



House of Representatives

General Assembly

File No. 453

February Session, 2018

House Bill No. 5521

House of Representatives, April 12, 2018

The Committee on Government Administration and Elections reported through REP. FOX of the 148th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING THE FIRST FIVE PLUS PROGRAM AND POLITICAL CONTRIBUTIONS.

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

1 Section 1. Subsections (f) and (g) of section 9-612 of the general
2 statutes are repealed and the following is substituted in lieu thereof
3 (*Effective January 1, 2019*):

4 (f) (1) As used in this subsection and subsections (g) and (h) 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) "First five plus program participant" means a recipient of
40 financial assistance for an eligible business development project
41 pursuant to section 32-4l.

42 [(E)] (F) "Prospective state contractor" means a person, business
43 entity or nonprofit organization that (i) submits a response to a state
44 contract solicitation by the state, a state agency or a quasi-public

45 agency, or a proposal in response to a request for proposals by the
46 state, a state agency or a quasi-public agency, until the contract has
47 been entered into, or (ii) holds a valid prequalification certificate
48 issued by the Commissioner of Administrative Services under section
49 4a-100. "Prospective state contractor" does not include a municipality
50 or any other political subdivision of the state, including any entities or
51 associations duly created by the municipality or political subdivision
52 exclusively amongst themselves to further any purpose authorized by
53 statute or charter, or an employee in the executive or legislative branch
54 of state government or a quasi-public agency, whether in the classified
55 or unclassified service and full or part-time, and only in such person's
56 capacity as a state or quasi-public agency employee.

57 (G) "Prospective first five plus program participant" means an
58 applicant for financial assistance for an eligible business development
59 project pursuant to section 32-4/ that has not been approved by the
60 Governor.

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

79 nonprofit organization that is the state contractor or prospective state
80 contractor.

81 (I) "Principal of a first five plus program participant or prospective
82 first five plus program participant" means (i) any individual who is a
83 member of the board of directors of, or has an ownership interest of
84 five per cent or more in, a first five plus program participant or
85 prospective first five plus program participant, which is a business
86 entity, except for an individual who is a member of the board of
87 directors of a nonprofit organization, (ii) an individual who is
88 employed by a first five plus program participant or prospective first
89 five plus program participant, which is a business entity, as president,
90 treasurer or executive vice president, (iii) an individual who is the
91 chief executive officer of a first five plus program participant or
92 prospective first five plus program participant, which is not a business
93 entity, or if a first five plus program participant or prospective first five
94 plus program participant has no such officer, then the officer who duly
95 possesses comparable powers and duties, (iv) an officer or an
96 employee of any first five plus program participant or prospective first
97 five plus program participant who has managerial or discretionary
98 responsibilities with respect to an award of financial assistance
99 pursuant to section 32-41, (v) the spouse or a dependent child who is
100 eighteen years of age or older of an individual described in this
101 subparagraph, or (vi) a political committee established or controlled by
102 an individual described in this subparagraph or the business entity or
103 nonprofit organization that is the first five plus program participant or
104 prospective first five plus program participant.

105 [(G)] (J) "Dependent child" means a child residing in an individual's
106 household who may legally be claimed as a dependent on the federal
107 income tax return of such individual.

108 [(H)] (K) "Managerial or discretionary responsibilities with respect
109 to a state contract" means having direct, extensive and substantive
110 responsibilities with respect to the negotiation of the state contract and
111 not peripheral, clerical or ministerial responsibilities.

112 (L) "Managerial or discretionary responsibilities with respect to an
113 award of financial assistance pursuant to section 32-4l" means having
114 direct, extensive and substantive responsibilities with respect to the
115 application for financial assistance pursuant to section 32-4l and not
116 peripheral, clerical or ministerial responsibilities.

117 [(I)] ~~(M)~~ "Rendition of services" means the provision of any service
118 to a state agency or quasi-public agency in exchange for a fee,
119 remuneration or compensation of any kind from the state or through
120 an arrangement with the state.

121 [(J)] ~~(N)~~ "State contract solicitation" means a request by a state
122 agency or quasi-public agency, in whatever form issued, including, but
123 not limited to, an invitation to bid, request for proposals, request for
124 information or request for quotes, inviting bids, quotes or other types
125 of submittals, through a competitive procurement process or another
126 process authorized by law waiving competitive procurement.

127 [(K)] ~~(O)~~ "Subcontractor" means any person, business entity or
128 nonprofit organization that contracts to perform part or all of the
129 obligations of (i) a state contractor's state contract, or (ii) a first five
130 plus program participant's commitment in order to be deemed eligible
131 for an award of financial assistance pursuant to section 32-4l. Such
132 person, business entity or nonprofit organization shall be deemed to be
133 a subcontractor until December thirty-first of the year in which the
134 subcontract terminates. "Subcontractor" does not include [(i)] ~~(I)~~ a
135 municipality or any other political subdivision of the state, including
136 any entities or associations duly created by the municipality or
137 political subdivision exclusively amongst themselves to further any
138 purpose authorized by statute or charter, or [(ii)] ~~(II)~~ an employee in
139 the executive or legislative branch of state government or a quasi-
140 public agency, whether in the classified or unclassified service and full
141 or part-time, and only in such person's capacity as a state or quasi-
142 public agency employee.

143 [(L)] ~~(P)~~ "Principal of a subcontractor" means (i) any individual who
144 is a member of the board of directors of, or has an ownership interest

145 of five per cent or more in, a subcontractor, which is a business entity,
146 except for an individual who is a member of the board of directors of a
147 nonprofit organization, (ii) an individual who is employed by a
148 subcontractor, which is a business entity, as president, treasurer or
149 executive vice president, (iii) an individual who is the chief executive
150 officer of a subcontractor, which is not a business entity, or if a
151 subcontractor has no such officer, then the officer who duly possesses
152 comparable powers and duties, (iv) an officer or an employee of any
153 subcontractor who has managerial or discretionary responsibilities
154 with respect to a subcontract with a state contractor or first five plus
155 program participant, (v) the spouse or a dependent child who is
156 eighteen years of age or older of an individual described in this
157 subparagraph, or (vi) a political committee established or controlled by
158 an individual described in this subparagraph or the business entity or
159 nonprofit organization that is the subcontractor.

160 (2) (A) No state contractor, prospective state contractor, principal of
161 a state contractor or principal of a prospective state contractor, with
162 regard to a state contract or a state contract solicitation with or from a
163 state agency in the executive branch or a quasi-public agency or a
164 holder, or principal of a holder, of a valid prequalification certificate,
165 shall make a contribution to, or, on and after January 1, 2011,
166 knowingly solicit contributions from, the state contractor's or
167 prospective state contractor's employees or from a subcontractor or
168 principals of the subcontractor on behalf of (i) an exploratory
169 committee or candidate committee established by a candidate for
170 nomination or election to the office of Governor, Lieutenant Governor,
171 Attorney General, State Comptroller, Secretary of the State or State
172 Treasurer, (ii) a political committee authorized to make contributions
173 or expenditures to or for the benefit of such candidates, or (iii) a party
174 committee. [;]

175 (B) No state contractor, prospective state contractor, principal of a
176 state contractor or principal of a prospective state contractor, with
177 regard to a state contract or a state contract solicitation with or from
178 the General Assembly or a holder, or principal of a holder, of a valid

179 prequalification certificate, shall make a contribution to, or, on and
180 after January 1, 2011, knowingly solicit contributions from, the state
181 contractor's or prospective state contractor's employees or from a
182 subcontractor or principals of the subcontractor on behalf of (i) an
183 exploratory committee or candidate committee established by a
184 candidate for nomination or election to the office of state senator or
185 state representative, (ii) a political committee authorized to make
186 contributions or expenditures to or for the benefit of such candidates,
187 or (iii) a party committee. [;]

188 (C) No first five plus program participant, prospective first five plus
189 program participant, principal of a first five plus program participant
190 or principal of a prospective first five plus program participant, with
191 regard to an award of financial assistance pursuant to section 32-4l or
192 an application for such award pursuant to said section, shall make a
193 contribution to, or knowingly solicit contributions from, such
194 participant's employees or from a subcontractor or principals of such
195 subcontractor on behalf of (i) an exploratory committee or candidate
196 committee established by a candidate for nomination or election to the
197 office of Governor, Lieutenant Governor, Attorney General, State
198 Comptroller, Secretary of the State or State Treasurer, (ii) a political
199 committee authorized to make contributions or expenditures to or for
200 the benefit of such candidates, or (iii) a party committee.

201 [(C)] (D) (i) If a state contractor or principal of a state contractor
202 makes or solicits a contribution as prohibited under subparagraph (A)
203 or (B) of this subdivision, as determined by the State Elections
204 Enforcement Commission, the contracting state agency or quasi-public
205 agency may, in the case of a state contract executed on or after
206 February 8, 2007, void the existing contract with such contractor, and
207 no state agency or quasi-public agency shall award the state contractor
208 a state contract or an extension or an amendment to a state contract for
209 one year after the election for which such contribution is made or
210 solicited unless the commission determines that mitigating
211 circumstances exist concerning such violation.

212 (ii) If a first five plus program participant or principal of a first five
213 plus program participant makes or solicits a contribution as prohibited
214 under subparagraph (C) of this subdivision, as determined by the State
215 Elections Enforcement Commission, the Commissioner of Economic
216 and Community Development may deem the business development
217 project of such participant ineligible for financial assistance under the
218 first five plus program and require the repayment of such financial
219 assistance, and said commissioner shall deem any such project of such
220 participant ineligible for financial assistance under the first five plus
221 program for one year after the election for which such contribution is
222 made or solicited unless the commission determines that mitigating
223 circumstances exist concerning such violation.

224 (iii) No violation of the prohibitions contained in subparagraph (A),
225 [or] (B) or (C) of this subdivision shall be deemed to have occurred if,
226 and only if, the improper contribution is returned to the principal by
227 the later of thirty days after receipt of such contribution by the
228 recipient committee treasurer or the filing date that corresponds with
229 the reporting period in which such contribution was made. [;]

230 [(D)] (E) (i) If a prospective state contractor or principal of a
231 prospective state contractor makes or solicits a contribution as
232 prohibited under subparagraph (A) or (B) of this subdivision, as
233 determined by the State Elections Enforcement Commission, no state
234 agency or quasi-public agency shall award the prospective state
235 contractor the contract described in the state contract solicitation or
236 any other state contract for one year after the election for which such
237 contribution is made or solicited unless the commission determines
238 that mitigating circumstances exist concerning such violation. The
239 Commissioner of Administrative Services shall notify applicants of the
240 provisions of this subparagraph and subparagraphs (A) and (B) of this
241 subdivision during the prequalification application process. [; and]

242 (ii) If a prospective first five plus program participant or principal of
243 a prospective first five plus program participant makes or solicits a
244 contribution as prohibited under subparagraph (C) of this subdivision,

245 as determined by the State Elections Enforcement Commission, the
246 Commissioner of Economic and Community Development shall deem
247 the business development project of such prospective participant
248 ineligible for financial assistance under the first five plus program and
249 deem any such project of such prospective participant ineligible for
250 financial assistance under the first five plus program for one year after
251 the election for which such contribution is made or solicited unless the
252 commission determines that mitigating circumstances exist concerning
253 such violation. Said commissioner shall notify any such prospective
254 participant of the provisions of this subparagraph and subparagraph
255 (C) of this subdivision during the application process.

256 [(E)] (F) (i) The State Elections Enforcement Commission shall make
257 available to each state agency and quasi-public agency a written notice
258 advising state contractors and prospective state contractors of the
259 contribution and solicitation prohibitions contained in subparagraphs
260 (A) and (B) of this subdivision. Such notice shall: [(i)] (I) Direct each
261 state contractor and prospective state contractor to inform each
262 individual described in subparagraph [(F)] (H) of subdivision (1) of
263 this subsection, with regard to such state contractor or prospective
264 state contractor, about the provisions of subparagraph (A) or (B) of this
265 subdivision, whichever is applicable, and this subparagraph; [(ii)] (II)
266 inform each state contractor and prospective state contractor of the
267 civil and criminal penalties that could be imposed for violations of
268 such prohibitions if any such contribution is made or solicited; [(iii)]
269 (III) inform each state contractor and prospective state contractor that,
270 in the case of a state contractor, if any such contribution is made or
271 solicited, the contract may be voided; [(iv)] (IV) inform each state
272 contractor and prospective state contractor that, in the case of a
273 prospective state contractor, if any such contribution is made or
274 solicited, the contract described in the state contract solicitation shall
275 not be awarded, unless the commission determines that mitigating
276 circumstances exist concerning such violation; and [(v)] (V) inform
277 each state contractor and prospective state contractor that the state will
278 not award any other state contract to anyone found in violation of such
279 prohibitions for a period of one year after the election for which such

280 contribution is made or solicited, unless the commission determines
281 that mitigating circumstances exist concerning such violation. Each
282 state agency and quasi-public agency shall distribute such notice to the
283 chief executive officer of its contractors and prospective state
284 contractors, or an authorized signatory to a state contract, and shall
285 obtain a written acknowledgment of the receipt of such notice.

286 (ii) The State Elections Enforcement Commission shall make
287 available to the Commissioner of Economic and Community
288 Development a written notice advising first five plus program
289 participants and prospective first five plus program participants of the
290 contribution and solicitations prohibitions contained in subparagraph
291 (C) of this subdivision. Such notice shall: (I) Direct each first five plus
292 program participant and prospective first five plus program
293 participant to inform each individual described in subparagraph (I) of
294 subdivision (1) of this subsection, with regard to such first five plus
295 program participant and prospective first five plus program
296 participant, about the provisions of subparagraph (C) of this
297 subdivision and this subparagraph; (II) inform each first five plus
298 program participant and prospective first five plus program
299 participant of the civil and criminal penalties that could be imposed for
300 violations of such prohibitions if any such contribution is made or
301 solicited; (III) inform each first five plus program participant and
302 prospective first five plus program participant that, in the case of a first
303 five plus program participant, if any such contribution is made or
304 solicited, the business development project of such participant may be
305 deemed ineligible for financial assistance under the first five plus
306 program; (IV) inform each first five plus program participant and
307 prospective first five plus program participant that, in the case of a
308 prospective first five plus program participant, if any such
309 contribution is made or solicited, the business development project of
310 such prospective participant shall be deemed ineligible for financial
311 assistance under the first five plus program, unless the commission
312 determines that mitigating circumstances exist concerning such
313 violation; and (V) inform each first five plus program participant and
314 prospective first five plus program participant that the Commissioner

315 of Economic and Community Development will deem any business
316 development project ineligible for financial assistance under the first
317 five plus program for anyone found in violation of such prohibitions
318 for a period of one year after the election for which such contribution is
319 made or solicited, unless the commission determines that mitigating
320 circumstances exist concerning such violation. Said commissioner shall
321 distribute such notice to the chief executive officer of each such
322 participant or prospective participant, or an authorized agent of such
323 participant or prospective participant, and shall obtain a written
324 acknowledgment of the receipt of such notice.

325 (3) (A) On and after December 31, 2006, neither the Governor,
326 Lieutenant Governor, Attorney General, State Comptroller, Secretary
327 of the State or State Treasurer, any candidate for any such office nor
328 any agent of any such official or candidate shall knowingly, wilfully or
329 intentionally solicit contributions on behalf of an exploratory
330 committee or candidate committee established by a candidate for
331 nomination or election to any public office, a political committee or a
332 party committee, from a person who he or she knows is prohibited
333 from making contributions, including (i) a principal of a state
334 contractor or prospective state contractor with regard to a state
335 contract solicitation with or from a state agency in the executive branch
336 or a quasi-public agency or a holder of a valid prequalification
337 certificate, or (ii) a principal of a first five plus program participant or
338 prospective first five plus program participant with regard to an
339 application for an award of financial assistance pursuant to section 32-
340 4l.

341 (B) On and after December 31, 2006, neither a member of the
342 General Assembly, any candidate for any such office nor any agent of
343 any such official or candidate shall knowingly, wilfully or intentionally
344 solicit contributions on behalf of an exploratory committee or
345 candidate committee established by a candidate for nomination or
346 election to any public office, a political committee or a party
347 committee, from a person who he or she knows is prohibited from
348 making contributions, including a principal of a state contractor or

349 prospective state contractor with regard to a state contract solicitation
350 with or from the General Assembly or a holder of a valid
351 prequalification certificate.

352 (4) The provisions of this subsection shall not apply to ~~(A) the~~
353 ~~campaign of a principal of a state contractor or prospective state~~
354 ~~contractor, or a principal of a first five plus program participant or~~
355 ~~prospective first five plus program participant,~~ or [to] (B) a principal of
356 a state contractor or prospective state contractor, ~~or a principal of a~~
357 ~~first five plus program participant or prospective first five plus~~
358 ~~program participant,~~ who is an elected public official.

359 (5) Each state contractor, ~~[and] prospective state contractor,~~ first five
360 plus program participant and prospective first five plus program
361 participant shall make reasonable efforts to comply with the provisions
362 of this subsection. If the State Elections Enforcement Commission
363 determines that a state contractor, ~~[or] prospective state contractor,~~
364 first five plus program participant or prospective first five plus
365 program participant has failed to make reasonable efforts to comply
366 with this subsection, the commission may impose civil penalties
367 against such state contractor, ~~[or] prospective state contractor,~~ first five
368 plus program participant or prospective first five plus program
369 participant in accordance with subsection (a) of section 9-7b.

370 (g) (1) ~~(A)~~ Not later than thirty days after February 8, 2007, each
371 state agency and quasi-public agency shall prepare and forward to the
372 State Elections Enforcement Commission, on a form prescribed by
373 [said] the commission, a list of the names of the state contractors and
374 prospective state contractors with which such agency is a party to a
375 contract, and any state contract solicitations or prequalification
376 certificates issued by the agency. Not less than once per month, each
377 state agency and quasi-public agency shall forward to [said] the
378 commission, on a form prescribed by the commission, any changes,
379 additions or deletions to [said] such lists, not later than the fifteenth
380 day of the month.

381 ~~[(2)] (B)~~ Not later than sixty days after February 8, 2007, the State

382 Elections Enforcement Commission shall [(A)] (i) compile a master list
383 of state contractors and prospective state contractors for all state
384 agencies and quasi-public agencies, based on the information received
385 under [subdivision (1) of this subsection, (B)] subparagraph (A) of this
386 subdivision, (ii) publish the master list on the commission's Internet
387 web site, and [(C)] (iii) provide copies of the master list to treasurers
388 upon request. The commission shall update the master list every
389 month.

390 (2) (A) Not later than thirty days after February 8, 2019, the
391 Commissioner of Economic and Community Development shall
392 prepare and forward to the State Elections Enforcement Commission,
393 on a form prescribed by the commission, a list of the names of the first
394 five plus program participants and prospective first five plus program
395 participants, and any applications for an award of financial assistance
396 pursuant to section 32-4l. Not less than once per month, said
397 commissioner shall forward to the commission, on a form prescribed
398 by the commission, any changes, additions or deletions to such lists,
399 not later than the fifteenth day of the month.

400 (B) Not later than sixty days after February 8, 2019, the State
401 Elections Enforcement Commission shall (i) compile a master list of
402 first five plus program participants and prospective first five plus
403 program participants, based on the information received under
404 subparagraph (A) of this subdivision, (ii) publish the master list on the
405 commission's Internet web site, and (iii) provide copies of the master
406 list to treasurers upon request. The commission shall update the
407 master list every month.

408 Sec. 2. Subparagraph (B) of subdivision (10) of subsection (b) of
409 section 9-601a of the general statutes is repealed and the following is
410 substituted in lieu thereof (*Effective January 1, 2019*):

411 (B) The purchase of advertising space which clearly identifies the
412 purchaser, in a program for a fund-raising affair or on signs at a fund-
413 raising affair sponsored by a party committee or a political committee,
414 other than an exploratory committee, provided the cumulative

415 purchase of such space does not exceed two hundred fifty dollars from
416 any single party committee or a political committee, other than an
417 exploratory committee, in any calendar year if the purchaser is a
418 business entity or fifty dollars for purchases by any other person.
419 Notwithstanding the provisions of this subparagraph, the following
420 may not purchase advertising space in a program for a fund-raising
421 affair or on signs at a fund-raising affair sponsored by a party
422 committee or a political committee, other than an exploratory
423 committee: (i) A communicator lobbyist, (ii) a member of the
424 immediate family of a communicator lobbyist, (iii) a state contractor,
425 (iv) a prospective state contractor, [or] (v) a principal of a state
426 contractor or prospective state contractor, (vi) a first five plus program
427 participant, (vii) a prospective first five plus program participant, or
428 (viii) a principal of a first five plus program participant or prospective
429 first five plus program participant. As used in this subparagraph,
430 "state contractor", "prospective state contractor", [and] "principal of a
431 state contractor or prospective state contractor", "first five plus
432 program participant", "prospective first five plus program participant",
433 and "principal of a first five plus program participant or prospective
434 first five plus program participant" have the same meanings as
435 provided in subsection (f) of section 9-612, as amended by this act;

436 Sec. 3. Subdivision (3) of subsection (c) of section 9-608 of the
437 general statutes is repealed and the following is substituted in lieu
438 thereof (*Effective January 1, 2019*):

439 (3) In addition to the requirements of subdivision (2) of this
440 subsection, each contributor who makes a contribution to a candidate
441 or exploratory committee for Governor, Lieutenant Governor,
442 Attorney General, State Comptroller, Secretary of the State, State
443 Treasurer, state senator or state representative, any political committee
444 authorized to make contributions to such candidates or committees,
445 and any party committee that separately, or in the aggregate, exceeds
446 fifty dollars shall provide with the contribution: (A) The name of the
447 contributor's employer, if any; (B) the contributor's status as a
448 communicator lobbyist, as defined in section 1-91, a member of the

449 immediate family of a communicator lobbyist, a state contractor, a
450 prospective state contractor, [or] a principal of a state contractor or
451 prospective state contractor, a first five plus program participant, a
452 prospective first five plus program participant or a principal of a first
453 five plus program participant or prospective first five plus program
454 participant, as defined in section 9-612, as amended by this act; and (C)
455 a certification that the contributor is not prohibited from making a
456 contribution to such candidate or committee. The State Elections
457 Enforcement Commission shall prepare a sample form for such
458 certification by the contributor and shall make it available to treasurers
459 and contributors. Such sample form shall include an explanation of the
460 terms "communicator lobbyist", "principal of a state contractor or
461 prospective state contractor", "immediate family", "state contractor",
462 [and] "prospective state contractor", "principal of a first five plus
463 program participant or prospective first five plus program
464 participant", "first five plus program participant" and "prospective first
465 five plus program participant". The information on such sample form
466 shall be included in any written solicitation conducted by any such
467 committee. If a treasurer receives such a contribution and the
468 contributor has not provided such certification, the treasurer shall: (i)
469 Not later than three business days after receiving the contribution,
470 send a request for the certification to the contributor by certified mail,
471 return receipt requested; (ii) not deposit the contribution until the
472 treasurer obtains the certification from the contributor,
473 notwithstanding the provisions of section 9-606; and (iii) return the
474 contribution to the contributor if the contributor does not provide the
475 certification not later than fourteen days after the treasurer's written
476 request or at the end of the reporting period in which the contribution
477 was received, whichever is later. No treasurer shall be required to
478 obtain and keep more than one certification from each contributor,
479 unless information certified to by the contributor, other than the
480 amount contributed, changes. If a treasurer deposits a contribution
481 based on a certification that is later determined to be false, the
482 treasurer shall have a complete defense to any action, including but
483 not limited to, any complaint investigated by the State Elections

484 Enforcement Commission or any other investigation initiated by said
485 commission, against such treasurer for the receipt of such contribution.

486 Sec. 4. Subsections (e) to (g), inclusive, of section 9-704 of the 2018
487 supplement to the general statutes are repealed and the following is
488 substituted in lieu thereof (*Effective January 1, 2019*):

489 (e) The following shall not be deemed to be qualifying contributions
490 under subsection (a) of this section and shall be returned by the
491 treasurer of the candidate committee to the contributor or transmitted
492 to the State Elections Enforcement Commission for deposit in the
493 Citizens' Election Fund:

494 (1) A contribution from a principal of a state contractor or
495 prospective state contractor, or a principal of a first five plus program
496 participant or prospective first five plus program participant;

497 (2) A contribution of less than five dollars, and a contribution of five
498 dollars or more from an individual who does not provide the full name
499 and complete address of the individual;

500 (3) A contribution under subdivision (1) or (2) of subsection (a) of
501 this section from an individual who does not reside in the state, in
502 excess of the applicable limit on contributions from out-of-state
503 individuals in subsection (a) of this section; and

504 (4) A contribution made by a youth who is less than twelve years of
505 age.

506 (f) After a candidate committee receives the applicable aggregate
507 amount of qualifying contributions under subsection (a) of this section,
508 the candidate committee shall transmit any additional contributions
509 that it receives to the State Treasurer for deposit in the Citizens'
510 Election Fund.

511 (g) As used in this section, "principal of a state contractor or
512 prospective state contractor" [has the same meaning] and "principal of
513 a first five plus program participant or prospective first five plus

514 program participant" have the same meanings as provided in
515 subsection [(g)] (f) of section 9-612, as amended by this act, and
516 "individual" shall include sole proprietorships.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2019</i>	9-612(f) and (g)
Sec. 2	<i>January 1, 2019</i>	9-601a(b)(10)(B)
Sec. 3	<i>January 1, 2019</i>	9-608(c)(3)
Sec. 4	<i>January 1, 2019</i>	9-704(e) to (g)

GAE *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 19 \$	FY 20 \$
Elections Enforcement Commission	GF - See Below	None	None
Treasurer, Debt Serv.	GF - See Below	None	Potential
Department of Revenue Services	GF - See Below	None	Potential

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill restricts any First Five participant or prospective First Five participant from making or soliciting a contribution for political candidates and authorizes penalties be levied on violators of the bill.

First Five Programmatic Impacts

Assuming no First Five participant violates the provisions in the bill, there is no fiscal impact.

However, in the event that a First Five participant is in violation, then the bill makes the First Five business ineligible for assistance for one year after the election associated with the contribution. The bill also allows the Department of Economic and Community Development (DECD) to (1) deem the violating business ineligible for financial assistance and (2) require repayment of such financial

assistance.¹

Depending upon the structure of the agreement, these provisions may potentially decelerate debt service costs associated with the any loans or grants and/or preclude revenue loss associated with tax credits within the assistance agreement.

Other Programmatic Impacts

In addition, the definitions in the bill may require the State Elections Enforcement Commission (SEEC) to amend certain registrations and disclosures forms. This has no fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

¹ The First Five program allows DECD to award loans and grants supported by General Obligation bonds and tax credits under existing programs for certain businesses that meet certain job and capital investment thresholds. Per PA 16-3 MSS, up to twenty companies may enter into the program by June 30, 2019. As of 4/10/18, there are seventeen companies participating in the program

OLR Bill Analysis**HB 5521****AN ACT CONCERNING THE FIRST FIVE PLUS PROGRAM AND POLITICAL CONTRIBUTIONS.****SUMMARY**

This bill extends current law's restrictions on campaign contributions and solicitations for state contractors to the owners, officers, certain employees, and family members (i.e., principals) of a business that applies for (i.e., prospective participants) or receives (i.e., participants) state economic development assistance under the First Five Plus Program (i.e., First Five, see BACKGROUND).

It authorizes similar penalties for making or soliciting such prohibited contributions, including disqualification for First Five assistance and civil and criminal penalties. It also requires the State Elections Enforcement Commission (SEEC) to make a written notice of these prohibitions available to the DECD commissioner and compile and make public a master list of program participants and prospective participants based on information provided by DECD.

Finally, the bill prohibits First Five participants, prospective participants, and their principals from purchasing advertising space related to campaign fundraising and subjects such individuals who make certain permitted contributions to disclosure requirements.

EFFECTIVE DATE: January 1, 2019

§ 1 — CAMPAIGN CONTRIBUTIONS AND SOLICITATIONS***Ban***

State campaign finance law restricts the circumstances under which principals of state contractors, prospective state contractors, and pre-qualified contractors may contribute to, or knowingly solicit for,

statewide or legislative candidates, certain political committees (known as PACs), and party committees. It also restricts the circumstances under which their immediate family members may contribute or solicit. Correspondingly, the law prohibits such officials or candidates from soliciting such contributions from individuals prohibited from making such contributions. In general, candidates for elected office, elected officials, and their respective immediate family members are exempt from these restrictions.

Entities and Individuals Covered by the Ban

The existing contractor ban covers principals of state contractors, prospective state contractors, and pre-qualified contractors. The bill extends the same prohibition to First Five participants, prospective participants, and principals of a participant or prospective participant, as shown in Table 1, which outlines the individuals defined by “principal” under law.

Table 1: Individuals Covered by the Contractor Ban

Business Entity Principals	Nonprofit Organization Principals
<ol style="list-style-type: none"> 1. Board members 2. Owners of at least 5% 3. President, Treasurer, Executive Vice President 4. Officers or employees performing managerial or discretionary duties with respect to the contract negotiation 5. Spouse or dependent children age 18 or older of any of the above 6. PAC established or controlled by any of the above, including spouses and dependent children 7. PAC established or controlled by the business entity 	<ol style="list-style-type: none"> 1. Chief executive officer or officer with comparable powers and duties 2. Officers or employees performing managerial or discretionary duties with respect to the contract negotiation 3. Spouse or dependent children age 18 or older of any of the above 4. PAC established or controlled by any of the above, including spouses and dependent children 5. PAC established or controlled by the nonprofit organization
Business Entity Non-principals	Nonprofit Organization Non-principals
<ol style="list-style-type: none"> 1. All other employees 	<ol style="list-style-type: none"> 1. Board members 2. All other employees

Banned Activities

The bill’s ban applies to contributions and solicitations, which by law, includes:

1. requesting a contribution;
2. participating in any fundraising activity for a candidate or exploratory committee, PAC, or party committee;
3. serving as chairperson, campaign treasurer, or deputy treasurer of such a committee; or
4. establishing a PAC for the sole purpose of soliciting or receiving contributions for any committee.

Solicitations do not include:

1. making a contribution that is otherwise permitted by law;
2. informing anyone of a candidate's or public official's position;
3. notifying anyone of the activities of, or contact information for, a candidate for public office;
4. serving as a party committee member or as an officer of a committee if such membership is not otherwise prohibited (CGS § 9-601(26)); or
5. attending a fundraiser.

Penalties for Making or Soliciting Banned Contributions

The bill's penalty for making prohibited or solicited campaign contributions is similar to the one the law imposes on state contractors. That law allows the contracting state or quasi-public agency to void an existing contract if the State Elections Enforcement Commission (SEEC) determines the state contractor or its principal made or solicited prohibited contributions. In addition, state and quasi-public agencies are prohibited from awarding such state contractor a contract, including an extension of, or amendment to an existing contract, for one year after the election for which such banned contribution was made or solicited. The law exempts from this penalty violations with mitigating circumstances, as determined by SEEC. It also allows SEEC

to impose civil penalties for contractors failing to make reasonable efforts to comply with the provisions.

The bill extends similar penalties for First Five participants, prospective participants, and their principals. It allows the DECD commissioner to deem a participant's business development project ineligible for financial assistance under the program and require the repayment of such financial assistance. In addition, it requires her to deem any such project ineligible for the program's financial assistance for one year after the election for which the prohibited contribution was made or solicited. The bill requires the commissioner to notify any prospective participant of this ban and the penalties for violating it during the program application process.

The bill exempts from this penalty violations with mitigating circumstances, as determined by SEEC. It also extends SEEC's authority to impose civil penalties for failing to make reasonable efforts to comply with the ban to First Five participants and prospective participants.

Notification Requirements

The bill establishes a requirement for notifying First Five participants and prospective participants about its ban on campaign contributions and solicitations that is similar to the existing notice state and quasi-public agencies must give to state contractors. By law, SEEC must make available to each state and quasi-public agency a written notice advising state contractors and prospective contractors of the ban on contributions and solicitations. Each state agency and quasi-public agency must distribute the notice to the chief executive officer of its contractors and prospective contractors, or an authorized signatory to a state contract, and obtain a written acknowledgment of the notice's receipt. The notice must (1) direct such contractors and prospective contractors to inform their principals about these prohibitions and (2) inform such contractors and prospective contractors about the civil and criminal penalties that could be imposed for violations of such prohibitions, as well as the potential for voiding an existing contract,

not awarding a prospective contract, and making such contractor or prospective contractor ineligible for one year.

The bill applies similar notice requirements to First Five participants and prospective participants. It requires SEEC to make a written notice available to the DECD commissioner advising them of the ban on contributions and solicitations under the bill. The commissioner must distribute the notice to the chief executive officer of its participant and prospective participant, or an authorized agent, and obtain a written acknowledgment of the notice's receipt.

Exemptions for Candidates & Public Officials

The bill extends the contractor ban's exemptions to the principals of First Five participants and prospective participants who are public officials or running for elected office.

By law, contractors running for elected office and their immediate family members may make or solicit contributions to, or on behalf of, their own exploratory or candidate committees without violating the ban, as long as they do not solicit from other prohibited contributors. Principals of state contractors, prospective state contractors, pre-qualified contractors, and their immediate family members who are elected public officials are almost entirely exempt from the contractor ban. They only are prohibited from giving qualifying contributions to candidate participants in the Citizens' Election Program.

Master List

By law, each state and quasi-public agency must prepare and forward to SEEC, on a form it prescribes, a list of (1) the names of the state contractors and prospective contractors with which such agency has contracts, (2) any state contract solicitations, and (3) prequalification certificates issued. The agencies must update this list at least monthly, on a form SEEC prescribes, and by the fifteenth day of each month.

In turn, SEEC must compile a master list of state contractors and prospective state contractors for all state agencies and quasi-public

agencies, based on the information received and publish such list on its website, as well as provide copies of the list to treasurers upon request. SEEC must also update the master list every month.

By March 10, 2019, the bill requires the DECD commissioner to provide similar information to SEEC, namely, a list of the names of the First Five participants and prospective participants, and any program applications. DECD must update this list, on a form SEEC prescribes, at least monthly and by the fifteenth day of each month.

By May 9, 2019, the bill requires SEEC to compile and publish on its website a master list of participants and prospective participants and provide copies of it to treasurers upon request. SEEC must also update the master list every month.

§§ 2 & 3 — ADVERTISING & DISCLOSURES

By law, state contractors, prospective state contractors, and their principals may not purchase advertising space in a program for a fundraising event sponsored by a party committee or PAC, other than an exploratory committee. The bill extends this ban to First Five participants, prospective participants, and their principals.

The law requires such contractors and their principals to disclose certain information if they contribute more than \$50 separately or in the aggregate to a (1) candidate or exploratory committee for state office; (2) PAC authorized to make contributions to, or spend on behalf of, candidates for statewide or legislative office; or (3) party committee. They must disclose:

1. the name of the contributor's employer,
2. the contributor's status as a state contractor or prospective state contractor, and
3. a certification that the contributor is not prohibited from making such a contribution to such candidate or committee.

The bill also subjects a First Five participant, prospective

participant, or their principal to the disclosure requirements for making campaign contributions exceeding the \$50 threshold, including his or her status with regards to the First Five Program.

BACKGROUND

First Five Plus Program

The First Five Plus program combines financial assistance and tax incentives under existing programs for business development projects that create jobs and make capital investments. Projects qualify for assistance under the program if, after the DECD commissioner approves assistance, they will (1) create at least 200 new jobs within 24 months or (2) invest at least \$25 million and create at least 200 new jobs within five years. By law, the program expires on June 30, 2019 (CGS § 32-4l).

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable

Yea 17 Nay 0 (03/23/2018)