

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:

1     Section 1. Section 2897 of the public authorities law is amended by  
2     adding a new subdivision 8 to read as follows:  
3     8. COMPTROLLER AND ATTORNEY GENERAL APPROVAL OF CONTRACTS. A. NEGOTI-  
4     ATED CONTRACTS FOR THE DISPOSAL OF REAL PROPERTY WITH AN ESTIMATED FAIR  
5     MARKET VALUE IN EXCESS OF ONE HUNDRED THOUSAND DOLLARS TO A PRIVATE  
6     ENTITY SHALL REQUIRE SUPERVISION IN THE FORM OF PRIOR REVIEW AND  
7     APPROVAL OF SUCH CONTRACTS AND ANY SUCH CONTRACT ENTERED INTO SHALL BE  
8     SUBMITTED TO THE COMPTROLLER AND THE ATTORNEY GENERAL FOR THEIR APPROVAL  
9     AND SHALL NOT BE A VALID ENFORCEABLE CONTRACT UNLESS IT SHALL FIRST HAVE  
10    BEEN SO APPROVED. THE COMPTROLLER, IN CONSULTATION WITH THE ATTORNEY  
11    GENERAL, SHALL PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE NECESSARY  
12    TO CARRY OUT THEIR RESPONSIBILITIES UNDER THIS SECTION, INCLUDING BUT  
13    NOT LIMITED TO THE STANDARDS FOR APPROVING CONTRACTS SUBJECT TO THIS  
14    SUBDIVISION.  
15    B. WHERE A CONTRACT IS SUBJECT TO MANDATORY REVIEW BY THE COMPTROLLER  
16    AND THE ATTORNEY GENERAL PURSUANT TO PARAGRAPH A OF THIS SUBDIVISION,  
17    THE VENDOR PUBLIC AUTHORITY SHALL INCLUDE OR CAUSE TO BE INCLUDED IN  
18    EACH SUCH CONTRACT A PROVISION INFORMING THE OTHER PARTY THAT SUCH  
19    CONTRACT IS SUBJECT TO THE COMPTROLLER'S AND THE ATTORNEY GENERAL'S  
20    APPROVAL PURSUANT TO THIS SUBDIVISION AND THE COMPTROLLER'S AUTHORITY TO  
21    SUPERVISE THE ACCOUNTS OF PUBLIC CORPORATIONS. IF THE COMPTROLLER AND  
22    THE ATTORNEY GENERAL HAVE NOT APPROVED OR DISAPPROVED ANY CONTRACT  
23    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.

LBD13290-02-1

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

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

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

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

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

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

36 4. A. Notwithstanding any other provision of this chapter or other  
37 statute, the commissioner of general services, upon the application of  
38 any state department, or a division, bureau or agency thereof, or upon  
39 the application of any state agency, may transfer to such state depart-  
40 ment, division, bureau, or agency, or state agency, the jurisdiction  
41 over any lands, including lands under water, abandoned canal lands and  
42 salt springs reservation land, upon such terms and conditions as the  
43 commissioner may deem just and proper and upon the consent of the  
44 department, or a division, bureau or agency thereof, or any state agen-  
45 cy, already having jurisdiction over such lands and notwithstanding any  
46 other provision of this chapter or other statute, authority to give such  
47 consent is hereby conferred upon the head of any such state department,  
48 or a division, bureau or agency thereof, or any state agency; provided,  
49 however, that if the commissioner of general services determines that  
50 any such land under the jurisdiction of any state department, or a divi-  
51 sion, bureau or agency thereof, or any state agency other than a public  
52 authority or public benefit corporation is under utilized or is not  
53 being utilized in a manner consistent with the best interests of the  
54 state, such commissioner may on his own initiative, and without the  
55 application or consent referred to above but subject to the procedure  
56 and review provided in section two-a of this article, transfer the

1 jurisdiction over such land to any other state department, or a divi-  
2 sion, bureau or agency thereof, or any other state agency other than a  
3 public authority or public benefit corporation.

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

15 C. NO TRANSFER OF LAND, AS DESCRIBED IN THIS SUBDIVISION, OR GRANT OR  
16 CONVEYANCE OF LAND TO A PUBLIC AUTHORITY OR PUBLIC BENEFIT CORPORATION  
17 SHALL BE DEEMED VALID UNLESS NOTICE IS PROVIDED IN WRITING TO EACH  
18 MEMBER OF THE LEGISLATURE IN WHOSE DISTRICT ANY PORTION OF THE LAND  
19 SUBJECT TO THE PROPOSED TRANSFER IS LOCATED AND THE CHIEF EXECUTIVE  
20 OFFICER OR OFFICERS OF THE COUNTY IN WHICH ANY PORTION OF THE LAND IS  
21 LOCATED. SUCH NOTICE SHALL PROVIDE A DESCRIPTION OF THE LAND, IDENTIFI-  
22 CATION OF THE PROPOSED TRANSFEROR AND TRANSFEREE STATE DEPARTMENTS,  
23 DIVISIONS, BUREAUS, AGENCIES, STATE AGENCIES, PUBLIC AUTHORITIES OR  
24 PUBLIC BENEFIT CORPORATIONS AND THE TERMS AND CONDITIONS OF THE PROPOSED  
25 TRANSFER. UNLESS WITHIN THIRTY DAYS FROM THE DATE SUCH NOTICE IS GIVEN,  
26 A MEMBER OF THE LEGISLATURE OR A CHIEF EXECUTIVE OFFICER OF A COUNTY  
27 ENTITLED TO NOTICE PURSUANT TO THIS PARAGRAPH OBJECTS TO SUCH PROPOSED  
28 ACTION, THE COMMISSIONER OF GENERAL SERVICES MAY EFFECT SUCH TRANSFER OF  
29 JURISDICTION. IF WITHIN THIRTY DAYS OF THE GIVING OF SUCH NOTICE, A  
30 MEMBER OF THE LEGISLATURE OR A CHIEF EXECUTIVE OFFICER OF A COUNTY ENTI-  
31 TLED TO NOTICE PURSUANT TO THIS PARAGRAPH OBJECTS TO THE ACTION PROPOSED  
32 BY THE COMMISSIONER OF GENERAL SERVICES BY FILING NOTICE TO SUCH EFFECT  
33 WITH THE COMMISSIONER OF GENERAL SERVICES, SUCH PROPOSED ACTION SHALL BE  
34 REVIEWED BY THE DIRECTOR OF THE BUDGET AND THE SECRETARY OF STATE. THEY  
35 SHALL AFFIRM OR REVERSE THE PROPOSED ACTION BY THE COMMISSIONER AND THAT  
36 DECISION SHALL BE FINAL. IF THEY AFFIRM THE PROPOSED ACTION OR FAIL TO  
37 RENDER A DETERMINATION WITHIN SIX MONTHS OF THE DATE OF THE NOTICE, THE  
38 COMMISSIONER MAY THEREUPON EFFECT SUCH TRANSFER.

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