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

899

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. CAHILL, LAVINE, HOYT, GOTTFRIED, FINCH -- Multi-Sponsored by -- M. of A. CLARK, GLICK, MARKEY, McENENY, MILLMAN, J. RIVERA, WEISENBERG -- read once and referred to the Committee on Tourism, Arts and Sports Development

AN ACT to amend the parks, recreation and historic preservation law, in relation to the heritage infrastructure and capacity building act; to amend the state finance law and the vehicle and traffic law, in relation to establishing a dedicated fund to benefit the Hudson-Fulton-Champlain quadricentennial commission, French and Indian war 250th anniversary commemoration commission and other designated heritage areas and imposing a motor vehicle registration surcharge; and providing for the repeal of certain provisions upon expiration thereof

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

Section 1. Legislative findings. The legislature finds that the legacy and history of America has many of its origins within the state of New York which is home to the many diverse cultures and traditions of Native Americans, Europeans, Africans and Asians. American notions of diversity, tolerance and commerce had their origins in the Dutch settlements of New Amsterdam and New Netherlands in the first half of the 17th century. New York state has spawned innovation and development in many areas including industry, agriculture, transportation and the arts.

The legislature further finds that in the first decade of the 21st century there will be a unique confluence of significant historical commemorations that will capture the attention of all New Yorkers and peoples from around the nation and the world. The 400th anniversaries of voyages of discovery of Henry Hudson and Samuel de Champlain and anniversaries of the French and Indian War and American Revolutionary War will increase historical awareness of New York's significance in the

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

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nation's history and bring economic growth as heritage tourism increases.

The state has created a Hudson-Fulton-Champlain quadricentennial commission; French and Indian War 250th Anniversary Commemoration Commission and the nation's first heritage area system with 18 state designated heritage areas from the northern portion of Long Island to Buffalo and Sackets Harbor in western New York. The federal government has established national heritage areas for the Hudson River Valley and the Erie canalway, and created commissions to commemorate the French and Indian War and the American Revolutionary War and federal legislation has been introduced to create national commissions for the Hudson-Fulton-Champlain commemoration.

The legislature further finds that the state has a unique opportunity to showcase to the world its distinctive cultural and historical richness, traditions, laws, natural landscape, historical sites and customs that played a significant role in shaping the American experience.

In order to fully realize the significant economic, educational and inspirational potential from the state's heritage resources, the legislature finds that it is timely and appropriate to establish a temporary fund, the state heritage infrastructure and capacity building fund, to be used to strengthen the state's public and private heritage infrastructure and capacity.

S 2. The parks, recreation and historic preservation law is amended by adding a new article 38 to read as follows:

ARTICLE 38

HERITAGE INFRASTRUCTURE AND CAPACITY BUILDING ACT

SECTION 38.01 DEFINITIONS.
38.03 POWERS AND DUTIES OF THE COMMISSIONER.
38.05 POWERS AND DUTIES OF A MUNICIPALITY.
38.07 AUTHORIZED EXPENDITURES.

S 38.01 DEFINITIONS. AS USED IN THIS ARTICLE, UNLESS OTHERWISE SPECIFIED WITHIN THIS ARTICLE, THE FOLLOWING TERMS SHALL MEAN AND INCLUDE:

1. "BUSINESS PLAN" MEANS A PLANNING DOCUMENT WHICH CLEARLY DESCRIBES THE BUSINESS DEVELOPMENT OBJECTIVE OF AN ORGANIZATION OR PROGRAM. THE PLAN OUTLINES WHAT, HOW AND FROM WHERE THE RESOURCES NEEDED TO ACCOMPLISH THE OBJECTIVE WILL BE OBTAINED AND UTILIZED.

2. "COST" MEANS THE COST OF AN APPROVED PROJECT, WHICH SHALL INCLUDE EDUCATION, PLANNING AND PROGRAM SERVICES AS WELL AS ENGINEERING AND ARCHITECTURAL SERVICES, PLANS AND SPECIFICATIONS, CONSULTANT AND LEGAL SERVICES, AND OTHER DIRECT EXPENSES INCIDENT TO SUCH PROJECT LESS ANY FEDERAL ASSISTANCE RECEIVED OR TO BE RECEIVED AND ANY OTHER ASSISTANCE FROM OTHER PARTIES.

3. "FACILITY" MEANS ANY STRUCTURE OR SITE IMPROVEMENT.

4. "FEDERAL ASSISTANCE" MEANS FUNDS AVAILABLE, OTHER THAN BY LOAN, FROM THE FEDERAL GOVERNMENT, EITHER DIRECTLY OR THROUGH ALLOCATION BY THE STATE FOR CONSTRUCTION OR PROGRAM PURPOSES PURSUANT TO ANY FEDERAL LAW OR PROGRAM.

5. "GOVERNING BODY" MEANS:

A. IN THE CASE OF A COUNTY OUTSIDE OF THE CITY OF NEW YORK, THE COUNTY BOARD OF SUPERVISORS OR OTHER ELECTIVE GOVERNING BODY;

B. IN THE CASE OF A CITY OR VILLAGE, THE LOCAL LEGISLATIVE BODY THEREOF, AS THE TERM IS DEFINED IN THE MUNICIPAL HOME RULE LAW;

C. IN THE CASE OF A TOWN, THE TOWN BOARD;

D. IN THE CASE OF A PUBLIC BENEFIT CORPORATION, THE BOARD OF DIRECTORS, MEMBERS OR TRUSTEES THEREOF;

E. IN THE CASE OF A PUBLIC AUTHORITY THE GOVERNING BOARD OF DIRECTORS, MEMBERS, OR TRUSTEES THEREOF;

F. IN THE CASE OF A NOT-FOR-PROFIT CORPORATION, THE BOARD OF DIRECTORS THEREOF OR SUCH OTHER BODY DESIGNATED IN THE CERTIFICATE OF INCORPORATION TO MANAGE THE CORPORATION; AND

G. IN THE CASE OF AN INDIAN TRIBE OR NATION, ANY GOVERNING BODY RECOGNIZED BY THE UNITED STATES OR THE STATE OF NEW YORK.

6. "MUNICIPALITY" MEANS A LOCAL PUBLIC AUTHORITY OR PUBLIC BENEFIT CORPORATION, A COUNTY, CITY, TOWN, VILLAGE, OR INDIAN TRIBE OR NATION RESIDING WITHIN NEW YORK STATE, OR ANY COMBINATION THEREOF. MUNICIPALITY SHALL ALSO INCLUDE STATE AGENCIES, STATE PUBLIC AUTHORITIES AND STATE PUBLIC BENEFIT CORPORATIONS. THE TERM MUNICIPALITY SHALL ALSO INCLUDE A SCHOOL DISTRICT AND A SUPERVISORY DISTRICT.

7. "NOT-FOR-PROFIT CORPORATION" MEANS A CORPORATION FORMED PURSUANT TO THE NOT-FOR-PROFIT CORPORATION LAW AND QUALIFIED FOR TAX-EXEMPT STATUS UNDER THE FEDERAL INTERNAL REVENUE CODE.

8. "OFFICE" MEANS THE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION.

9. "STATE ASSISTANCE PAYMENT" MEANS THE PAYMENT OF MONIES BY THE STATE FOR PROJECTS AUTHORIZED BY THE STATE HERITAGE INFRASTRUCTURE AND CAPACITY BUILDING FUND, TO PRESERVE, ENHANCE, RESTORE AND IMPROVE THE QUALITY OF THE STATE'S HERITAGE RESOURCES INCLUDING STATE DESIGNATED HERITAGE AREAS.

10. "FUND" SHALL MEAN THE STATE HERITAGE INFRASTRUCTURE AND CAPACITY BUILDING FUND ESTABLISHED PURSUANT TO SECTION EIGHTY-THREE-A OF THE STATE FINANCE LAW.

11. "ASSOCIATION" MEANS THE NOT-FOR-PROFIT HERITAGE AREA ASSOCIATION OF NEW YORK, INC.

S 38.03 POWERS AND DUTIES OF THE COMMISSIONER. IN ADMINISTERING THE PROVISIONS OF THIS ARTICLE THE COMMISSIONER:

1. SHALL MAKE AN ITEMIZED ESTIMATE OF FUNDS OR APPROPRIATIONS REQUESTED ANNUALLY FOR INCLUSION IN THE EXECUTIVE BUDGET;

2. MAY, IN THE NAME OF THE STATE, AS FURTHER PROVIDED WITHIN THIS ARTICLE, CONTRACT TO MAKE, WITHIN THE LIMITATIONS OF APPROPRIATIONS AVAILABLE THEREFOR, STATE ASSISTANCE PAYMENTS TO A MUNICIPALITY TOWARD THE COST OF A PROJECT APPROVED AND TO BE UNDERTAKEN PURSUANT TO THIS ARTICLE, OR TO A NOT-FOR-PROFIT CORPORATION TOWARD THE COSTS OF A PROJECT APPROVED AND TO BE UNDERTAKEN PURSUANT TO THIS ARTICLE. SUCH CONTRACTS SHALL BE SUBJECT TO APPROVAL BY THE STATE COMPTROLLER AND, AS TO FORM, BY THE ATTORNEY GENERAL;

3. MAY IN THE NAME OF THE STATE, ENTER INTO CONTRACTS, WITHIN THE LIMITATIONS OF APPROPRIATIONS AVAILABLE THEREFOR, WITH NOT-FOR-PROFIT CORPORATIONS, PUBLIC BENEFIT CORPORATIONS, AND PRIVATE CONTRACTORS FOR SERVICES CONTEMPLATED BY THIS ARTICLE TO BE FUNDED HEREUNDER. SUCH CONTRACTS SHALL BE SUBJECT TO APPROVAL BY THE STATE COMPTROLLER AND, AS TO FORM, BY THE ATTORNEY GENERAL;

4. SHALL APPROVE VOUCHERS FOR THE PAYMENTS PURSUANT TO AN APPROVED CONTRACT. ALL SUCH PAYMENTS SHALL BE PAID ON THE AUDIT AND WARRANT OF THE STATE COMPTROLLER;

5. SHALL PROVIDE IN ALL CONTRACTS FOR SERVICES FOR WHICH AN ADMISSION FEE OR OTHER CHARGE TO THE PUBLIC WILL BE ASSESSED THAT A DISCOUNT IN THE AMOUNT OF FIVE PERCENT WILL BE OFFERED TO MEMBERS OF THE PUBLIC POSSESSING A CARD FROM THE DEPARTMENT OF MOTOR VEHICLES VERIFYING THEIR PAYMENT OF THE SURCHARGE ASSESSMENT PURSUANT TO THIS ARTICLE; AND

6. MAY PERFORM SUCH OTHER AND FURTHER ACTS AS MAY BE NECESSARY, PROPER OR DESIRABLE TO CARRY OUT THE PROVISIONS OF THIS ARTICLE.

S 38.05 POWERS AND DUTIES OF A MUNICIPALITY. A MUNICIPALITY SHALL HAVE THE POWER AND AUTHORITY TO:

1. UNDERTAKE AND CARRY OUT ANY PROJECT FOR WHICH STATE ASSISTANCE PAYMENTS PURSUANT TO CONTRACT ARE RECEIVED OR ARE TO BE RECEIVED PURSUANT TO THIS ARTICLE AND MAINTAIN AND OPERATE SUCH PROJECT;

2. EXPEND MONEY RECEIVED FROM THE STATE PURSUANT TO THIS ARTICLE AND SECTION EIGHTY-THREE-A OF THE STATE FINANCE LAW FOR COSTS INCURRED IN CONJUNCTION WITH THE APPROVED PROJECT; AND

3. PERFORM SUCH OTHER AND FURTHER ACTS AS MAY BE NECESSARY, PROPER OR DESIRABLE TO CARRY OUT A PROJECT OR OBLIGATION, DUTY OR FUNCTION RELATED THERETO.

S 38.07 AUTHORIZED EXPENDITURES. THE MONEYS IN THE STATE HERITAGE INFRASTRUCTURE AND CAPACITY BUILDING FUND ESTABLISHED PURSUANT TO SECTION EIGHTY-THREE-A OF THE STATE FINANCE LAW SHALL BE AVAILABLE FOR PAYMENT OF COSTS AND EXPENDITURES FOR THE FOLLOWING PURPOSES:

1. THE OPERATION AND ACTIVITIES OF THE HUDSON-FULTON-CHAMPLAIN QUADRICENTENNIAL COMMISSION PURSUANT TO CHAPTER FIVE HUNDRED NINETY OF THE LAWS OF TWO THOUSAND ONE AND CONSISTENT WITH THE COMMISSION'S BUSINESS PLAN;

2. THE OPERATION AND ACTIVITIES OF THE FRENCH AND INDIAN WAR 250TH ANNIVERSARY COMMEMORATION COMMISSION PURSUANT TO CHAPTER SEVEN HUNDRED SEVEN OF THE LAWS OF TWO THOUSAND FOUR AND CONSISTENT WITH THE COMMISSION'S BUSINESS PLAN;

3. GRANTS TO STATE DESIGNATED HERITAGE AREAS, AS SET FORTH IN ARTICLE THIRTY-FIVE OF THIS TITLE, FOR CAPACITY BUILDING INCLUDING EDUCATION, PLANNING AND PROGRAM STAFF AND INFRASTRUCTURE INCLUDING NEW AND REFURBISHING OF EXISTING VISITOR FACILITIES AND OTHER HERITAGE FACILITIES. GRANTS PURSUANT TO THIS SUBDIVISION SHALL NOT BE LESS THAN THIRTY-FIVE PERCENT OF THE TOTAL FUNDS ALLOCATED FROM THE FUND EACH YEAR AND SHALL BE CONSISTENT WITH THE ANNUAL RECOMMENDATIONS TO THE COMMISSIONER FROM THE ASSOCIATION. SUCH RECOMMENDATIONS SHALL INCLUDE TYPES OF HERITAGE INFRASTRUCTURE AND CAPACITY BUILDING PROJECTS AND/OR SUCH SPECIFICS FOR EACH HERITAGE AREA AND SHALL BE CONSISTENT WITH A STATE HERITAGE AREA BUSINESS PLAN PREPARED OR CAUSED TO BE PREPARED BY THE ASSOCIATION; AND

4. GRANTS TO MUNICIPALITIES AND NOT-FOR-PROFIT HERITAGE ORGANIZATIONS FOR HISTORIC PRESERVATION AND NATURAL AREA PROTECTION AND MANAGEMENT GRANTS RELATING TO THE HUDSON-FULTON-CHAMPLAIN COMMEMORATIONS, THE STATE HERITAGE AREA SYSTEM, THE FRENCH AND INDIAN WAR, THE AMERICAN REVOLUTIONARY WAR AND SUCH OTHER HERITAGE PROJECTS LIKE THE UNDERGROUND RAILROAD AS THE COMMISSIONER SHALL IDENTIFY THROUGH PROMULGATION OF RULES AND REGULATIONS.

S 3. The state finance law is amended by adding a new section 83-a to read as follows:

S 83-A. STATE HERITAGE INFRASTRUCTURE AND CAPACITY BUILDING FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE A SPECIAL FUND TO BE KNOWN AS THE STATE HERITAGE INFRASTRUCTURE AND CAPACITY BUILDING FUND (HEREINAFTER TO BE REFERRED TO AS "THE FUND"). THE MONEYS IN SUCH FUND SHALL BE AVAILABLE FOR PAYMENT OF COSTS AND EXPENDITURES PURSUANT TO ARTICLE THIRTY-EIGHT OF THE PARKS, RECREATION AND HISTORIC PRESERVATION LAW.

2. MONEYS IN THE FUND SHALL BE KEPT SEPARATELY FROM AND SHALL NOT BE COMMINGLED WITH ANY OTHER MONEYS IN THE JOINT OR SOLE CUSTODY OF THE STATE COMPTROLLER OR THE COMMISSIONER OF PARKS, RECREATION AND HISTORIC PRESERVATION.

3. THE FUND SHALL CONSIST OF THE REVENUES REQUIRED TO BE DEPOSITED THEREIN PURSUANT TO THE PROVISIONS OF PARAGRAPH H OF SUBDIVISION SIX OF SECTION FOUR HUNDRED ONE OF THE VEHICLE AND TRAFFIC LAW, AND ALL OTHER MONEYS CREDITED OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW.

4. THE GOVERNOR SHALL INCLUDE A SPECIFIC LINE APPROPRIATION IN THE CAPITAL PROJECTS BUDGET DESCRIBING OPERATIONS AND PROJECTS PROPOSED TO BE UNDERTAKEN BY THE HUDSON-FULTON-CHAMPLAIN QUADRICENTENNIAL COMMISSION AND/OR THE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION PURSUANT TO THIS SECTION. MONEYS FROM THE FUND SHALL BE AVAILABLE, PURSUANT TO APPROPRIATION AND UPON CERTIFICATE OF APPROVAL OF AVAILABILITY BY THE DIRECTOR OF THE BUDGET.

S 4. Subdivision 6 of section 401 of the vehicle and traffic law is amended by adding a new paragraph h to read as follows:

H. IN ADDITION TO THE OTHER FEES PROVIDED FOR IN THIS SECTION, THE COMMISSIONER SHALL, UPON THE APPLICATION FOR THE REGISTRATION OF A MOTOR VEHICLE OR THE RENEWAL THEREOF, COLLECT A SURCHARGE OF TWO DOLLARS TO BE DEPOSITED INTO THE STATE HERITAGE INFRASTRUCTURE AND CAPACITY BUILDING FUND ESTABLISHED IN SECTION EIGHTY-THREE-A OF THE STATE FINANCE LAW. THE COMMISSIONER SHALL PREPARE AND MAKE AVAILABLE TO EACH PERSON PAYING THE SURCHARGE UNDER THIS PARAGRAPH A CARD WITH THE STATE SEAL AND THE WORDS "STATE HERITAGE FUND".

S 5. This act shall take effect immediately; provided that section four of this act shall expire December 31, 2014 when upon such date the provisions of such section shall be deemed repealed.