



MEMO IN SUPPORT

Prohibiting Vendors From Making Campaign Contributions While Seeking a State Contract

A.113 (Buchwald)/S.3167 (Myrie)

February 26, 2019

TITLE OF BILL

Relates to government vendor contributions.

SUMMARY OF PROVISIONS

This bill prohibits companies seeking contracts from making campaign contributions to elected officials with authority over the procuring agency the company seeks a contract with. The ban on contributions only applies during the period when a company is lobbying to create a bid related to its products or services, responding to a request for proposal (RFP), and for six months after winning a contract. The ban on donations would extend not only to officeholders' candidate committees but also to any committee they operationally control like party committees. Legislators would only be prohibited from receiving contributions from companies during the period when vendors are seeking contracts or have recently won a contract issued by their house of the legislature. The ban on contributions extends not only to the company, but any of its subsidiaries, affiliates or political action committees (PACs). Any company intentionally violating the law would face penalties of up to \$10,000 or 200 percent of the dollar value of the contribution, to be recoverable in a special proceeding brought by the board of elections chief enforcement counsel. Persons acting on behalf of candidates or political committees will be required to refund an improperly received contribution subject to the ban.

STATEMENT OF SUPPORT

This bill will increase the integrity of the state's contacting process, which has been shown to be vulnerable to corruption. The recent trial related to the Buffalo Billion

projects resulted in convictions of corporate executives, campaign contributors and senior executive officials who conspired to rig the bids for the state's largest economic development projects, and revealed the need for reforms to the state's contracting process.

New York State government spends billions of dollars and has over 50,000 contracts with countless companies offering services and goods including construction, construction services, and commodities. Companies seeking to develop a business relationship with the state submit bids, lobby state agencies to market their products and services to government to generate a procurement opportunity, or respond to government-issued RFPs to win state contracts.

While engaging government, prospective vendors may also simultaneously make large campaign contributions to elected officials which oversee the governmental entity issuing a bid or contracting directly through an uncompetitive contracting option. Political donations can unfairly influence the procurement process or create a belief in the business community and the public that contracts are not being awarded on the merits. Both outcomes may cause taxpayers to overspend on state contracts that otherwise could be awarded to lower priced bidders or vendors who may offer a better product or service.

This bill will increase confidence and integrity in state contracting by prohibiting vendors from making contributions to the elected official(s) with authority over the bidding agency during the "restricted vendor contribution period." The period begins with lobbying registration or the submission of a bid and extends to as late as six months after winning a contract.

[Our groups have called for this legislation](#) as [early as 2016](#) and worked with Assemblymember Buchwald on crafting this bill. This bill strengthens an existing proposal in the Executive Budget for the last three years proposed by Governor Cuomo ([see Park K of the FY2020 Executive Budget Good Government and Ethics Bill](#)). It clarifies the Governor's proposal to apply it to the governor rather than a head of an agency running for office, extends the ban on donations to political committees controlled by the governor, and extends the restricted period to lobbying to create a procurement opportunity. We see it as part of a larger group of reforms needed to restore integrity to the state's contracting.

This bill is important to establish a foundation for permanently and dramatically lowering campaign contributions limits for those doing business with the state including

individuals who are lobbyists or are senior executives or have a major financial interest in corporations, as is done in New York City. Nineteen states have laws that restrict campaign contributions from vendors seeking government contracts. While we support this bill as a meaningful improvement over the status quo, we believe the state should ultimately establish more comprehensive restrictions.