

1295

2011-2012 Regular Sessions

I N S E N A T E

January 6, 2011

Introduced by Sen. DUANE -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the public officers law, in relation to the use of state aircraft by certain state officials, officers and employees

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

1 Section 1. Legislative findings and intent. It is the intention of
2 this legislature that a clear-cut statutory policy be enacted that is
3 both concise and forthright regarding usage of state aircraft. The
4 legislature determines that state aircraft are paid for and owned by the
5 taxpayers of the state, who are entitled to the assurance that such
6 resources are being used for legitimate state governmental purposes. The
7 use of state aircraft shall be reserved for trips that are legitimate
8 state governmental purposes only, as defined in section 72-b of the
9 public officers law, as trips which are predominantly for official state
10 business. Any person or persons traveling on state aircraft for purposes
11 other than official state business shall pay for any trip or any portion
12 of a trip not exclusively for state business by paying a prorated share
13 of a commercial air carrier rate.

14 S 2. The public officers law is amended by adding a new section 72-b
15 to read as follows:

16 S 72-B. LIMITATION ON USE OF AIRCRAFT BY STATE OFFICIALS, OFFICERS AND
17 EMPLOYEES. 1. THE AIRCRAFT OWNED, LEASED, OR OPERATED BY ANY STATE
18 OFFICE, AGENCY, AUTHORITY, DEPARTMENT, OR BRANCH OF THE LEGISLATURE,
19 SHALL BE AVAILABLE ONLY FOR OFFICIAL STATE BUSINESS. THE EXECUTIVE
20 DEPARTMENT SHALL HAVE THE SOLE POWER TO APPROVE OR DENY REQUESTS FOR
21 USE OF STATE AIRCRAFT FOR OFFICIAL STATE BUSINESS.

22 (A) FOR PURPOSES OF THIS SECTION THE TERM "OFFICIAL STATE BUSINESS"
23 MEANS ANY ACTIVITY INVOLVING TRAVEL IN A STATE AIRCRAFT IF THE ACTIVITY
24 IS REASONABLY REQUIRED, EXPECTED, OR APPROPRIATE, CONSIDERING THE

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

LBD01072-01-1

1 NATURE OF THE PUBLIC OFFICIAL'S OR EMPLOYEE'S JOB RESPONSIBILITIES. THE
2 ACTIVITIES SHALL INCLUDE, BUT NOT BE LIMITED TO, ATTENDANCE AT OFFICIAL
3 MEETINGS, PUBLIC HEARINGS, OR OTHER LEGITIMATE STATE BUSINESS.

4 (B) IF A PARTICULAR FLIGHT IS IN PART OFFICIAL BUSINESS AND PART
5 PERSONAL BUSINESS, THE USE OF THE STATE AIRCRAFT SHALL NOT BE APPROVED
6 UNLESS THE MAJORITY OF THE FLIGHT EXPENSES AND TIME ARE FOR OFFICIAL
7 BUSINESS. ANY OFFICIAL REQUESTING SUCH FLIGHT SHALL FILE A REQUEST WITH
8 THE EXECUTIVE DEPARTMENT WHICH SHALL DETAIL THE NATURE OF THE ACTIVITIES
9 THEY INTEND TO UNDERTAKE ONCE THE TRAVEL IS APPROVED, AND IF PERSONAL
10 BUSINESS IS INVOLVED IN ANY WAY, THEY MUST MAKE A REASONABLE ALLOCATION
11 OF THE FLIGHT TIME BETWEEN OFFICIAL AND PERSONAL BUSINESS AT THE TIME OF
12 SUCH REQUEST. AFTER SUCH TRAVEL IS COMPLETE AND IF ANY REALLOCATION OF
13 OFFICIAL AND BUSINESS TIME IS NECESSARY TO CORRECT THE ORIGINAL REQUEST,
14 SUCH OFFICIAL SHALL PAY WITH NON-STATE FUNDS TO THE APPROPRIATE STATE
15 AGENCY THE CHARGE FOR THE PART OF THE FLIGHT THAT IS ALLOCABLE TO
16 PERSONAL BUSINESS. THE RATE CHARGED SHALL BE CALCULATED BY SUCH AGENCY
17 USING COSTS THAT WOULD BE CONSIDERED IN A RATE DEVELOPED BY A COMMERCIAL
18 AIR CARRIER. IN ALL CASES, THE FLIGHT REQUEST FORM, INCLUDING THE
19 DESCRIPTION OF ACTIVITIES AND THE BASIS FOR THE ALLOCATION AT THE TIME
20 OF APPLICATION SHALL BE INDICATED ON THE AIRCRAFT REQUEST FORM AS WELL
21 AS ANY SUBSEQUENT REALLOCATION SHALL BE KEPT IN THE ORDINARY COURSE OF
22 BUSINESS BY THE EXECUTIVE DEPARTMENT.

23 2. THE FOLLOWING CRITERIA SHALL BE CONSIDERED BY THE EXECUTIVE DEPART-
24 MENT IN DETERMINING APPROPRIATE USES OF STATE OWNED, LEASED, OR OPERATED
25 AIRCRAFT:

26 (A) WHETHER THE USE OF THE AIRCRAFT IS IN FURTHERANCE OF STATE OFFI-
27 CIAL OR EMPLOYEE JOB ASSIGNMENTS.

28 (B) WHETHER THE USE OF THE AIRCRAFT IS FOR TRANSPORTING AN EMPLOYEE,
29 STATE OFFICIAL, OR OTHER PERSON AUTHORIZED BY THE AGENCY, AUTHORITY,
30 DEPARTMENT OR LEGISLATIVE BRANCH FOR PURPOSES OF CONDUCTING OFFICIAL
31 STATE BUSINESS OR FOR PURPOSES OF PERFORMING SERVICES FOR THE STATE.

32 (C) WHETHER THE STATE POLICE OR ANY OTHER LAW ENFORCEMENT OFFICE HAS
33 DETERMINED THAT SECURITY OR TRANSPORTATION VIA AIRCRAFT IS NECESSARY.

34 (D) WHETHER AN EMERGENCY EXISTS REQUIRING THE USE OF THE AIRCRAFT FOR
35 THE PROTECTION OF LIFE OR PROPERTY.

36 3. A PERSON WHO IS NOT OTHERWISE AUTHORIZED IN THIS SECTION MAY ACCOM-
37 PANY THE GOVERNOR, THE LIEUTENANT GOVERNOR, THE TEMPORARY PRESIDENT OF
38 THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE
39 SENATE, THE MINORITY LEADER OF THE ASSEMBLY OR THE CHIEF JUDGE OF THE
40 COURT OF APPEALS WHEN SUCH OFFICIAL IS TRAVELING ON STATE AIRCRAFT FOR
41 OFFICIAL STATE BUSINESS AND THE AIRCRAFT IS TRAVELING WITH SEATS AVAIL-
42 ABLE. WHEN THE PERSON ACCOMPANYING SUCH OFFICIAL IS NOT TRAVELING ON
43 OFFICIAL STATE BUSINESS AS PROVIDED IN THIS SECTION, THE TRANSPORTATION
44 CHARGE SHALL BE A PRORATED SHARE OF A COMMERCIAL AIR CARRIER RATE. THE
45 SPOUSE, DOMESTIC PARTNER OR IMMEDIATE FAMILY MEMBERS OF ANY OFFICIAL
46 SPECIFIED IN THIS SECTION MAY, WITH PAYMENT OF TRANSPORTATION CHARGES,
47 ACCOMPANY THE OFFICIAL WHEN SUCH OFFICIAL IS TRAVELING FOR OFFICIAL
48 STATE BUSINESS AND THE AIRCRAFT HAS SEATS AVAILABLE.

49 4. THE STATE COMPTROLLER SHALL ANNUALLY AUDIT THE ASSIGNMENT AND USE
50 OF STATE AIRCRAFT, AND SHALL HAVE ACCESS TO ALL DOCUMENTATION RELATING
51 TO SUCH ASSIGNMENT AND USE. EACH YEAR THE STATE COMPTROLLER SHALL ISSUE
52 A REPORT SUMMARIZING THE ANNUAL AUDIT OF STATE AIRCRAFT, A COPY OF WHICH
53 SHALL BE POSTED TO THE OFFICIAL WEBSITE OF THE DEPARTMENT OF AUDIT AND
54 CONTROL.

55 S 3. This act shall take effect immediately.