

2877

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. ENGLEBRIGHT, P. RIVERA -- read once and referred
to the Committee on Ways and Means

AN ACT to amend the state finance law, in relation to the regulation of
public-private partnerships

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "public-private partnership disclosure act".
3 S 2. Legislative findings and purpose. The legislature hereby finds
4 that agreements between state entities and commercial entities known as
5 "public-private partnerships" whereby private monies are made available
6 for public purposes can be beneficial and in the public interest.
7 However, the legislature further finds that such partnerships generating
8 and expending funds outside of the normal state budgetary process may
9 distort properly enacted public priorities. In addition, the legislature
10 finds that such partnerships if not created with full disclosure and
11 full opportunity for public comment have the potential for creating
12 conflicts of interest. Therefore, it is the purpose of the legislature
13 to provide for the establishment of standards and requirements for full
14 disclosure and public comment for public-private partnerships.
15 S 3. The state finance law is amended by adding a new section 136-d to
16 read as follows:
17 S 136-D. PUBLIC-PRIVATE PARTNERSHIPS. 1. AS USED IN THIS SECTION, THE
18 TERM "PUBLIC-PRIVATE PARTNERSHIP" OR "PARTNERSHIP" SHALL MEAN AN AGREE-
19 MENT BETWEEN A STATE AGENCY AND A CORPORATION, PARTNERSHIP, LIMITED
20 LIABILITY COMPANY OR OTHER PRIVATE COMMERCIAL ENTITY UNDER WHICH PRIVATE
21 MONIES IN AN AMOUNT OF MORE THAN FIVE THOUSAND DOLLARS ARE MADE AVAIL-
22 ABLE FOR A PUBLIC CAPITAL PROJECT, A PUBLIC PROGRAM OR TO UNDERWRITE THE
23 COST OF PUBLIC PERSONNEL IN RETURN FOR CONSIDERATION INCLUDING BUT NOT
24 LIMITED TO NOTICE OR DISPLAY OF THE NAME OR LOGO OF THE PROVIDER OF THE
25 PRIVATE MONIES.

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

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1 2. NO STATE AGENCY SHALL ENTER INTO A PUBLIC-PRIVATE PARTNERSHIP
2 AGREEMENT UNLESS IT HAS PROMULGATED RULES AND REGULATIONS ESTABLISHING
3 STANDARDS AND PROCEDURES FOR SUCH PARTNERSHIPS. SUCH RULES AND REGU-
4 LATIONS SHALL INCLUDE BUT NEED NOT BE LIMITED TO PROVISIONS FOR COST-BE-
5 NEFIT ANALYSIS OF PARTNERSHIP PROPOSALS, REVIEW OF THE IMPACT OF PART-
6 NERSHIP ARRANGEMENTS ON ESTABLISHED POLICIES AND PRIORITIES OF THE
7 AGENCY, ADVERTISEMENT AND SOLICITATION OF BIDS FOR COMPETING OR OTHER
8 PRIVATE ENTITIES TO DETERMINE THE MOST ADVANTAGEOUS PARTNERSHIP ARRANGE-
9 MENT, THE PUBLIC DISCLOSURE OF CAMPAIGN CONTRIBUTIONS TO CANDIDATES FOR
10 STATE ELECTED OFFICES IN THE PRECEDING FOUR YEARS BY THE PRIVATE PART-
11 NERSHIP ENTITY INCLUDING DIRECTORS AND OFFICERS THEREOF, PUBLIC NOTICE
12 NOT LESS THAN FORTY-FIVE DAYS BEFORE ENTERING INTO A PARTNERSHIP AGREE-
13 MENT AND REASONABLE OPPORTUNITY FOR PUBLIC COMMENT. REQUIREMENTS AND
14 PROCEDURES ESTABLISHED IN SUCH RULES AND REGULATIONS SHALL BE IN ADDI-
15 TION TO EXISTING REQUIREMENTS IN LAW.

16 3. IN ANY YEAR THAT A STATE AGENCY ENTERS INTO ONE OR MORE PUBLIC-PRI-
17 VATE PARTNERSHIPS, IT SHALL PREPARE AND SUBMIT TO THE LEGISLATURE AND
18 THE GOVERNOR A REPORT FULLY DESCRIBING THE PARTNERSHIP ARRANGEMENT,
19 IDENTIFYING THE PUBLIC BENEFIT THEREFROM AND ANY IMPACT IT MAY HAVE HAD
20 ON THE PRIORITIES AND ACTIVITIES OF THE REPORTING AGENCY. SUCH REPORT
21 SHALL BE SUBMITTED ON OR BEFORE MARCH FIRST FOR THE PRECEDING CALENDAR
22 YEAR.

23 S 4. This act shall take effect on the one hundred eightieth day after
24 it shall have become a law; provided, however that the addition, amend-
25 ment and/or repeal of any rule or regulation necessary for the implemen-
26 tation of this act on its effective date are authorized and directed to
27 be made and completed on or before such date.