

4257--A

2011-2012 Regular Sessions

I N S E N A T E

March 25, 2011

Introduced by Sens. GOLDEN, AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to a prohibition on diversion of resources from dedicated funds derived from taxes and fees that support the metropolitan transportation authority and its subsidiaries in certain instances

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

1 Section 1. Legislative findings. In the previous ten years 2.9 billion
2 dollars has been "swept" from some or all of the 720 dedicated funds,
3 taxes and fees enacted into law for an explicit purpose. Commencing in
4 2007, the division of budget (DOB) has been given the administrative
5 authority to divert from such funds one billion dollars to cover short-
6 falls in the general fund of the state. Diversion of such dedicated
7 funding violates the understanding of taxpayers who pay these special
8 use taxes and fees to benefit a specific government purpose. In the past
9 year more than one hundred sixty million dollars has been diverted from
10 MTA dedicated funds, including the payroll mobility tax, which has
11 exacerbated bus and subway service cuts and has diminished the quality
12 of life of millions of New Yorkers. Accordingly, legislation is needed
13 to prohibit administrative diversions in certain instances and to
14 improve transparency and citizen awareness should an overriding emergen-
15 cy nevertheless require diversion of resources to the general fund.

16 S 2. The executive law is amended by adding a new section 182 to read
17 as follows:

18 S 182. DIVERSION OF FUNDS DEDICATED TO THE METROPOLITAN TRANSPORTATION
19 AUTHORITY AND ANY OF ITS SUBSIDIARIES TO THE GENERAL FUND OF THE STATE
20 PROHIBITED IN CERTAIN INSTANCES. 1. THE DIRECTOR OF THE BUDGET SHALL BE
21 PROHIBITED FROM DIVERTING REVENUES DERIVED FROM TAXES AND FEES PAID BY

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

LBD10374-02-1

1 THE PUBLIC INTO A FUND CREATED BY LAW FOR THE EXPRESSED PURPOSE OF FUND-
2 ING THE METROPOLITAN TRANSPORTATION AUTHORITY OR ANY OF ITS SUBSID-
3 IARIES, INTO THE GENERAL FUND OF THE STATE OR INTO ANY OTHER FUND MAIN-
4 TAINED FOR THE SUPPORT OF ANOTHER GOVERNMENTAL PURPOSE, FOR AT LEAST THE
5 INITIAL TWENTY-FOUR MONTH TIME PERIOD FOLLOWING A GENERAL FARE INCREASE
6 BY SUCH AUTHORITY AND/OR ANY OF ITS SUBSIDIARIES. NO DIVERSION OF FUNDS
7 CAN OCCUR CONTRARY TO THIS SECTION BY AN ADMINISTRATIVE ACT OF THE
8 DIRECTOR OF THE BUDGET OR ANY OTHER PERSON IN THE EXECUTIVE BRANCH, BUT
9 CAN OCCUR ONLY UPON A STATUTE ENACTED INTO LAW AUTHORIZING A DIVERSION
10 THAT WOULD OTHERWISE BE PROHIBITED BY THIS SECTION.

11 2. IF ANY DIVERSION OF FUNDS AS DEFINED IN SUBDIVISION ONE OF THIS
12 SECTION IS TO OCCUR BY PASSAGE OF LEGISLATION DURING THE REGULAR SESSION
13 OF THE LEGISLATURE, IT SHALL BE PRECEDED BY PASSAGE OF A LEGISLATIVE
14 RESOLUTION IN EACH HOUSE OF THE LEGISLATURE, BY A SIMPLE MAJORITY, AT
15 LEAST TEN DAYS PRIOR TO PASSAGE OF LEGISLATION AUTHORIZING SUCH DIVER-
16 SION IN WHICH THE LEGISLATURE DECLARES A FISCAL EMERGENCY SETTING FORTH
17 BUT NOT LIMITED TO THE FOLLOWING INFORMATION:

18 (A) THE ANTICIPATED DURATION OF THE FISCAL EMERGENCY;

19 (B) THE AMOUNT OF THE DIVERSION FROM DEDICATED MASS TRANSIT FUNDS;

20 (C) THE CUMULATIVE AMOUNT OF DIVERSION FROM DEDICATED MASS TRANSIT
21 FUNDS DURING THE PRECEDING FIVE YEARS;

22 (D) THE DATE OR DATES WHEN THE DIVERSION IS TO OCCUR; AND

23 (E) A DETAILED ESTIMATE OF THE IMPACT OF DIVERSION FROM DEDICATED MASS
24 TRANSIT FUNDS WILL HAVE ON THE LEVEL OF MASS TRANSIT SERVICE, MAINTEN-
25 NANCE, SECURITY AND OTHER BENEFITS ENJOYED BY THE PUBLIC-AT-LARGE.

26 3. IF ANY DIVERSION OF FUNDS AS DEFINED IN SUBDIVISION ONE OF THIS
27 SECTION IS TO OCCUR BY PASSAGE OF LEGISLATION DURING AN EXTRAORDINARY
28 SESSION OF THE LEGISLATURE, IT CAN OCCUR ONLY AFTER A RESOLUTION HAS
29 BEEN APPROVED BY A TWO-THIRDS MAJORITY IN EACH HOUSE OF THE LEGISLATURE,
30 AT LEAST TWENTY-FOUR HOURS IN ADVANCE OF LEGISLATION AUTHORIZING SUCH
31 DIVERSION, IN WHICH THE LEGISLATURE DECLARES A DIRE FISCAL EMERGENCY AND
32 WITHIN SUCH RESOLUTION THERE IS SET FORTH INFORMATION REQUIRED UNDER
33 SUBDIVISION TWO OF THIS SECTION.

34 4. ANY MASS TRANSIT CONSUMER, EMPLOYEE, EMPLOYEE ORGANIZATION OR
35 VENDOR ADVERSELY IMPACTED BY A DIVERSION OF DEDICATED MASS TRANSIT FUNDS
36 WHICH OCCURS CONTRARY TO THE PROCEDURES SET FORTH IN THIS SECTION SHALL
37 HAVE STANDING TO COMMENCE AN ACTION AGAINST THE STATE IN ANY SUPREME
38 COURT IN ANY COUNTY BEING SERVED BY THE MASS TRANSIT PROVIDER TO ENJOIN
39 SUCH DIVERSION, TO OBTAIN REIMBURSEMENT FOR INCURRED ATTORNEY FEES, TO
40 OBTAIN REIMBURSEMENT FOR COURT COSTS AND TO OBTAIN SUCH OTHER AND
41 FURTHER RELIEF AS TO THE COURT MAY SEEM JUST AND PROPER.

42 S 3. This act shall take effect immediately.