S T A T E O F N E W Y O R K

1295

2011-2012 Regular Sessions

I N S E N A T E

January 6, 2011

Introduced by Sen. DUANE -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the public officers law, in relation to the use of state aircraft by certain state officials, officers and employees

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

Section 1. Legislative findings and intent. It is the intention of this legislature that a clear-cut statutory policy be enacted that is both concise and forthright regarding usage of state aircraft. The legislature determines that state aircraft are paid for and owned by the taxpayers of the state, who are entitled to the assurance that such resources are being used for legitimate state governmental purposes. The use of state aircraft shall be reserved for trips that are legitimate state governmental purposes only, as defined in section 72-b of the public officers law, as trips which are predominantly for official state business. Any person or persons traveling on state aircraft for purposes other than official state business shall pay for any trip or any portion of a trip not exclusively for state business by paying a prorated share of a commercial air carrier rate.

S 2. The public officers law is amended by adding a new section 72-b to read as follows:

S 72-B. LIMITATION ON USE OF AIRCRAFT BY STATE OFFICIALS, OFFICERS AND EMPLOYEES. 1. THE AIRCRAFT OWNED, LEASED, OR OPERATED BY ANY STATE OFFICE, AGENCY, AUTHORITY, DEPARTMENT, OR BRANCH OF THE LEGISLATURE, SHALL BE AVAILABLE ONLY FOR OFFICIAL STATE BUSINESS. THE EXECUTIVE DEPARTMENT SHALL HAVE THE SOLE POWER TO APPROVE OR DENY REQUESTS FOR USE OF STATE AIRCRAFT FOR OFFICIAL STATE BUSINESS.

(A) FOR PURPOSES OF THIS SECTION THE TERM "OFFICIAL STATE BUSINESS" MEANS ANY ACTIVITY INVOLVING TRAVEL IN A STATE AIRCRAFT IF THE ACTIVITY IS REASONABLY REQUIRED, EXPECTED, OR APPROPRIATE, CONSIDERING THE

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

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NATURE OF THE PUBLIC OFFICIAL'S OR EMPLOYEE'S JOB RESPONSIBILITIES. THE ACTIVITIES SHALL INCLUDE, BUT NOT BE LIMITED TO, ATTENDANCE AT OFFICIAL MEETINGS, PUBLIC HEARINGS, OR OTHER LEGITIMATE STATE BUSINESS.

(B) IF A PARTICULAR FLIGHT IS IN PART OFFICIAL BUSINESS AND PART PERSONAL BUSINESS, THE USE OF THE STATE AIRCRAFT SHALL NOT BE APPROVED UNLESS THE MAJORITY OF THE FLIGHT EXPENSES AND TIME ARE FOR OFFICIAL BUSINESS. ANY OFFICIAL REQUESTING SUCH FLIGHT SHALL FILE A REQUEST WITH THE EXECUTIVE DEPARTMENT WHICH SHALL DETAIL THE NATURE OF THE ACTIVITIES THEY INTEND TO UNDERTAKE ONCE THE TRAVEL IS APPROVED, AND IF PERSONAL BUSINESS IS INVOLVED IN ANY WAY, THEY MUST MAKE A REASONABLE ALLOCATION OF THE FLIGHT TIME BETWEEN OFFICIAL AND PERSONAL BUSINESS AT THE TIME OF SUCH REQUEST. AFTER SUCH TRAVEL IS COMPLETE AND IF ANY REALLOCATION OF OFFICIAL AND BUSINESS TIME IS NECESSARY TO CORRECT THE ORIGINAL REQUEST, SUCH OFFICIAL SHALL PAY WITH NON-STATE FUNDS TO THE APPROPRIATE STATE AGENCY THE CHARGE FOR THE PART OF THE FLIGHT THAT IS ALLOCABLE TO PERSONAL BUSINESS. THE RATE CHARGED SHALL BE CALCULATED BY SUCH AGENCY USING COSTS THAT WOULD BE CONSIDERED IN A RATE DEVELOPED BY A COMMERCIAL AIR CARRIER. IN ALL CASES, THE FLIGHT REQUEST FORM, INCLUDING THE DESCRIPTION OF ACTIVITIES AND THE BASIS FOR THE ALLOCATION AT THE TIME OF APPLICATION SHALL BE INDICATED ON THE AIRCRAFT REQUEST FORM AS WELL AS ANY SUBSEQUENT REALLOCATION SHALL BE KEPT IN THE ORDINARY COURSE OF BUSINESS BY THE EXECUTIVE DEPARTMENT.

2. THE FOLLOWING CRITERIA SHALL BE CONSIDERED BY THE EXECUTIVE DEPARTMENT IN DETERMINING APPROPRIATE USES OF STATE OWNED, LEASED, OR OPERATED AIRCRAFT:

(A) WHETHER THE USE OF THE AIRCRAFT IS IN FURTHERANCE OF STATE OFFICIAL OR EMPLOYEE JOB ASSIGNMENTS.

(B) WHETHER THE USE OF THE AIRCRAFT IS FOR TRANSPORTING AN EMPLOYEE, STATE OFFICIAL, OR OTHER PERSON AUTHORIZED BY THE AGENCY, AUTHORITY, DEPARTMENT OR LEGISLATIVE BRANCH FOR PURPOSES OF CONDUCTING OFFICIAL STATE BUSINESS OR FOR PURPOSES OF PERFORMING SERVICES FOR THE STATE.

(C) WHETHER THE STATE POLICE OR ANY OTHER LAW ENFORCEMENT OFFICE HAS DETERMINED THAT SECURITY OR TRANSPORTATION VIA AIRCRAFT IS NECESSARY.

(D) WHETHER AN EMERGENCY EXISTS REQUIRING THE USE OF THE AIRCRAFT FOR THE PROTECTION OF LIFE OR PROPERTY.

3. A PERSON WHO IS NOT OTHERWISE AUTHORIZED IN THIS SECTION MAY ACCOMPANY THE GOVERNOR, THE LIEUTENANT GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE, THE MINORITY LEADER OF THE ASSEMBLY OR THE CHIEF JUDGE OF THE COURT OF APPEALS WHEN SUCH OFFICIAL IS TRAVELING ON STATE AIRCRAFT FOR OFFICIAL STATE BUSINESS AND THE AIRCRAFT IS TRAVELING WITH SEATS AVAILABLE. WHEN THE PERSON ACCOMPANYING SUCH OFFICIAL IS NOT TRAVELING ON OFFICIAL STATE BUSINESS AS PROVIDED IN THIS SECTION, THE TRANSPORTATION CHARGE SHALL BE A PRORATED SHARE OF A COMMERCIAL AIR CARRIER RATE. THE SPOUSE, DOMESTIC PARTNER OR IMMEDIATE FAMILY MEMBERS OF ANY OFFICIAL SPECIFIED IN THIS SECTION MAY, WITH PAYMENT OF TRANSPORTATION CHARGES, ACCOMPANY THE OFFICIAL WHEN SUCH OFFICIAL IS TRAVELING FOR OFFICIAL STATE BUSINESS AND THE AIRCRAFT HAS SEATS AVAILABLE.

4. THE STATE COMPTROLLER SHALL ANNUALLY AUDIT THE ASSIGNMENT AND USE OF STATE AIRCRAFT, AND SHALL HAVE ACCESS TO ALL DOCUMENTATION RELATING TO SUCH ASSIGNMENT AND USE. EACH YEAR THE STATE COMPTROLLER SHALL ISSUE A REPORT SUMMARIZING THE ANNUAL AUDIT OF STATE AIRCRAFT, A COPY OF WHICH SHALL BE POSTED TO THE OFFICIAL WEBSITE OF THE DEPARTMENT OF AUDIT AND CONTROL.

S 3. This act shall take effect immediately.