  
34 person, relative of any individual, organization, group of persons or  
35 business entity that is responding to a state governmental entity's  
36 request for information or other informational exchanges occurring prior  
37 to such governmental entity's posting or solicitation for participation;  
38 and

39 (b) end with respect to a specific person, relative of any person,  
40 organization, group of persons, or business entity;

41 (i) if the person, relative, organization, group of persons, or busi-  
42 ness entity is the recipient of the final contract grant or license  
43 award, the restricted participant contribution period shall end one year  
44 after the final contract grant or license award and approval by the  
45 state, state governmental entity, local governmental entity and, where  
46 applicable, the state comptroller;

47 (ii) if the person, relative, organization, group of persons, or busi-  
48 ness entity is not the recipient of the final contract, license or grant  
49 award, the restricted participant contribution period shall end with the  
50 final contractor grant award and approval by the state, state govern-  
51 mental entity, local governmental entity and, where applicable, the  
52 state comptroller, or the disapproval of the license or grant;

53 (iii) if the person, relative, organization, group of persons, or  
54 business entity is the recipient or seller of the real property, the  
55 restricted participant contribution period shall end one year after the  
56 real estate closing transaction is completed; or

1 (iv) if the person, relative, organization, group of persons, or busi-  
2 ness entity submits an application for or receives a benefit given or  
3 awarded at the discretion of the state, a state governmental entity, or  
4 local governmental entity, the restricted participant contribution peri-  
5 od shall end one year after the benefit or approval is given or awarded.

6 3. During the restricted participant contribution period, the contrib-  
7 ution limits set forth in article fourteen of this chapter for any  
8 person, relative of any person, organization, group of persons or busi-  
9 ness entity or any owner, director or officer, or their relative, of  
10 such business entity that submits an application for any grant or  
11 license, or a bid, quotation, offer, response or application to the  
12 state, state governmental entity, or local entity in response to a  
13 solicitation or request for proposal for procurement, construction,  
14 reconstruction or repair, submits or receives a bid to acquire or  
15 dispose of real property with such governmental entity, or seeks an  
16 award, benefit or approval from a governmental entity, shall be reduced  
17 to fifteen percent of the contribution limits otherwise permitted pursu-  
18 ant to section 14-114 of this article to the officeholder of the state  
19 or local governmental entity or entities responsible for choosing  
20 directly, the person or persons responsible for, issuing such posting,  
21 solicitation, license, request for proposal, evaluating such response,  
22 or the entity directly responsible for approving or awarding the final  
23 contract, license, grant, real property transaction, or approval, award  
24 or benefit, or to any candidate for an office of such governmental enti-  
25 ty including to the authorized political committees of such office hold-  
26 er or candidate.

27 4. The state, state governmental entity, or local governmental entity  
28 directly responsible for issuing such posting or solicitation shall  
29 include a notice of the prohibition established by this section and the  
30 state governmental entity responsible for evaluating responses to such  
31 posting or solicitation shall provide, to any person, organization,  
32 group of persons, or business entity that submits a proposal in response  
33 to such posting or solicitation for procurement, a notice of the prohi-  
34 biton established by this section and the restricted participant  
35 contribution period commencement date.

36 5. For purposes of this section, the assembly and senate shall be  
37 separate and distinct governmental entities when a particular posting or  
38 solicitation for procurement is issued by only one respective house.

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

41 8. (a) Any person, relative of any person, organization, group of  
42 persons, or business entity as such terms are used and defined in  
43 section 14-131 of this article, who, under circumstances evincing an  
44 intent to violate such law, makes a contribution in contravention of  
45 section 14-131 of this article shall be subject to a civil penalty not  
46 to exceed the greater of ten thousand dollars or an amount equal to two  
47 hundred percent of the contribution, to be recoverable in a special  
48 proceeding or civil action to be brought by the state board of elections  
49 chief enforcement counsel.

50 (b) Any person who, acting as or on behalf of an officeholder, candi-  
51 date, or political committee, accepts a contribution in contravention of  
52 section 14-131 of this article shall be required to refund such contrib-  
53 ution.

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