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

4715

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. LEIBELL -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law, in relation to ensuring the protection in the municipal procurement process of information that would materially impair national, state or local security, materially impair emergency preparedness plans or reveal vulnerabilities relating to security

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

Section 1. Section 103 of the general municipal law is amended by adding a new subdivision 13 to read as follows:

13. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION OR ANY OTHER GENERAL, SPECIAL OR LOCAL LAW, RULE OR REGULATION, ALL CONTRACTS FOR PUBLIC WORK OR PURCHASE CONTRACTS FOR WHICH THE APPLICABLE REQUIREMENTS WOULD OTHERWISE REQUIRE DISCLOSURE OF INFORMATION THAT WOULD, IF DISCLOSED, MATERIALLY IMPAIR NATIONAL, STATE OR LOCAL SECURITY, MATERIALLY IMPAIR EMERGENCY PREPAREDNESS PLANS OR REVEAL CURRENT VULNERABILITIES OF SYSTEMS, INSTALLATIONS, INFRASTRUCTURES, OR PROJECTS RELATING TO NATIONAL, STATE OR LOCAL SECURITY SHALL BE PROCURED BY THE APPROPRIATE OFFICER, BOARD OR AGENCY OF A POLITICAL SUBDIVISION OR ANY DISTRICT THEREIN CONSISTENT WITH SECTION ONE HUNDRED FOUR-B OF THIS ARTICLE. THE DETERMINATION UNDER THIS SUBDIVISION OF WHETHER DISCLOSURE OF INFORMATION WOULD MATERIALLY IMPAIR CURRENT NATIONAL, STATE OR LOCAL SECURITY, MATERIALLY IMPAIR EMERGENCY PREPAREDNESS PLANS OR REVEAL CURRENT VULNERABILITIES OF SYSTEMS, INSTALLATIONS, INFRASTRUCTURES, OR PROJECTS RELATING TO NATIONAL, STATE OR LOCAL SECURITY SHALL BE MADE BY THE GOVERNING BOARD OF A POLITICAL SUBDIVISION OR DISTRICT THEREIN OR A PUBLIC OFFICER OR BODY DESIGNATED BY SUCH BOARD, PROVIDED THAT SUCH DETERMINATION SHALL BE MADE BY THE MAYOR AND COMPTROLLER IN CITIES WITH A POPULATION OF ONE MILLION OR MORE. SUCH DETERMINATION SHALL BE EXEMPT FROM THE PROVISIONS OF ARTICLE SEVEN OF THE PUBLIC OFFICERS LAW.

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

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S 2. Section 104-b of the general municipal law is amended by adding a new subdivision 7 to read as follows:

7. NOTWITHSTANDING THE PROVISIONS OF ANY OTHER GENERAL, SPECIAL OR LOCAL LAW, RULE OR REGULATION, PURCHASES OF EQUIPMENT, GOODS OR SERVICES, OR CONTRACTS FOR PUBLIC WORK, FOR WHICH THE APPLICABLE REQUIREMENTS WOULD OTHERWISE REQUIRE DISCLOSURE OF INFORMATION THAT WOULD, IF DISCLOSED, MATERIALLY IMPAIR CURRENT NATIONAL, STATE OR LOCAL SECURITY, MATERIALLY IMPAIR EMERGENCY PREPAREDNESS PLANS OR REVEAL VULNERABILITIES OF SYSTEMS, INSTALLATIONS, INFRASTRUCTURES, OR PROJECTS RELATING TO NATIONAL, STATE OR LOCAL SECURITY SHALL BE LET BY THE APPROPRIATE OFFICER, BOARD OR AGENCY OF A POLITICAL SUBDIVISION OR DISTRICT THEREIN IN A MANNER CONSISTENT WITH THIS SECTION. THE GOVERNING BOARD OF EVERY POLITICAL SUBDIVISION AND ANY DISTRICT THEREIN, BY RESOLUTION, SHALL ADOPT INTERNAL POLICIES AND PROCEDURES GOVERNING PURCHASES AND CONTRACTS TO WHICH THIS SUBDIVISION APPLIES TO ENSURE THAT SUCH INFORMATION IS NOT DISCLOSED PURSUANT TO OTHERWISE APPLICABLE PROCUREMENT PROCEDURES REQUIRED BY ANY GENERAL, SPECIAL OR LOCAL LAW, RULE OR REGULATION. IN CITIES WITH A POPULATION OF ONE MILLION OR MORE, THE PROCUREMENT POLICY BOARD SHALL DEVELOP AND PROMULGATE SUCH POLICIES AND PROCEDURES BY RULE. THE DETERMINATION UNDER THIS SUBDIVISION OF WHETHER DISCLOSURE OF INFORMATION WOULD MATERIALLY IMPAIR CURRENT NATIONAL, STATE OR LOCAL SECURITY, MATERIALLY IMPAIR EMERGENCY PREPAREDNESS PLANS OR REVEAL CURRENT VULNERABILITIES OF SYSTEMS, INSTALLATIONS, INFRASTRUCTURES, OR PROJECTS RELATING TO NATIONAL, STATE OR LOCAL SECURITY SHALL BE MADE BY THE GOVERNING BOARD OF A POLITICAL SUBDIVISION OR DISTRICT THEREIN OR A PUBLIC OFFICER OR BODY DESIGNATED BY SUCH BOARD, PROVIDED THAT SUCH DETERMINATION SHALL BE MADE BY THE MAYOR AND COMPTROLLER IN CITIES WITH A POPULATION OF ONE MILLION OR MORE. SUCH DETERMINATION SHALL BE EXEMPT FROM THE PROVISIONS OF ARTICLE SEVEN OF THE PUBLIC OFFICERS LAW.

S 3. This act shall take effect immediately.