STATE OF NEW YORK

190

2019-2020 Regular Sessions

IN SENATE

(Prefiled)

January 9, 2019

Introduced by Sen. TEDISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the state finance law, in relation to enacting the "truth in spending act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as the "truth in spending act".

§ 2. The state finance law is amended by adding a new section 53-e to read as follows:

§ 53-e. Appropriations; full disclosure. 1. Prior to the disbursement of any budgetary allocation made pursuant to this article, section ninety-nine-d of this chapter, or subdivision five of section twenty-four of this chapter at the request of the governor or member of the legislature, the governor and the legislature shall:

(a) ensure that funds shall include a brief description of the project to be funded;

(b) require the governor or member of the legislature requesting such appropriation to sign a conflict of interest form, as prescribed by the attorney general, which shall be submitted to the attorney general to ensure that no conflict of interest exists. Such form shall require disclosure of all political donations received within the past five years by such official from the intended recipient of appropriated funding if the cumulative amount of such donations meets or exceeds four thousand dollars and were made within the past five years. Such form shall be signed by the governor or member of the legislature under penalty of perjury and shall be filed, in the case of a member of the assembly, the clerk of the assembly and in the case of a member of the senate, the sergeant at arms of the senate. Such requested appropriation shall not be provided if a conflict of interest exists between the

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

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governor or a member of the legislature designating the appropriation and the potential recipient. Such appropriations shall not be provided to organizations that employ or otherwise compensate the governor or member of the legislature, governor's family or legislator's family, any person sharing the primary residence of the governor or member of the legislature or the governor's or a member of the legislature's staff for services or labor rendered. Furthermore such appropriations shall not be designated if the governor or member of the legislature, a member of the governor's or member of the legislator's family, any person sharing the primary residence of the governor or member of the legislature or a member of the governor's or member of the legislature's staff is involved with the operations of the organization which would receive such appropriation in a decision-making capacity including, but not limited to, working on an unpaid, volunteer basis or as a member of the directing board of an organization; and

(c) ensure that funds be used for a public purpose.

2. At least seventy-two hours prior to approval by the legislature of the state budget, or a legislative bill containing an appropriation as described in subdivision five of section twenty-four of this chapter the legislature must make public with respect to each allocation, the member of the senate, the member of the assembly or the governor sponsoring the allocation, the dollar amount to be appropriated, the senate and assembly district in which the entity receiving such funding is principally located, the name of the local project, organization or other entity receiving such allocation and a description of the project to be funded or purpose for making such allocation. Such publication shall, at a minimum, be made on the website of each house of the legislature and shall be accessible via a link on the home page of such website. Such webpage shall be in a machine readable format and shall include all memoranda of understanding, plans, resolutions, contracts, and any other agreements related to the distribution of funds to recipients. Additionally, the comptroller shall establish and maintain such information on a separate website.

3. All allocation recipients shall provide certification of proper use of funds received. For allocations totaling less than fifty thousand dollars, a duly authorized representative of the allocation recipient's organization shall attest under penalty of perjury that the recipient organization actually spent such funds in the manner and for the purposes designated in any application for an allocation. For allocations totaling more than fifty thousand dollars, a duly authorized representative of the recipient organization shall attest under penalty of perjury that the recipient organization actually spent the money in the manner and for the purposes designated in its application for such allocation and shall file a final report, under penalty of perjury, detailing the expenditures. Such report shall be submitted by May thirty-first of the calendar year following the calendar year in which the allocation was made and shall follow the requirements established by the attorney general. No future allocation shall be approved for an organization which has previously received an allocation until such documents have been signed and received by the office of the New York state attorney general.

4. Prior to submitting an application for an allocation, each organization seeking an allocation shall meet pre-certification standards as established by the office of the New York state attorney general. At a minimum, those standards shall require that the organization seeking pre-certification is a certified tax-exempt non-profit organization

under section 501(c)(3) of the Internal Revenue Code in New York state, a state agency, a municipality or their affiliated department, university, college, or school district capable of accepting potential funding and that such entity is not in bankruptcy or arrears on any state obligations. If an organization has received an allocation in the past, the organization shall also comply with the requirements of subdivision three of this section. No application from any organization shall be considered by a legislator until the office of the New York state attorney general has certified such organization based upon the criteria set forth in this subdivision and upon any additional regulatory standards established by the attorney general.

5. Any allocation by the legislature and the governor shall be set forth separately and apart from every other allocation in the state budget and identify each legislator's or the governor's request.

6. Any violation of the provisions of this section shall be referred to the legislative ethics commission or its successor entity. Complaints regarding the failure to use an allocation to comply with the provisions of this chapter shall be submitted to (a) the legislative ethics commission with regard to an allocation made at the discretion of a legislator, or (b) the joint commission on public ethics with regard to an allocation made at the discretion of the governor. Each complaint shall be investigated in accordance with the rules and procedures of the commission receiving the complaint.

§ 3. Subdivisions 4 and 5 of section 24 of the state finance law, as added by chapter 1 of the laws of 2007, are amended to read as follows:

4. Any appropriation added to such budget bills, pursuant to section four of article seven of the constitution, shall only contain itemized appropriations which shall not be in the form of lump sum appropriations[~~,~~] and shall designate for each appropriation a grantee of such appropriation, and the legislator requesting such appropriation and [~~provided further that~~] for all non-federal state operations appropriations, such bill or bills shall only contain itemized appropriations and shall be made, where practicable, by agency, and within each agency by program and within each program at the following level of detail and in the following order:

(a) by fund type, which at a minimum shall include general fund, special revenue-other funds, capital projects funds and debt service funds;

(b) for personal service appropriations, separate appropriations shall be made for regular personal service, temporary personal service, and holiday and overtime pay;

(c) for nonpersonal service appropriations, separate appropriations shall be made for supplies and materials, travel, contractual services, equipment and fringe benefits, as appropriate.

5. Any appropriation added pursuant to section four of article seven of the constitution without designating a grantee shall be allocated only pursuant to a plan setting forth an itemized list of grantees with the amount to be received by each, or the methodology for allocating such appropriation. Such plan shall be subject to the approval of the chair of the senate finance committee, the chair of the assembly ways and means committee, and the director of the budget, and thereafter shall be included in a [~~concurrent resolution~~] legislative bill calling for the expenditure of such monies, which resolution must be approved by a majority vote of all members elected to each house upon a roll call vote. The provisions of this section shall not preclude members of the legislature from collaborating with each other in the selection of allo-

cations and packaging their individual allocations together with other members' allocations for specified regional or joint projects.

§ 4. Section 40 of the state finance law is amended by adding two new subdivisions 5 and 6 to read as follows:

5. Notwithstanding any other law, rule or regulation to the contrary, the provisions of subdivision three of this section shall not be superseded except upon approval by a two-thirds vote of the senate and assembly.

6. A resolution providing for the disbursement of funds pursuant to any provision of law shall not be approved less than seventy-two hours subsequent to the introduction of such resolution.

§ 5. Subdivision 2 of section 24 of the state finance law is amended by adding a new paragraph (c) to read as follows:

(c) On or after January first, two thousand twenty, any budget bill submitted by the governor shall only contain itemized appropriations.

§ 6. This act does not preclude either house of the legislature or the governor from adopting more stringent standards through its own guidelines or through the application process.

§ 7. Allocations made pursuant to article 4 or section 99-d, known as the community projects fund, of the state finance law shall continue to be subject to review by the respective assembly and senate fiscal and counsel staffs, division of the budget, the administering state agency, the office of the state comptroller, and the office of the attorney general. Nothing in this act shall limit the authority of the state comptroller and the attorney general to review allocation recipients or discretionary grants.

§ 8. This act shall take effect immediately.