

4844

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. AUBERTINE -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the state finance law, in relation to reducing late payments to contractors

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative intent. The legislature hereby finds and
2 declares that interest penalties paid by the state for overdue bills
3 have exceeded one million dollars each fiscal year since 1994-95, as
4 shown by the annual reports issued by the comptroller pursuant to subdi-
5 vision 3 of section 179-m of the state finance law. This inefficiency
6 and tardiness in meeting the state's obligations is unacceptable. Late
7 payments and the associated penalty interest represent a waste of
8 taxpayers' money, a hardship for small businesses, and a disincentive
9 for contractors to do state work. It is the intent of this legislation
10 to require the division of the budget and the executive branch agencies
11 of the state to identify and remedy impediments to their prompt process-
12 ing and payment of the state's bills.

13 S 2. Section 179-m of the state finance law is amended by adding a new
14 subdivision 4 to read as follows:

15 4. THE DIRECTOR OF THE BUDGET SHALL DEVELOP AN ACTION PLAN FOR REDUC-
16 ING LATE PAYMENTS BY EXECUTIVE BRANCH AGENCIES. THE PLAN SHALL SET
17 REDUCTION TARGETS FOR INDIVIDUAL AGENCIES. SUCH PLAN SHALL BE SUBMITTED
18 TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER
19 OF THE ASSEMBLY NO LATER THAN OCTOBER FIRST, TWO THOUSAND ELEVEN.

20 S 3. Section 179-h of the state finance law, as amended by chapter 153
21 of the laws of 1984, is amended to read as follows:

22 S 179-h. Determination of appropriations against which interest
23 payments are to be charged. Except in situations when federal law or the
24 provisions of section one hundred seventy-nine-o of this article require
25 otherwise, an interest payment required by this article shall be paid

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 from [the same appropriation as that from which the related proper
2 invoice is paid] APPROPRIATIONS THAT OTHERWISE WOULD BE AVAILABLE FOR
3 THE ADMINISTRATION AND OPERATIONS OF THE STATE AGENCY WHICH INCURRED THE
4 INTEREST PAYMENT; provided, however, (1) that the interest payment shall
5 not reduce the amount of money that otherwise will be payable to the
6 contractor under the terms of the relevant contract and (2) that if the
7 obligation to make an interest payment is incurred in whole or in part
8 because it takes the department of audit and control more than eight
9 calendar days, excluding legal holidays, from the date it receives an
10 approvable voucher from another state agency to process a contract
11 payment, then the portion of the total interest payment that is attrib-
12 utable to delays by the department of audit and control shall be paid
13 from funds made available to the department of audit and control.
14 Notwithstanding any other provision of law to the contrary, if the
15 amount of money available from any such appropriation to the state agen-
16 cy which received the proper invoice is insufficient to pay the interest
17 and if for any reason it is not feasible for the director of the budget
18 to exercise the transfer or interchange authority established by section
19 fifty-one or ninety-three of this chapter, the director of the budget
20 may issue a certificate or certificates transferring or interchanging
21 within a fund such amount as is needed to pay the interest to said
22 appropriation within such fund from the unspent balance of any appropri-
23 ation that is available to the same state agency. In exercising the
24 latter transfer or interchange authority, the director of the budget
25 shall transfer or interchange amounts that are not needed to accomplish
26 the purposes for which the appropriation was made[, except, however, the
27 director of the budget may, to the extent he deems it practicable,
28 transfer or interchange amounts from appropriations that otherwise would
29 be available for the administration and operations of the state agency
30 which incurred the interest payment]. Any such certificate or certif-
31 icates issued by the director of the budget shall be sent to the state
32 comptroller and copies shall be filed with the chairman of the senate
33 finance committee and the chairman of the assembly ways and means
34 committee.

35 S 4. Subdivision (d) of section 139-g of the state finance law, as
36 amended by chapter 636 of the laws of 2003, is amended to read as
37 follows:

38 (d) label those invoices of small-business and certified women and
39 minority-owned business concerns which that agency, department or
40 authority processes so as to promote the expeditious payment for
41 services, COMMODITIES and construction provided by such businesses on a
42 priority basis.

43 S 5. This act shall take effect on the thirtieth day after it shall
44 have become a law.