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

740--A

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. KELLNER -- read once and referred to the Committee on Governmental Operations -- recommitted to the Committee on Governmental Operations in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to enacting the "improper payments reporting and reduction act"

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

Section 1. The executive law is amended by adding a new article 4-B to read as follows:

ARTICLE 4-B

IMPROPER PAYMENTS REPORTING AND REDUCTION ACT

SECTION 56. SHORT TITLE.
56-A. DEFINITIONS.
57. IDENTIFICATION OF SUSCEPTIBLE PROGRAMS AND ACTIVITIES.
57-A. ESTIMATION OF IMPROPER PAYMENTS.
57-B. REPORTS ON ACTIONS TO REDUCE IMPROPER PAYMENTS.
58. IMPROPER PAYMENT ESTIMATE GUIDANCE GROUP.
59. APPLICATION OF ARTICLE.

S 56. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "IMPROPER PAYMENTS REPORTING AND REDUCTION ACT".

S 56-A. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL MEAN:

1. "AGENCY" MEANS ANY EXECUTIVE BRANCH AGENCY, DEPARTMENT, DIVISION, OFFICE, BOARD, COMMISSION, PUBLIC AUTHORITY (OTHER THAN A MULTI-STATE OR MULTI-NATIONAL AUTHORITY) OR PUBLIC BENEFIT CORPORATION, WITH AN ANNUAL BUDGET OF AT LEAST TWENTY MILLION DOLLARS, THE HEAD OF WHICH IS APPOINTED BY THE GOVERNOR.

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

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2. "IMPROPER PAYMENT" MEANS ANY PAYMENT THAT SHOULD NOT HAVE BEEN MADE OR THAT WAS MADE IN AN INCORRECT AMOUNT, INCLUDING OVERPAYMENTS AND UNDERPAYMENTS, WHETHER UNDER STATUTORY, CONTRACTUAL, ADMINISTRATIVE OR OTHER LEGALLY APPLICABLE REQUIREMENTS. SUCH TERM SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY PAYMENT TO AN INELIGIBLE RECIPIENT, ANY PAYMENT FOR AN INELIGIBLE SERVICE, ANY DUPLICATE PAYMENT, PAYMENTS FOR SERVICES NOT RECEIVED AND ANY PAYMENT THAT DOES NOT ACCOUNT FOR CREDIT FOR APPLICABLE DISCOUNTS.

3. "PAYMENT" MEANS ANY PAYMENT, INCLUDING A COMMITMENT FOR FUTURE PAYMENT, THAT IS MADE BY AN AGENCY, A STATE CONTRACTOR, OR A GOVERNMENTAL OR OTHER ORGANIZATION ADMINISTERING A STATE PROGRAM OR ACTIVITY, AND WHICH DERIVED FROM STATE FUNDS OR OTHER STATE RESOURCES, OR THAT WILL BE REIMBURSED FROM STATE FUNDS OR OTHER STATE RESOURCES.

S 57. IDENTIFICATION OF SUSCEPTIBLE PROGRAMS AND ACTIVITIES. THE HEAD OF EACH AGENCY SHALL, IN ACCORDANCE WITH GUIDELINES PROMULGATED PURSUANT TO SECTION FIFTY-EIGHT OF THIS ARTICLE, ANNUALLY REVIEW ALL PROGRAMS AND ACTIVITIES THAT IT ADMINISTERS, AND IDENTIFY ALL SUCH PROGRAMS AND ACTIVITIES THAT MAY BE SUSCEPTIBLE TO IMPROPER PAYMENTS.

S 57-A. ESTIMATION OF IMPROPER PAYMENTS. WITH RESPECT TO EACH PROGRAM AND ACTIVITY IDENTIFIED IN SECTION FIFTY-SEVEN OF THIS ARTICLE, THE HEAD OF THE AGENCY SHALL:

1. ESTIMATE THE ANNUAL AMOUNT OF IMPROPER PAYMENTS; AND

2. REPORT SUCH ESTIMATE TO THE PUBLIC, AND THE CHAIRS OF THE SENATE FINANCE COMMITTEE AND THE ASSEMBLY WAYS AND MEANS COMMITTEE ON OR BEFORE JANUARY FIRST OF THE SUCCEEDING CALENDAR YEAR, AND SHALL BE POSTED ON THE AGENCY'S INTERNET WEBSITE AND ANY OTHER WEBSITE ESTABLISHED PURSUANT TO SECTION FIFTY-EIGHT OF THIS ARTICLE.

ALL AGENCIES SHALL USE THE SAME METHOD OF REPORTING, AS PRESCRIBED BY SECTION FIFTY-EIGHT OF THIS ARTICLE.

S 57-B. REPORTS ON ACTIONS TO REDUCE IMPROPER PAYMENTS. WITH RESPECT TO ANY PROGRAM OR ACTIVITY OF AN AGENCY WITH IDENTIFIED IMPROPER PAYMENTS PURSUANT TO SECTION FIFTY-SEVEN OF THIS ARTICLE, THE HEAD OF THE AGENCY SHALL INCLUDE WITH THE ESTIMATE PURSUANT TO SECTION FIFTY-SEVEN-A OF THIS ARTICLE A REPORT ON WHAT ACTIONS THE AGENCY IS TAKING TO REDUCE THE IMPROPER PAYMENTS, INCLUDING:

1. A DISCUSSION OF THE CAUSES OF THE IMPROPER PAYMENTS IDENTIFIED, ACTIONS TAKEN TO CORRECT THOSE CAUSES, AND RESULTS OF THE ACTIONS TAKEN TO ADDRESS THOSE CAUSES;

2. A STATEMENT OF WHETHER THE AGENCY HAS THE INFORMATION SYSTEMS AND OTHER INFRASTRUCTURE IT NEEDS IN ORDER TO REDUCE IMPROPER PAYMENTS TO MINIMAL COST-EFFECTIVE LEVELS;

3. IF THE AGENCY DOES NOT HAVE SUCH SYSTEMS AND INFRASTRUCTURE, A DESCRIPTION OF THE RESOURCES THE AGENCY HAS REQUESTED IN ITS BUDGET SUBMISSION TO OBTAIN THE NECESSARY INFORMATION SYSTEMS AND INFRASTRUCTURE; AND

4. A DESCRIPTION OF THE STEPS THE AGENCY HAS TAKEN TO ENSURE THAT AGENCY MANAGERS (INCLUDING THE AGENCY HEAD) ARE HELD ACCOUNTABLE FOR REDUCING IMPROPER PAYMENTS.

S 58. IMPROPER PAYMENT ESTIMATE GUIDANCE GROUP. 1. THERE SHALL BE ESTABLISHED, WITHIN THE EXECUTIVE BRANCH, THE IMPROPER PAYMENT ESTIMATE GUIDANCE GROUP. SUCH GROUP SHALL BE COMPOSED OF THE DIRECTOR OF THE BUDGET WHO SHALL CHAIR THE GROUP, THE STATE INSPECTOR GENERAL, THE INSPECTOR GENERAL OF THE METROPOLITAN TRANSPORTATION AUTHORITY AND THE WELFARE INSPECTOR GENERAL.

2. WITHIN ONE HUNDRED EIGHTY DAYS OF THE EFFECTIVE DATE OF THIS ARTICLE, THE IMPROPER PAYMENT ESTIMATE GUIDANCE GROUP SHALL MEET AND, IN

CONSULTATION WITH THE STATE COMPTROLLER, PRESCRIBE GUIDELINES FOR THE IMPLEMENTATION OF THE PROVISIONS OF THIS ARTICLE. ALL AGENCIES SHALL COOPERATE WITH SUCH GROUP TO ASSIST IT AS NECESSARY IN THE DEVELOPMENT AND PROMULGATION OF GUIDELINES. THE GUIDELINES SHALL INCLUDE, BUT NOT BE LIMITED TO:

A. THE MANNER IN WHICH AGENCIES SHALL REVIEW PROGRAMS AND ACTIVITIES, AND IDENTIFY THOSE WHICH ARE SUSCEPTIBLE TO IMPROPER PAYMENTS;

B. THE MANNER IN WHICH AGENCIES SHALL CALCULATE STATISTICALLY VALID ESTIMATES OF THE ANNUAL AMOUNT OF IMPROPER PAYMENTS IN PROGRAMS AND ACTIVITIES;

C. THE MANNER IN WHICH AGENCIES SHALL IMPLEMENT PLANS TO REDUCE IMPROPER PAYMENTS; AND

D. THE MANNER IN WHICH AGENCIES SHALL REPORT ESTIMATES OF THE ANNUAL AMOUNT OF IMPROPER PAYMENTS IN PROGRAMS AND ACTIVITIES, AND PROGRESS IN REDUCING THEM.

3. THE IMPROPER PAYMENT ESTIMATE GUIDANCE GROUP SHALL THEREAFTER MEET AT ANY TIME AT THE CALL OF EITHER THE DIRECTOR OF THE BUDGET OR THE STATE COMPTROLLER; PROVIDED THAT SUCH GROUP SHALL MEET NO FEWER THAN ONCE EVERY FOUR YEARS TO REVIEW THE GUIDELINES.

S 59. APPLICATION OF ARTICLE. THE PROVISIONS OF THIS ARTICLE SHALL:

1. APPLY TO THE ADMINISTRATION OF PROGRAMS AND IMPROPER PAYMENTS MADE IN STATE FISCAL YEARS COMMENCING ON OR AFTER APRIL FIRST, TWO THOUSAND THIRTEEN; AND

2. REQUIRE THE INCLUSION OF THE ESTIMATES, REPORTED PURSUANT TO SECTION FIFTY-SEVEN-A OF THIS ARTICLE, IN THE AGENCY BUDGET SUBMISSIONS FOR STATE FISCAL YEARS COMMENCING ON OR AFTER APRIL FIRST, TWO THOUSAND FOURTEEN.

S 2. This act shall take effect immediately.