

4355

2009-2010 Regular Sessions

I N   A S S E M B L Y

February 3, 2009

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Introduced by M. of A. KOON, ORTIZ -- Multi-Sponsored by -- M. of A. BENJAMIN, BRENNAN, COOK, GALEF, MAGEE, MAYERSOHN, ROBINSON, TOWNS -- read once and referred to the Committee on Ways and Means

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

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

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

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

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

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