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I N S E N A T E

April 9, 2014

Introduced by Sen. MARCELLINO -- (at request of the Office of General Services) -- read twice and ordered printed, and when printed to be committed to the Committee on Infrastructure and Capital Investment

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:

1 Section 1. Subdivision 14 of section 3 of the public buildings law, as
2 added by chapter 83 of the laws of 1995, is amended to read as follows:
3 14. [Where the use of any state-owned real property is not presently
4 required for any other state purpose, the department, board, commission,
5 division, or other state agency having jurisdiction thereof, may, with
6 the approval of the commissioner of general services, temporarily lease
7 or operate such property in such manner as will produce net revenue for
8 the support of the state (a) by the forces and equipment of such depart-
9 ment, board, commission, division or other state agency, or (b) by
10 contracting for the management and operation thereof with any person,
11 firm or corporation, or (c) by a combination of such methods, but no
12 such contract nor any lease or permit for the use of such property shall
13 be made for a period exceeding five years from the date thereof.] UPON
14 DETERMINATION BY THE COMMISSIONER OF GENERAL SERVICES THAT THE USE OF
15 ANY STATE-OWNED REAL PROPERTY IS NOT PRESENTLY REQUIRED FOR ANY OTHER
16 STATE PURPOSE BY THE DEPARTMENT, BOARD, COMMISSION, DIVISION OR OTHER
17 STATE AGENCY HAVING JURISDICTION THEREOF, THE COMMISSIONER OF GENERAL
18 SERVICES MAY LEASE OR OPERATE SUCH PROPERTY IN ANY SUCH MANNER AS WILL
19 PRODUCE NET REVENUE FOR THE SUPPORT OF THE STATE OR MAY LEASE THE PROP-
20 erty TO ANOTHER PUBLIC ENTITY FOR AN AMOUNT EQUAL TO THE COSTS INCURRED
21 BY THE STATE FOR SUCH USE. NO CONTRACT, LEASE OR PERMIT FOR THE USE OF
22 SUCH PROPERTY SHALL BE MADE FOR A TERM EXCEEDING FIVE YEARS, BUT SUCH
23 LEASE, CONTRACT OR PERMIT SHALL ALLOW RENEWALS OR EXTENSIONS OF SAID
24 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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1 LONG AS THE TOTAL TERM, INCLUDING ALL RENEWALS AND EXTENSIONS, DOES NOT
2 EXCEED FIFTEEN YEARS. All expenses incident to the leasing, use or oper-
3 ation of any such property shall be paid out of the gross revenue there-
4 from and shall not be a charge against the state. Insofar as the
5 provisions of this subdivision may conflict with the provisions of
6 section one hundred twenty-one of the state finance law or provisions of
7 any other law, the provisions of this subdivision shall control and the
8 same shall not be deemed to be repealed, altered or superseded by impli-
9 cation by the enactment or amendment of any other law. The use and occu-
10 pancy of any such property pursuant to any license, lease, permit or
11 contract made under the provisions of this subdivision and the right of
12 the state or its duly authorized agent to recover possession thereof
13 shall not be subject to the emergency housing rent control law. Where it
14 is necessary to cause the removal of an occupant of any such property,
15 the head of the department, board, commission, division or other state
16 agency having jurisdiction thereof may cause such occupant to be removed
17 therefrom and the possession thereof to be delivered to him or her as
18 agent of the state in the same manner and by the same proceedings in the
19 same court or before the same judge or justice as is now or hereafter
20 may be provided by law for the removal of a tenant holding over after
21 the expiration of his or her term without the permission of the land-
22 lord. The proceeding shall be brought in the name of such head of such
23 department, board, commission, division or other state agency having
24 jurisdiction of such property, as agent of the state.

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

27 6. (A) THE COMMISSIONER OF GENERAL SERVICES MAY SELL AND CONVEY
28 IMPROVED, UNAPPROPRIATED STATE LANDS TO A PRIVATE PARTY FOR NOT LESS
29 THAN FAIR MARKET VALUE WITHOUT A FORMAL COMPETITIVE PROCESS WHEN (I)
30 SUCH PRIVATE PARTY HAS APPROACHED THE STATE OF THEIR OWN ACCORD TO
31 PURCHASE IMPROVED, UNAPPROPRIATED STATE LAND, AND (II) IN THE JUDGMENT
32 OF THE COMMISSIONER OF GENERAL SERVICES, SUCH SALE IS IN THE BEST INTER-
33 ESTS OF THE STATE. SUCH SALE MUST COMPLY WITH STANDARD MINIMUM QUALITA-
34 TIVE AND QUANTITATIVE FACTORS ESTABLISHED BY THE COMMISSIONER.

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

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

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

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

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

23 S 4. Subdivisions 3, 4 and 5 of section 97-g of the state finance law,
24 subdivision 3 as amended by section 62 of part HH of chapter 57 of the
25 laws of 2013, subdivision 4 as amended by section 2 and subdivision 5 as
26 amended by section 1 of subpart A of part C of chapter 97 of the laws of
27 2011, are amended to read as follows:

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

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

1 payments and related services for lease purchases and installment
2 purchases by or for state agencies and institutions for personal proper-
3 ty purposes financed through the issuance of certificates of partic-
4 ipation. The services defined in items (a) through (c), (e), [(g)] and
5 (h) of this subdivision shall be provided to state agencies and insti-
6 tutions only.

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

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

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

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