



General Assembly

Substitute Bill No. 1127

January Session, 2013



AN ACT CONCERNING CONTRIBUTIONS BY STATE CONTRACTORS TO TOWN COMMITTEES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (g) of section 9-612 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *January 1, 2014*):

4 (g) (1) As used in this subsection and subsections (h) and (i) of this
5 section:

6 (A) "Quasi-public agency" has the same meaning as provided in
7 section 1-120.

8 (B) "State agency" means any office, department, board, council,
9 commission, institution or other agency in the executive or legislative
10 branch of state government.

11 (C) "State contract" means an agreement or contract with the state or
12 any state agency or any quasi-public agency, let through a
13 procurement process or otherwise, having a value of fifty thousand
14 dollars or more, or a combination or series of such agreements or
15 contracts having a value of one hundred thousand dollars or more in a
16 calendar year, for (i) the rendition of services, (ii) the furnishing of any
17 goods, material, supplies, equipment or any items of any kind, (iii) the

18 construction, alteration or repair of any public building or public work,
19 (iv) the acquisition, sale or lease of any land or building, (v) a licensing
20 arrangement, or (vi) a grant, loan or loan guarantee. "State contract"
21 does not include any agreement or contract with the state, any state
22 agency or any quasi-public agency that is exclusively federally funded,
23 an education loan, a loan to an individual for other than commercial
24 purposes or any agreement or contract between the state or any state
25 agency and the United States Department of the Navy or the United
26 States Department of Defense.

27 (D) "State contractor" means a person, business entity or nonprofit
28 organization that enters into a state contract. Such person, business
29 entity or nonprofit organization shall be deemed to be a state
30 contractor until December thirty-first of the year in which such
31 contract terminates. "State contractor" does not include a municipality
32 or any other political subdivision of the state, including any entities or
33 associations duly created by the municipality or political subdivision
34 exclusively amongst themselves to further any purpose authorized by
35 statute or charter, or an employee in the executive or legislative branch
36 of state government or a quasi-public agency, whether in the classified
37 or unclassified service and full or part-time, and only in such person's
38 capacity as a state or quasi-public agency employee.

39 (E) "Prospective state contractor" means a person, business entity or
40 nonprofit organization that (i) submits a response to a state contract
41 solicitation by the state, a state agency or a quasi-public agency, or a
42 proposal in response to a request for proposals by the state, a state
43 agency or a quasi-public agency, until the contract has been entered
44 into, or (ii) holds a valid prequalification certificate issued by the
45 Commissioner of Administrative Services under section 4a-100.
46 "Prospective state contractor" does not include a municipality or any
47 other political subdivision of the state, including any entities or
48 associations duly created by the municipality or political subdivision
49 exclusively amongst themselves to further any purpose authorized by
50 statute or charter, or an employee in the executive or legislative branch

51 of state government or a quasi-public agency, whether in the classified
52 or unclassified service and full or part-time, and only in such person's
53 capacity as a state or quasi-public agency employee.

54 (F) "Principal of a state contractor or prospective state contractor"
55 means (i) any individual who is a member of the board of directors of,
56 or has an ownership interest of five per cent or more in, a state
57 contractor or prospective state contractor, which is a business entity,
58 except for an individual who is a member of the board of directors of a
59 nonprofit organization, (ii) an individual who is employed by a state
60 contractor or prospective state contractor, which is a business entity, as
61 president, treasurer or executive vice president, (iii) an individual who
62 is the chief executive officer of a state contractor or prospective state
63 contractor, which is not a business entity, or if a state contractor or
64 prospective state contractor has no such officer, then the officer who
65 duly possesses comparable powers and duties, (iv) an officer or an
66 employee of any state contractor or prospective state contractor who
67 has managerial or discretionary responsibilities with respect to a state
68 contract, (v) the spouse or a dependent child who is eighteen years of
69 age or older of an individual described in this subparagraph, or (vi) a
70 political committee established or controlled by an individual
71 described in this subparagraph or the business entity or nonprofit
72 organization that is the state contractor or prospective state contractor.

73 (G) "Dependent child" means a child residing in an individual's
74 household who may legally be claimed as a dependent on the federal
75 income tax return of such individual.

76 (H) "Managerial or discretionary responsibilities with respect to a
77 state contract" means having direct, extensive and substantive
78 responsibilities with respect to the negotiation of the state contract and
79 not peripheral, clerical or ministerial responsibilities.

80 (I) "Rendition of services" means the provision of any service to a
81 state agency or quasi-public agency in exchange for a fee,
82 remuneration or compensation of any kind from the state or through

83 an arrangement with the state.

84 (J) "State contract solicitation" means a request by a state agency or
85 quasi-public agency, in whatever form issued, including, but not
86 limited to, an invitation to bid, request for proposals, request for
87 information or request for quotes, inviting bids, quotes or other types
88 of submittals, through a competitive procurement process or another
89 process authorized by law waiving competitive procurement.

90 (K) "Subcontractor" means any person, business entity or nonprofit
91 organization that contracts to perform part or all of the obligations of a
92 state contractor's state contract. Such person, business entity or
93 nonprofit organization shall be deemed to be a subcontractor until
94 December thirty-first of the year in which the subcontract terminates.
95 "Subcontractor" does not include (i) a municipality or any other
96 political subdivision of the state, including any entities or associations
97 duly created by the municipality or political subdivision exclusively
98 amongst themselves to further any purpose authorized by statute or
99 charter, or (ii) an employee in the executive or legislative branch of
100 state government or a quasi-public agency, whether in the classified or
101 unclassified service and full or part-time, and only in such person's
102 capacity as a state or quasi-public agency employee.

103 (L) "Principal of a subcontractor" means (i) any individual who is a
104 member of the board of directors of, or has an ownership interest of
105 five per cent or more in, a subcontractor, which is a business entity,
106 except for an individual who is a member of the board of directors of a
107 nonprofit organization, (ii) an individual who is employed by a
108 subcontractor, which is a business entity, as president, treasurer or
109 executive vice president, (iii) an individual who is the chief executive
110 officer of a subcontractor, which is not a business entity, or if a
111 subcontractor has no such officer, then the officer who duly possesses
112 comparable powers and duties, (iv) an officer or an employee of any
113 subcontractor who has managerial or discretionary responsibilities
114 with respect to a subcontract with a state contractor, (v) the spouse or a
115 dependent child who is eighteen years of age or older of an individual

116 described in this subparagraph, or (vi) a political committee
117 established or controlled by an individual described in this
118 subparagraph or the business entity or nonprofit organization that is
119 the subcontractor.

120 (2) (A) No state contractor, prospective state contractor, principal of
121 a state contractor or principal of a prospective state contractor, with
122 regard to a state contract or a state contract solicitation with or from a
123 state agency in the executive branch or a quasi-public agency or a
124 holder, or principal of a holder, of a valid prequalification certificate,
125 shall make a contribution to, or, on and after January 1, 2011,
126 knowingly solicit contributions from the state contractor's or
127 prospective state contractor's employees or from a subcontractor or
128 principals of the subcontractor on behalf of (i) an exploratory
129 committee or candidate committee established by a candidate for
130 nomination or election to the office of Governor, Lieutenant Governor,
131 Attorney General, State Comptroller, Secretary of the State or State
132 Treasurer, (ii) a political committee authorized to make contributions
133 or expenditures to or for the benefit of such candidates, or (iii) a party
134 committee, except that any such state contractor, prospective state
135 contractor, principal of a state contractor or principal of a prospective
136 state contractor, who is an individual, may make a contribution to a
137 town committee for the town in which such state contractor,
138 prospective state contractor, principal of a state contractor or principal
139 of a prospective state contractor resides in an amount that does not
140 exceed the amount an individual may contribute to a town committee
141 pursuant to subsection (a) of this section;

142 (B) No state contractor, prospective state contractor, principal of a
143 state contractor or principal of a prospective state contractor, with
144 regard to a state contract or a state contract solicitation with or from
145 the General Assembly or a holder, or principal of a holder, of a valid
146 prequalification certificate, shall make a contribution to, or, on and
147 after January 1, 2011, knowingly solicit contributions from the state
148 contractor's or prospective state contractor's employees or from a

149 subcontractor or principals of the subcontractor on behalf of (i) an
150 exploratory committee or candidate committee established by a
151 candidate for nomination or election to the office of state senator or
152 state representative, (ii) a political committee authorized to make
153 contributions or expenditures to or for the benefit of such candidates,
154 or (iii) a party committee, except that any such state contractor,
155 prospective state contractor, principal of a state contractor or principal
156 of a prospective state contractor, who is an individual, may make a
157 contribution to a town committee for the town in which such state
158 contractor, prospective state contractor, principal of a state contractor
159 or principal of a prospective state contractor resides in an amount that
160 does not exceed the amount an individual may contribute to a town
161 committee pursuant to subsection (a) of this section;

162 (C) If a state contractor or principal of a state contractor makes or
163 solicits a contribution as prohibited under subparagraph (A) or (B) of
164 this subdivision, as determined by the State Elections Enforcement
165 Commission, the contracting state agency or quasi-public agency may,
166 in the case of a state contract executed on or after February 8, 2007,
167 void the existing contract with such contractor, and no state agency or
168 quasi-public agency shall award the state contractor a state contract or
169 an extension or an amendment to a state contract for one year after the
170 election for which such contribution is made or solicited unless the
171 commission determines that mitigating circumstances exist concerning
172 such violation. No violation of the prohibitions contained in
173 subparagraph (A) or (B) of this subdivision shall be deemed to have
174 occurred if, and only if, the improper contribution is returned to the
175 principal by the later of thirty days after receipt of such contribution
176 by the recipient committee treasurer or the filing date that corresponds
177 with the reporting period in which such contribution was made;

178 (D) If a prospective state contractor or principal of a prospective
179 state contractor makes or solicits a contribution as prohibited under
180 subparagraph (A) or (B) of this subdivision, as determined by the State
181 Elections Enforcement Commission, no state agency or quasi-public

182 agency shall award the prospective state contractor the contract
183 described in the state contract solicitation or any other state contract
184 for one year after the election for which such contribution is made or
185 solicited unless the commission determines that mitigating
186 circumstances exist concerning such violation. The Commissioner of
187 Administrative Services shall notify applicants of the provisions of this
188 subparagraph and subparagraphs (A) and (B) of this subdivision
189 during the prequalification application process; and

190 (E) The State Elections Enforcement Commission shall make
191 available to each state agency and quasi-public agency a written notice
192 advising state contractors and prospective state contractors of the
193 contribution and solicitation prohibitions contained in subparagraphs
194 (A) and (B) of this subdivision. Such notice shall: (i) Direct each state
195 contractor and prospective state contractor to inform each individual
196 described in subparagraph (F) of subdivision (1) of this subsection,
197 with regard to such state contractor or prospective state contractor,
198 about the provisions of subparagraph (A) or (B) of this subdivision,
199 whichever is applicable, and this subparagraph; (ii) inform each state
200 contractor and prospective state contractor of the civil and criminal
201 penalties that could be imposed for violations of such prohibitions if
202 any such contribution is made or solicited; (iii) inform each state
203 contractor and prospective state contractor that, in the case of a state
204 contractor, if any such contribution is made or solicited, the contract
205 may be voided; (iv) inform each state contractor and prospective state
206 contractor that, in the case of a prospective state contractor, if any such
207 contribution is made or solicited, the contract described in the state
208 contract solicitation shall not be awarded, unless the commission
209 determines that mitigating circumstances exist concerning such
210 violation; and (v) inform each state contractor and prospective state
211 contractor that the state will not award any other state contract to
212 anyone found in violation of such prohibitions for a period of one year
213 after the election for which such contribution is made or solicited,
214 unless the commission determines that mitigating circumstances exist
215 concerning such violation. Each state agency and quasi-public agency

216 shall distribute such notice to the chief executive officer of its
217 contractors and prospective state contractors, or an authorized
218 signatory to a state contract, and shall obtain a written
219 acknowledgement of the receipt of such notice.

220 (3) (A) On and after December 31, 2006, neither the Governor,
221 Lieutenant Governor, Attorney General, State Comptroller, Secretary
222 of the State or State Treasurer, any candidate for any such office nor
223 any agent of any such official or candidate shall knowingly, wilfully or
224 intentionally solicit contributions on behalf of an exploratory
225 committee or candidate committee established by a candidate for
226 nomination or election to any public office, a political committee or a
227 party committee, from a person who he or she knows is prohibited
228 from making contributions, including a principal of a state contractor
229 or prospective state contractor with regard to a state contract
230 solicitation with or from a state agency in the executive branch or a
231 quasi-public agency or a holder of a valid prequalification certificate.

232 (B) On and after December 31, 2006, neither a member of the
233 General Assembly, any candidate for any such office nor any agent of
234 any such official or candidate shall knowingly, wilfully or intentionally
235 solicit contributions on behalf of an exploratory committee or
236 candidate committee established by a candidate for nomination or
237 election to any public office, a political committee or a party
238 committee, from a person who he or she knows is prohibited from
239 making contributions, including a principal of a state contractor or
240 prospective state contractor with regard to a state contract solicitation
241 with or from the General Assembly or a holder of a valid
242 prequalification certificate.

243 (4) The provisions of this subsection shall not apply to the campaign
244 of a principal of a state contractor or prospective state contractor or to
245 a principal of a state contractor or prospective state contractor who is
246 an elected public official.

247 (5) Each state contractor and prospective state contractor shall make

248 reasonable efforts to comply with the provisions of this subsection. If
249 the State Elections Enforcement Commission determines that a state
250 contractor or prospective state contractor has failed to make reasonable
251 efforts to comply with this subsection, the commission may impose
252 civil penalties against such state contractor or prospective state
253 contractor in accordance with subsection (a) of section 9-7b.

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2014	9-612(g)

Statement of Legislative Commissioners:

In subdivision (2)(A) and (B), "who is an individual," was inserted for consistency.

GAE *Joint Favorable Subst.*