STATE OF NEW YORK

5883--B

2025-2026 Regular Sessions

IN ASSEMBLY

February 24, 2025

Introduced by M. of A. LEE -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public officers law, in relation to enacting the "state taxpayer oversight and protection (STOP) act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Short title. This act shall be known and may be cited as the "state taxpayer oversight and protection (STOP) act".

§ 2. Paragraphs (a) and (b) of subdivision 2 of section 17 of the public officers law, paragraph (a) as amended by chapter 768 of the laws of 1985 and paragraph (b) as added by chapter 466 of the laws of 1978, are amended to read as follows:

(a) Upon compliance by the employee with the provisions of subdivision four of this section, the state shall provide for the defense of the employee in any civil action or proceeding in any state or federal court arising out of any alleged act or omission which occurred or is alleged in the complaint to have occurred while the employee was acting within the scope of [~~his~~] **their** public employment or duties; or which is brought to enforce a provision of section nineteen hundred eighty-one or nineteen hundred eighty-three of title forty-two of the United States code and the act or omission underlying the action occurred or is alleged in the complaint to have occurred while the employee was acting within the scope of [~~his~~] **their** public employment or duties. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or on behalf of the state. **No attorneys' fees or expenses shall be paid if incurred on behalf of an employee in any action brought by the employee against the state.**

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

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(b) Subject to the conditions set forth in paragraph (a) of this subdivision, the employee shall be entitled to be represented by the attorney general, provided, however, that the employee shall be entitled to representation by private counsel of [~~his~~] **their** choice in any civil judicial proceeding whenever the attorney general determines based upon [~~his~~] **their** investigation and review of the facts and circumstances of the case that representation by the attorney general would be inappropriate, or whenever a court of competent jurisdiction, upon appropriate motion or by a special proceeding, determines that a conflict of interest exists and that the employee is entitled to be represented by private counsel of [~~his~~] **their** choice. The attorney general shall notify the employee in writing of such determination that the employee is entitled to be represented by private counsel. The attorney general may require, as a condition to payment of the fees and expenses of such representation, that appropriate groups of such employees be represented by the same counsel. If the employee or group of employees is entitled to representation by private counsel under the provisions of this section, the attorney general shall so certify to the comptroller. Reasonable attorneys' fees and litigation expenses shall be paid by the state to such private counsel from time to time during the pendency of the civil action or proceeding subject to certification that the employee is entitled to representation under the terms and conditions of this section by the head of the department, commission, division, office or agency in which such employee is employed and upon the audit and warrant of the comptroller**, and which shall include a determination by the comptroller that any such fees paid by the state are proportional to the needs of the case and consistent with the manner and methods of defense employed in similar or representative cases. Attorneys' fees shall be presumptively unreasonable where an individual hires or employs multiple law firms on the same matter unless such employee can demonstrate the need for additional attorneys with distinct subject matter expertise. The state shall not pay any attorneys' fees deemed unreasonable by the comptroller**. Any dispute with respect to representation of multiple employees by a single counsel or the amount of litigation expenses or the reasonableness of attorneys' fees shall be resolved by the court upon motion or by way of a special proceeding.

§ 3. This act shall take effect immediately and shall apply to any pending claim not paid by the state before such effective date, and to any new claim submitted to the state on or after such effective date.