

897--A

2015-2016 Regular Sessions

I N S E N A T E

January 7, 2015

Introduced by Sen. AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions -- recommitted to the Committee on Corporations, Authorities and Commissions in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 TWO HUNDRED FIFTY THOUSAND DOLLARS TO A
6 PRIVATE 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

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

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1 APPROVAL PURSUANT TO THIS SUBDIVISION AND THE COMPTROLLER'S AUTHORITY TO
2 SUPERVISE THE ACCOUNTS OF PUBLIC CORPORATIONS. IF THE COMPTROLLER AND
3 THE ATTORNEY GENERAL HAVE NOT APPROVED OR DISAPPROVED ANY CONTRACT
4 SUBJECT TO HIS OR HER APPROVAL WITHIN NINETY DAYS OF SUBMISSION TO HIS
5 OR HER OFFICE, SUCH CONTRACT SHALL BECOME VALID AND ENFORCEABLE WITHOUT
6 SUCH APPROVAL.

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

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

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

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

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

40 4. A. Notwithstanding any other provision of this chapter or other
41 statute, the commissioner of general services, upon the application of
42 any state department, or a division, bureau or agency thereof, or upon
43 the application of any state agency, may transfer to such state depart-
44 ment, division, bureau, or agency, or state agency, the jurisdiction
45 over any lands, including lands under water, abandoned canal lands and
46 salt springs reservation land, upon such terms and conditions as the
47 commissioner may deem just and proper and upon the consent of the
48 department, or a division, bureau or agency thereof, or any state agen-
49 cy, already having jurisdiction over such lands and notwithstanding any
50 other provision of this chapter or other statute, authority to give such
51 consent is hereby conferred upon the head of any such state department,
52 or a division, bureau or agency thereof, or any state agency; provided,
53 however, that if the commissioner of general services determines that
54 any such land under the jurisdiction of any state department, or a divi-
55 sion, bureau or agency thereof, or any state agency other than a public
56 authority or public benefit corporation is under utilized or is not

1 being utilized in a manner consistent with the best interests of the
2 state, such commissioner may on his own initiative, and without the
3 application or consent referred to above but subject to the procedure
4 and review provided in section two-a of this article, transfer the
5 jurisdiction over such land to any other state department, or a divi-
6 sion, bureau or agency thereof, or any other state agency other than a
7 public authority or public benefit corporation.

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

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

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