



MEMO OF SUPPORT

S9697 (Myrie)

Establishes doing-business restrictions in NYS elections

June 6, 2024

TITLE OF BILL

An act to amend the election law and the state finance law, in relation to campaign contributions by vendors.

STATEMENT OF SUPPORT

Reinvent Albany strongly supports this bill because we believe it will reduce the risk of corruption in New York State government.

Despite the convictions and resignations of countless elected officials due to pay-to-play scandals, New York State still does not have a law prohibiting persons or businesses seeking business with the state from making political contributions. Currently, a person whose business is bidding on contracts from the state can still contribute \$18,000 to candidates for governor. The state's extremely high contribution limits, lax contracting laws, and transactional political culture led, just two years ago, to [the resignation of former Lieutenant Governor Brian Benjamin](#), and [accusations of pay-to-play toward Governor Hochul](#) for awarding a \$637 million contract to Digital Gadgets after receiving \$300,000 from the family of the company CEO.

We urge the Legislature to pass this bill, and the Governor to sign it.

SUMMARY OF PROVISIONS

Section 1 adds a new §14-131 to Election Law titled "Restrictions on Vendor Contributions." Subdivision 1 provides definitions for:

- **Procuring entity:** Any state entity providing a governmental or proprietary function for the state (agencies, departments, bureaus, etc.), including SUNY and CUNY.
- **Vendor:** Any natural or legal person, company, LLC, labor organization, etc. seeking a contract from a procuring entity including:
 - Key employees such as officers, board members, and spouses or dependent children
 - Subsidiaries of the vendor
 - Subcontractors for the vendor
 - Lobbyists for the vendor
- **Restricted period:** The period during which the vendor is prohibited from making a contribution to a procuring entity.
 - This period begins at the earliest of the following:
 - When the vendor begins to lobby
 - At the earliest posting of a solicitation for a contract
 - When the procuring entity engages with a vendor for a non-competitive contract
 - This period ends:
 - When State Comptroller (OSC) approval is required:
 - For the final contract recipient: six months after the final contract award and approval
 - For all others: With the final contract award and approval
 - When OSC approval not required:
 - For the final contract recipient: six months after the final contract award and execution by the procuring entity
 - For all others: With the final contract award and execution by the procuring entity
- **Procurement contract:** Any contract or other agreement above \$50,000, including sole source contracts, purchase orders, amendments, renewals, etc.

Subdivision 2 prohibits vendors making contributions to statewide elected officials' campaign accounts during the restricted period. Any such contributions must be returned to the vendor.

Subdivision 3 states that every procurement contract shall include a statement certifying that the vendor has not made or solicited contributions for any statewide elected official during the restricted period.

Subdivision 4 states that upon notification that a vendor has violated subdivision 2, the vendor shall be presumed “non-responsible,” and the procuring entity shall consider this as part of their presumption of responsibility, then notify the vendor of their opportunity to be heard prior to making a final determination of responsibility. Procuring entities shall not award contracts to vendors found to be non-responsible unless the vendor is the only source capable of supplying the article within the timeframe. Any contracts subject to this section will contain a provision allowing procuring entities to terminate a contract after finding that a vendor has signed a false statement.

Subdivision 5 states that the provisions of this section shall not apply to contracts where the Legislature selects a vendor for a specific program.

Section 2 adds a new §139-m to State Finance Law to make conforming changes to Section 1, and adds language to be included in contracts going forward affirming that the vendor has not made contributions to statewide elected officials during the restricted period. It also provides that this statement may be submitted electronically, and that procurement contracts shall not be awarded to any vendor who has not made the affirmation.

Section 3 makes a technical change to State Finance Law §163(9)(f).

Section 4 provides that the bill takes effect immediately, but does not apply to contracts for which bids have already been solicited.