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

5908

2011-2012 Regular Sessions

I N S E N A T E

October 7, 2011

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

AN ACT to amend the public authorities law and the public lands law, in relation to the sale or transfer of certain real property by the state or public authorities

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

Section 1. Section 2897 of the public authorities law is amended by adding a new subdivision 8 to read as follows:

8. COMPTROLLER AND ATTORNEY GENERAL APPROVAL OF CONTRACTS. A. NEGOTIATED CONTRACTS FOR THE DISPOSAL OF REAL PROPERTY WITH AN ESTIMATED FAIR MARKET VALUE IN EXCESS OF ONE HUNDRED THOUSAND DOLLARS TO A PRIVATE ENTITY SHALL REQUIRE SUPERVISION IN THE FORM OF PRIOR REVIEW AND APPROVAL OF SUCH CONTRACTS AND ANY SUCH CONTRACT ENTERED INTO SHALL BE SUBMITTED TO THE COMPTROLLER AND THE ATTORNEY GENERAL FOR THEIR APPROVAL AND SHALL NOT BE A VALID ENFORCEABLE CONTRACT UNLESS IT SHALL FIRST HAVE BEEN SO APPROVED. THE COMPTROLLER, IN CONSULTATION WITH THE ATTORNEY GENERAL, SHALL PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE NECESSARY TO CARRY OUT THEIR RESPONSIBILITIES UNDER THIS SECTION, INCLUDING BUT NOT LIMITED TO THE STANDARDS FOR APPROVING CONTRACTS SUBJECT TO THIS SUBDIVISION.

B. WHERE A CONTRACT IS SUBJECT TO MANDATORY REVIEW BY THE COMPTROLLER AND THE ATTORNEY GENERAL PURSUANT TO PARAGRAPH A OF THIS SUBDIVISION, THE VENDOR PUBLIC AUTHORITY SHALL INCLUDE OR CAUSE TO BE INCLUDED IN EACH SUCH CONTRACT A PROVISION INFORMING THE OTHER PARTY THAT SUCH CONTRACT IS SUBJECT TO THE COMPTROLLER'S AND THE ATTORNEY GENERAL'S APPROVAL PURSUANT TO THIS SUBDIVISION AND THE COMPTROLLER'S AUTHORITY TO SUPERVISE THE ACCOUNTS OF PUBLIC CORPORATIONS. IF THE COMPTROLLER AND THE ATTORNEY GENERAL HAVE NOT APPROVED OR DISAPPROVED ANY CONTRACT SUBJECT TO HIS OR HER APPROVAL WITHIN NINETY DAYS OF SUBMISSION TO HIS

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

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OR HER OFFICE, SUCH CONTRACT SHALL BECOME VALID AND ENFORCEABLE WITHOUT SUCH APPROVAL.

S 2. The public lands law is amended by adding a new section 33-a to read as follows:

S 33-A. COMPTROLLER AND ATTORNEY GENERAL APPROVAL OF PRIVATE SALE CONTRACTS. 1. TO THE EXTENT A PUBLIC SALE IS NOT REQUIRED AND A NEGOTIATED CONTRACT FOR THE DISPOSAL OF UNAPPROPRIATED STATE LANDS WITH AN ESTIMATED FAIR MARKET VALUE IN EXCESS OF ONE HUNDRED THOUSAND DOLLARS TO A PRIVATE ENTITY IS DEEMED AUTHORIZED BY THE PROVISIONS OF THIS ARTICLE OR ANY OTHER PROVISION OF LAW, RULE OR REGULATION, SUCH NEGOTIATED CONTRACT SHALL REQUIRE SUPERVISION IN THE FORM OF PRIOR REVIEW AND APPROVAL OF SUCH CONTRACT AND ANY SUCH CONTRACT ENTERED INTO SHALL BE SUBMITTED TO THE COMPTROLLER AND THE ATTORNEY GENERAL FOR THEIR APPROVAL AND SHALL NOT BE A VALID ENFORCEABLE CONTRACT UNLESS IT SHALL FIRST HAVE BEEN SO APPROVED. THE COMPTROLLER, IN CONSULTATION WITH THE ATTORNEY GENERAL, SHALL PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE NECESSARY TO CARRY OUT THEIR RESPONSIBILITIES UNDER THIS SECTION, INCLUDING BUT NOT LIMITED TO THE STANDARDS FOR APPROVING CONTRACTS SUBJECT TO THIS SUBDIVISION.

2. WHERE A CONTRACT IS SUBJECT TO MANDATORY REVIEW BY THE COMPTROLLER AND THE ATTORNEY GENERAL PURSUANT TO SUBDIVISION ONE OF THIS SECTION, THE VENDOR SHALL INCLUDE OR CAUSE TO BE INCLUDED IN EACH SUCH CONTRACT A PROVISION INFORMING THE OTHER PARTY THAT SUCH CONTRACT IS SUBJECT TO THE COMPTROLLER'S AND THE ATTORNEY GENERAL'S APPROVAL PURSUANT TO THIS SECTION. IF THE COMPTROLLER AND THE ATTORNEY GENERAL HAVE NOT APPROVED OR DISAPPROVED ANY CONTRACT SUBJECT TO HIS OR HER APPROVAL WITHIN NINETY DAYS OF SUBMISSION TO HIS OR HER OFFICE, SUCH CONTRACT SHALL BECOME VALID AND ENFORCEABLE WITHOUT SUCH APPROVAL.

3. THE PROVISIONS OF THIS SECTION SHALL BE EFFECTIVE NOTWITHSTANDING THE PROVISIONS OF ANY OTHER GENERAL OR SPECIAL LAW RELATING TO THE DISPOSAL OF LANDS BELONGING TO THE STATE, AND ANY SUCH STATUTE OR PARTS THEREOF RELATING TO SUCH DISPOSAL OF STATE LANDS INSOFAR AS THEY ARE INCONSISTENT WITH THE PROVISIONS OF THIS SECTION ARE HEREBY SUPERSEDED.

S 3. Subdivision 4 of section 3 of the public lands law, as amended by chapter 785 of the laws of 1982, is amended to read as follows:

4. A. Notwithstanding any other provision of this chapter or other statute, the commissioner of general services, upon the application of any state department, or a division, bureau or agency thereof, or upon the application of any state agency, may transfer to such state department, division, bureau, or agency, or state agency, the jurisdiction over any lands, including lands under water, abandoned canal lands and salt springs reservation land, upon such terms and conditions as the commissioner may deem just and proper and upon the consent of the department, or a division, bureau or agency thereof, or any state agency, already having jurisdiction over such lands and notwithstanding any other provision of this chapter or other statute, authority to give such consent is hereby conferred upon the head of any such state department, or a division, bureau or agency thereof, or any state agency; provided, however, that if the commissioner of general services determines that any such land under the jurisdiction of any state department, or a division, bureau or agency thereof, or any state agency other than a public authority or public benefit corporation is under utilized or is not being utilized in a manner consistent with the best interests of the state, such commissioner may on his own initiative, and without the application or consent referred to above but subject to the procedure and review provided in section two-a of this article, transfer the

jurisdiction over such land to any other state department, or a division, bureau or agency thereof, or any other state agency other than a public authority or public benefit corporation.

B. Should such land be under the jurisdiction of the office of mental health or the office of mental retardation and developmental disabilities upon which a community residential facility for the disabled as defined in section 41.34 of the mental hygiene law exists, the commissioner of general services shall, prior to transferring the jurisdiction over such land to any other state department, or a division, bureau or agency thereof, or any other state agency other than a public authority or public benefit corporation offer such land for sale at public auction pursuant to section thirty-three of this chapter; provided, however, that the provisions of section four hundred six of the eminent domain procedure law shall apply to such property.

C. NO TRANSFER OF LAND, AS DESCRIBED IN THIS SUBDIVISION, OR GRANT OR CONVEYANCE OF LAND TO A PUBLIC AUTHORITY OR PUBLIC BENEFIT CORPORATION SHALL BE DEEMED VALID UNLESS NOTICE IS PROVIDED IN WRITING TO EACH MEMBER OF THE LEGISLATURE IN WHOSE DISTRICT ANY PORTION OF THE LAND SUBJECT TO THE PROPOSED TRANSFER IS LOCATED AND THE CHIEF EXECUTIVE OFFICER OR OFFICERS OF THE COUNTY IN WHICH ANY PORTION OF THE LAND IS LOCATED. SUCH NOTICE SHALL PROVIDE A DESCRIPTION OF THE LAND, IDENTIFICATION OF THE PROPOSED TRANSFEROR AND TRANSFEREE STATE DEPARTMENTS, DIVISIONS, BUREAUS, AGENCIES, STATE AGENCIES, PUBLIC AUTHORITIES OR PUBLIC BENEFIT CORPORATIONS AND THE TERMS AND CONDITIONS OF THE PROPOSED TRANSFER. UNLESS WITHIN THIRTY DAYS FROM THE DATE SUCH NOTICE IS GIVEN, A MEMBER OF THE LEGISLATURE OR A CHIEF EXECUTIVE OFFICER OF A COUNTY ENTITLED TO NOTICE PURSUANT TO THIS PARAGRAPH OBJECTS TO SUCH PROPOSED ACTION, THE COMMISSIONER OF GENERAL SERVICES MAY EFFECT SUCH TRANSFER OF JURISDICTION. IF WITHIN THIRTY DAYS OF THE GIVING OF SUCH NOTICE, A MEMBER OF THE LEGISLATURE OR A CHIEF EXECUTIVE OFFICER OF A COUNTY ENTITLED TO NOTICE PURSUANT TO THIS PARAGRAPH OBJECTS TO THE ACTION PROPOSED BY THE COMMISSIONER OF GENERAL SERVICES BY FILING NOTICE TO SUCH EFFECT WITH THE COMMISSIONER OF GENERAL SERVICES, SUCH PROPOSED ACTION SHALL BE REVIEWED BY THE DIRECTOR OF THE BUDGET AND THE SECRETARY OF STATE. THEY SHALL AFFIRM OR REVERSE THE PROPOSED ACTION BY THE COMMISSIONER AND THAT DECISION SHALL BE FINAL. IF THEY AFFIRM THE PROPOSED ACTION OR FAIL TO RENDER A DETERMINATION WITHIN SIX MONTHS OF THE DATE OF THE NOTICE, THE COMMISSIONER MAY THEREUPON EFFECT SUCH TRANSFER.

S 4. This act shall take effect on the ninetieth day after it shall have become a law.