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

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I N A S S E M B L Y

May 15, 2014

Introduced by M. of A. HENNESSEY, ENGLEBRIGHT -- (at request of the Office of General Services) -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the public buildings law, the public lands law, the state finance law and the economic development law, in relation to enhancing operational efficiencies and promoting economies in support of the enterprise initiatives being undertaken by the office of general services

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

Section 1. Subdivision 14 of section 3 of the public buildings law, as added by chapter 83 of the laws of 1995, is amended to read as follows:

14. [Where the use of any state-owned real property is not presently required for any other state purpose, the department, board, commission, division, or other state agency having jurisdiction thereof, may, with the approval of the commissioner of general services, temporarily lease or operate such property in such manner as will produce net revenue for the support of the state (a) by the forces and equipment of such department, board, commission, division or other state agency, or (b) by contracting for the management and operation thereof with any person, firm or corporation, or (c) by a combination of such methods, but no such contract nor any lease or permit for the use of such property shall be made for a period exceeding five years from the date thereof.] UPON DETERMINATION BY THE COMMISSIONER OF GENERAL SERVICES THAT THE USE OF ANY STATE-OWNED REAL PROPERTY IS NOT PRESENTLY REQUIRED FOR ANY OTHER STATE PURPOSE BY THE DEPARTMENT, BOARD, COMMISSION, DIVISION OR OTHER STATE AGENCY HAVING JURISDICTION THEREOF, THE COMMISSIONER OF GENERAL SERVICES MAY LEASE OR OPERATE SUCH PROPERTY IN ANY SUCH MANNER AS WILL PRODUCE NET REVENUE FOR THE SUPPORT OF THE STATE OR MAY LEASE THE PROPERTY TO ANOTHER PUBLIC ENTITY FOR AN AMOUNT EQUAL TO THE COSTS INCURRED BY THE STATE FOR SUCH USE. NO CONTRACT, LEASE OR PERMIT FOR THE USE OF SUCH PROPERTY SHALL BE MADE FOR A TERM EXCEEDING FIVE YEARS, BUT SUCH LEASE, CONTRACT OR PERMIT SHALL ALLOW RENEWALS OR EXTENSIONS OF SAID TERM, AT THE COMMISSIONER'S OPTION FOR TERMS OF FIVE YEARS OR LESS AS

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

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LONG AS THE TOTAL TERM, INCLUDING ALL RENEWALS AND EXTENSIONS, DOES NOT EXCEED FIFTEEN YEARS. All expenses incident to the leasing, use or operation of any such property shall be paid out of the gross revenue therefrom and shall not be a charge against the state. Insofar as the provisions of this subdivision may conflict with the provisions of section one hundred twenty-one of the state finance law or provisions of any other law, the provisions of this subdivision shall control and the same shall not be deemed to be repealed, altered or superseded by implication by the enactment or amendment of any other law. The use and occupancy of any such property pursuant to any license, lease, permit or contract made under the provisions of this subdivision and the right of the state or its duly authorized agent to recover possession thereof shall not be subject to the emergency housing rent control law. Where it is necessary to cause the removal of an occupant of any such property, the head of the department, board, commission, division or other state agency having jurisdiction thereof may cause such occupant to be removed therefrom and the possession thereof to be delivered to him or her as agent of the state in the same manner and by the same proceedings in the same court or before the same judge or justice as is now or hereafter may be provided by law for the removal of a tenant holding over after the expiration of his or her term without the permission of the landlord. The proceeding shall be brought in the name of such head of such department, board, commission, division or other state agency having jurisdiction of such property, as agent of the state.

S 2. Section 33 of the public lands law is amended by adding two new subdivisions 6 and 7 to read as follows:

6. (A) THE COMMISSIONER OF GENERAL SERVICES MAY SELL AND CONVEY IMPROVED, UNAPPROPRIATED STATE LANDS TO A PRIVATE PARTY FOR NOT LESS THAN FAIR MARKET VALUE WITHOUT A FORMAL COMPETITIVE PROCESS WHEN (I) SUCH PRIVATE PARTY HAS APPROACHED THE STATE OF THEIR OWN ACCORD TO PURCHASE IMPROVED, UNAPPROPRIATED STATE LAND, AND (II) IN THE JUDGMENT OF THE COMMISSIONER OF GENERAL SERVICES, SUCH SALE IS IN THE BEST INTERESTS OF THE STATE. SUCH SALE MUST COMPLY WITH STANDARD MINIMUM QUALITATIVE AND QUANTITATIVE FACTORS ESTABLISHED BY THE COMMISSIONER.

(B) THE SALE PRICE FOR THE PROPERTY SHALL BE NOT LESS THAN FAIR MARKET VALUE AS ESTABLISHED BY A CERTIFIED APPRAISAL OR OTHER APPRAISAL FORM ACCEPTABLE TO THE OFFICE OF THE STATE COMPTROLLER.

7. THE COMMISSIONER OF GENERAL SERVICES MAY SELL AND CONVEY IMPROVED UNAPPROPRIATED STATE LANDS TO A PRIVATE PARTY FOR LESS THAN FAIR MARKET VALUE WITHOUT A FORMAL COMPETITIVE PROCESS WHEN (A) SUCH UNAPPROPRIATED STATE LANDS HAS BEEN, WITHIN THE LAST EIGHTEEN MONTHS, OFFERED THROUGH THE PROCESS DESCRIBED IN SUBDIVISIONS ONE THROUGH SIX OF THIS SECTION WITHOUT BEING SOLD; (B) A PRIVATE PARTY HAS APPROACHED THE STATE OF THEIR OWN ACCORD TO PURCHASE IMPROVED, UNAPPROPRIATED STATE LAND; AND (C) IN THE JUDGMENT OF THE COMMISSIONER OF GENERAL SERVICES, SUCH SALE IS IN THE BEST INTEREST OF THE STATE. SUCH SALE MUST COMPLY WITH THE STANDARD MINIMUM QUALITATIVE AND QUANTITATIVE FACTORS ESTABLISHED BY THE COMMISSIONER INCLUDING, AT THE DISCRETION OF THE COMMISSIONER, A CERTIFIED APPRAISAL REPORT OR APPRAISAL REVIEW TO ESTABLISH CONSIDERATION FOR SUCH CONTRACT. THE PURCHASE CONTRACT SHALL BE SUBJECT TO REVIEW BY THE ATTORNEY GENERAL AND THE STATE COMPTROLLER.

S 3. Paragraph (a) of subdivision 2 of section 112 of the state finance law, as amended by section 18 of part L of chapter 55 of the laws of 2012, is amended to read as follows:

(a) Before any contract made for or by any state agency, department, board, officer, commission, or institution, except the office of general

services, shall be executed or become effective, whenever such contract exceeds fifty thousand dollars in amount and before any contract made for or by the office of general services shall be executed or become effective, whenever such contract exceeds eighty-five thousand dollars in amount, it shall first be approved by the comptroller and filed in his or her office, with the exception of contracts established as a centralized contract through the office of general services [and] purchase orders or other procurement transactions issued under such centralized contracts, AND CONTRACT EXTENSIONS, INCLUDED IN AND PROVIDED FOR IN CENTRALIZED CONTRACTS ESTABLISHED BY THE OFFICE OF GENERAL SERVICES AND FINALIZED BEFORE APRIL FIRST, TWO THOUSAND ELEVEN. The comptroller shall make a final written determination with respect to approval of such contract within ninety days of the submission of such contract to his or her office unless the comptroller shall notify, in writing, the state agency, department, board, officer, commission, or institution, prior to the expiration of the ninety day period, and for good cause, of the need for an extension of not more than fifteen days, or a reasonable period of time agreed to by such state agency, department, board, officer, commission, or institution and provided, further, that such written determination or extension shall be made part of the procurement record pursuant to paragraph f of subdivision one of section one hundred sixty-three of this chapter.

S 4. Subdivisions 3, 4 and 5 of section 97-g of the state finance law, subdivision 3 as amended by section 62 of part HH of chapter 57 of the laws of 2013, subdivision 4 as amended by section 2 and subdivision 5 as amended by section 1 of subpart A of part C of chapter 97 of the laws of 2011, are amended to read as follows:

3. Moneys of the fund shall be available to the commissioner of general services for the purchase of food, supplies and equipment for state agencies, and for the purpose of furnishing or providing centralized services to or for state agencies; provided further that such moneys shall be available to the commissioner of general services for purposes pursuant to items (d) and (f) of subdivision four of this section to or for political subdivisions, PUBLIC AUTHORITIES AND PUBLIC BENEFIT CORPORATIONS. Beginning the first day of April, two thousand two, moneys in such fund shall also be transferred by the state comptroller to the revenue bond tax fund account of the general debt service fund in amounts equal to those required for payments to authorized issuers for revenue bonds issued pursuant to article five-C and article five-F of this chapter for the purpose of lease purchases and installment purchases by or for state agencies and institutions for personal or real property purposes.

4. The term "centralized services" as used in this section shall mean and include only (a) communications services, (b) mail, messenger and reproduction services, (c) computer services, (d) [fuels] ENERGY COMMODITIES, including FUELS, natural gas, hydrogen, biofuels and gasoline, and automotive services, (e) renovation and maintenance services, (f) purchases of electricity, renewable energy, renewable energy credits or attributes from the power authority of the state of New York and, in consultation with the power authority of the state of New York, from other suppliers, (g) real property management services, (h) building design and construction services, (i) parking services, (j) distribution of United States department of agriculture donated foods to eligible recipients, pursuant to all applicable statutes and regulations, (k) distribution of federal surplus property donations to all eligible recipients, pursuant to applicable statutes and regulations, and (l)

payments and related services for lease purchases and installment purchases by or for state agencies and institutions for personal property purposes financed through the issuance of certificates of participation. The services defined in items (a) through (c), (e), [(g)] and (h) of this subdivision shall be provided to state agencies and institutions only.

5. The amount expended from such fund for the above-stated purposes shall be charged against the agency [or], political subdivisions, PUBLIC AUTHORITIES AND PUBLIC BENEFIT CORPORATIONS above receiving such food, supplies, equipment and services and all payments received therefor shall be credited to such fund.

S 5. Section 146 of the economic development law, as amended by chapter 95 of the laws of 2000 and as renumbered by chapter 137 of the laws of 2008, is amended to read as follows:

S 146. Approval of comptroller. The comptroller shall not approve or file any procurement contract for the acquisition of goods or services in the amount of [fifteen] FIFTY thousand dollars or more unless notice as provided in section one hundred forty-two of this article shall first have been published in the procurement opportunities newsletter at least fifteen business days prior to the date on which a bid or proposal was due. Provided, however, such requirement of publication of advance notice shall not apply to contracts exempt from such requirement under section one hundred forty-four of this article; provided further, that the comptroller shall not be required to disapprove a contract if he determines that there has been substantial compliance with the requirements of section one hundred forty-two and section one hundred forty-three of this article. The foregoing provisions of this section shall not be construed to limit, in any manner, the right of the comptroller to demand evidence of adequate competition or such other proofs as he may require in the discharge of his responsibilities pursuant to section one hundred twelve of the state finance law or any other provision of law.

S 6. This act shall take effect immediately; provided however that the amendments to subdivisions 3, 4 and 5 of section 97-g of the state finance law made by section four of this act shall be subject to the expiration and reversion of such subdivisions pursuant to section 9 of subpart A of part C of chapter 97 of the laws of 2011 and section 3 of chapter 410 of the laws of 2009, as amended, and shall expire and be deemed repealed therewith.