

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:

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

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

5 § 53-e. Appropriations; full disclosure. 1. Prior to the disbursement
6 of any budgetary allocation made pursuant to this article, section nine-
7 ty-nine-d of this chapter, or subdivision five of section twenty-four of
8 this chapter at the request of the governor or member of the legisla-
9 ture, the governor and the legislature shall:

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

12 (b) require the governor or member of the legislature requesting such
13 appropriation to sign a conflict of interest form, as prescribed by the
14 attorney general, which shall be submitted to the attorney general to
15 ensure that no conflict of interest exists. Such form shall require
16 disclosure of all political donations received within the past five
17 years by such official from the intended recipient of appropriated fund-
18 ing if the cumulative amount of such donations meets or exceeds four
19 thousand dollars and were made within the past five years. Such form
20 shall be signed by the governor or member of the legislature under
21 penalty of perjury and shall be filed, in the case of a member of the
22 assembly, the clerk of the assembly and in the case of a member of the
23 senate, the sergeant at arms of the senate. Such requested appropri-
24 ation 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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1 governor or a member of the legislature designating the appropriation
2 and the potential recipient. Such appropriations shall not be provided
3 to organizations that employ or otherwise compensate the governor or
4 member of the legislature, governor's family or legislator's family, any
5 person sharing the primary residence of the governor or member of the
6 legislature or the governor's or a member of the legislature's staff for
7 services or labor rendered. Furthermore such appropriations shall not be
8 designated if the governor or member of the legislature, a member of the
9 governor's or member of the legislator's family, any person sharing the
10 primary residence of the governor or member of the legislature or a
11 member of the governor's or member of the legislature's staff is
12 involved with the operations of the organization which would receive
13 such appropriation in a decision-making capacity including, but not
14 limited to, working on an unpaid, volunteer basis or as a member of the
15 directing board of an organization; and

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

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

34 3. All allocation recipients shall provide certification of proper use
35 of funds received. For allocations totaling less than fifty thousand
36 dollars, a duly authorized representative of the allocation recipient's
37 organization shall attest under penalty of perjury that the recipient
38 organization actually spent such funds in the manner and for the
39 purposes designated in any application for an allocation. For allo-
40 cations totaling more than fifty thousand dollars, a duly authorized
41 representative of the recipient organization shall attest under penalty
42 of perjury that the recipient organization actually spent the money in
43 the manner and for the purposes designated in its application for such
44 allocation and shall file a final report, under penalty of perjury,
45 detailing the expenditures. Such report shall be submitted by May thir-
46 ty-first of the calendar year following the calendar year in which the
47 allocation was made and shall follow the requirements established by the
48 attorney general. No future allocation shall be approved for an organ-
49 ization which has previously received an allocation until such documents
50 have been signed and received by the office of the New York state attor-
51 ney general.

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

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

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

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

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

26 4. Any appropriation added to such budget bills, pursuant to section
27 four of article seven of the constitution, shall only contain itemized
28 appropriations which shall not be in the form of lump sum appropri-
29 ations[~~7~~] and shall designate for each appropriation a grantee of such
30 appropriation, and the legislator requesting such appropriation and
31 [~~provided further that~~] for all non-federal state operations appropri-
32 ations, such bill or bills shall only contain itemized appropriations
33 and shall be made, where practicable, by agency, and within each agency
34 by program and within each program at the following level of detail and
35 in the following order:

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

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

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

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

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

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

5 5. Notwithstanding any other law, rule or regulation to the contrary,
6 the provisions of subdivision three of this section shall not be super-
7 seded except upon approval by a two-thirds vote of the senate and assem-
8 bly.

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

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

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

16 § 6. This act does not preclude either house of the legislature or the
17 governor from adopting more stringent standards through its own guide-
18 lines or through the application process.

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

27 § 8. This act shall take effect immediately.