

8078

I N S E N A T E

June 4, 2010

Introduced by Sen. DILAN -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the state finance law, the highway law, the public authorities law, the public buildings law and the education law, in relation to clarifying the definition of the term liabilities with respect to the period for which an appropriation remains in full force and effect

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

- 1 Section 1. Subdivision 3 of section 40 of the state finance law, as
2 amended by chapter 169 of the laws of 1994, is amended to read as
3 follows:
4 3. Every appropriation for whatever purpose which at the close of the
5 fiscal year shall cease to have force and effect except as to liabilities
6 already incurred thereunder shall as to such liabilities continue
7 in force and effect until the dates specified in paragraphs (a), (b),
8 (c) and (d) of this subdivision, on which dates such appropriation shall
9 lapse and no money shall thereafter be paid out of the state treasury or
10 any of its funds or any of the funds under its management pursuant to
11 such appropriation.
12 (a) Except for appropriations made to THE city university of New York
13 and the state university of New York, all state operations appropriations
14 including special revenue funds-federal appropriations continued
15 pursuant to paragraph (d) of subdivision two of this section shall lapse
16 on the thirtieth day of June immediately following the close of the
17 fiscal year. The appropriations made to the city university of New York
18 or the state university of New York shall lapse on the thirtieth day of
19 September immediately following the close of the fiscal year.
20 (b) All aid to localities appropriations including special revenue
21 funds-federal appropriations continued pursuant to paragraph (d) of
22 subdivision two of this section shall lapse on the fifteenth day of
23 September immediately following the close of the fiscal year.
24 (c) All capital projects appropriations shall lapse on the fifteenth
25 day of September immediately following the close of the fiscal year;

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

LBD17131-04-0

1 PROVIDED THAT FOR SUCH APPROPRIATIONS, LIABILITIES INCURRED PURSUANT TO
2 SUCH APPROPRIATIONS SHALL BE DEEMED TO INCLUDE PAYMENTS FOR WORK
3 PERFORMED AND/OR MATERIALS FURNISHED, AS WELL AS THE VALUE OF CONTRACTS
4 LET BUT NOT AWARDED, DURING THE FISCAL YEAR AND IN THE PERIOD FROM THE
5 CLOSE OF SUCH FISCAL YEAR UNTIL THE FIFTEENTH DAY OF SEPTEMBER IMME-
6 DIATELY FOLLOWING THE CLOSE OF THE FISCAL YEAR, PURSUANT TO CONTRACTS
7 MADE AND AWARDED BY THE STATE.

8 (d) All other appropriations shall lapse on the fifteenth day of
9 September immediately following the close of the fiscal year.

10 S 2. Subdivision 3 of section 38 of the highway law, as separately
11 amended by chapters 938 and 1110 of the laws of 1971, is amended to read
12 as follows:

13 3. Award of contracts. The contract for the construction or improve-
14 ment of such highway or section thereof shall be awarded to the lowest
15 responsible bidder, as will best promote the public interest. No
16 contract shall be awarded to a bidder other than the lowest responsible
17 bidder without the written approval of the comptroller. The lowest bid
18 shall be deemed to be that which specifically states the lowest gross
19 sum for which the entire work will be performed, including all the items
20 specified in the estimate thereof. The lowest bid shall be determined by
21 the commissioner of transportation on the basis of the gross sum for
22 which the entire work will be performed, arrived at by a correct compu-
23 tation of all the items specified in the estimate therefor at the unit
24 prices contained in the bid. A CONTRACT AWARD SHALL NOT BE DENIED SOLE-
25 LY ON THE BASIS THAT THE APPROPRIATION FOR SUCH WORK WAS MADE DURING THE
26 PRECEDING FISCAL YEAR, PROVIDED THAT THE APPROPRIATION HAS NOT LAPSED.

27 S 3. Section 2879 of the public authorities law is amended by adding a
28 new subdivision 10 to read as follows:

29 10. NOTWITHSTANDING ANY PROVISIONS OF THIS SECTION OR ANY RELATED
30 GUIDELINES TO THE CONTRARY, NO CORPORATION SHALL DENY A CONTRACT AWARD
31 SOLELY ON THE BASIS THAT THE APPROPRIATION FOR SUCH WORK WAS MADE DURING
32 THE PRECEDING FISCAL YEAR, PROVIDED THAT THE APPROPRIATION HAS NOT
33 LAPSED.

34 S 4. Subdivision 7 of section 8 of the public buildings law, as
35 amended by chapter 890 of the laws of 1945, is amended to read as
36 follows:

37 7. All such contracts for the work of construction, reconstruction,
38 alteration, repair or improvement of any such state building, shall
39 contain a clause that the contract shall only be deemed executory to the
40 extent of the moneys available, and no liability shall be incurred by
41 the state beyond the moneys available for the purpose. NOTWITHSTANDING
42 ANY PROVISIONS OF THIS SECTION TO THE CONTRARY, NO CORPORATION SHALL
43 DENY A CONTRACT AWARD SOLELY ON THE BASIS THAT THE APPROPRIATION FOR
44 SUCH WORK WAS MADE DURING THE PRECEDING FISCAL YEAR, PROVIDED THAT THE
45 APPROPRIATION HAS NOT LAPSED.

46 S 5. Subdivision 9 of section 376 of the education law, as added by
47 chapter 251 of the laws of 1962, is amended to read as follows:

48 9. A. NO CONTRACT AWARD SHALL BE DENIED SOLELY ON THE BASIS THAT THE
49 APPROPRIATION FOR SUCH WORK WAS MADE DURING THE PRECEDING FISCAL YEAR,
50 PROVIDED THAT THE APPROPRIATION HAS NOT LAPSED.

51 B. No payments shall be made by the comptroller from appropriated
52 moneys on account of any construction contract for a facility until the
53 bills or estimates presented for such payment shall have been duly
54 certified to be correct (i) by the chairman of the fund or by an officer
55 of the fund duly designated for that purpose, or (ii) if the dormitory

1 authority is the letting agency, by the chairman thereof or by an offi-
2 cer or employee thereof duly designated for that purpose.
3 S 6. This act shall take effect immediately and shall be deemed to
4 have been in full force and effect on and after March 31, 2010.