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

4355

2009-2010 Regular Sessions

I N A S S E M B L Y

February 3, 2009

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:

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

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

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

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

S 179-h. Determination of appropriations against which interest payments are to be charged. Except in situations when federal law or the 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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otherwise, an interest payment required by this article shall be paid from [the same appropriation as that from which the related proper invoice is paid] APPROPRIATIONS THAT OTHERWISE WOULD BE AVAILABLE FOR THE ADMINISTRATION AND OPERATIONS OF THE STATE AGENCY WHICH INCURRED THE INTEREST PAYMENT; provided, however, (1) that the interest payment shall not reduce the amount of money that otherwise will be payable to the contractor under the terms of the relevant contract and (2) that if the obligation to make an interest payment is incurred in whole or in part because it takes the department of audit and control more than eight calendar days, excluding legal holidays, from the date it receives an approvable voucher from another state agency to process a contract payment, then the portion of the total interest payment that is attributable to delays by the department of audit and control shall be paid from funds made available to the department of audit and control. Notwithstanding any other provision of law to the contrary, if the amount of money available from any such appropriation to the state agency which received the proper invoice is insufficient to pay the interest and if for any reason it is not feasible for the director of the budget to exercise the transfer or interchange authority established by section fifty-one or ninety-three of this chapter, the director of the budget may issue a certificate or certificates transferring or interchanging within a fund such amount as is needed to pay the interest to said appropriation within such fund from the unspent balance of any appropriation that is available to the same state agency. In exercising the latter transfer or interchange authority, the director of the budget shall transfer or interchange amounts that are not needed to accomplish the purposes for which the appropriation was made[, except, however, the director of the budget may, to the extent he deems it practicable, transfer or interchange amounts from appropriations that otherwise would be available for the administration and operations of the state agency which incurred the interest payment]. Any such certificate or certificates issued by the director of the budget shall be sent to the state comptroller and copies shall be filed with the chairman of the senate finance committee and the chairman of the assembly ways and means committee.

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

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

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