

# STATE OF NEW YORK

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5398

2019-2020 Regular Sessions

## IN SENATE

April 29, 2019

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Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Internet and Technology

AN ACT to amend the state finance law, in relation to utilizing software to verify hours worked on computers and billed to the government for certain contracts

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

1 Section 1. The legislature recognizes that an increasing amount of  
2 government contracts require the use of computers, a virtual office or  
3 online activity. The legislature further recognizes the difficulty in  
4 verifying hours worked on computers and billed to the government for  
5 government contracts. Therefore, the legislature intends to establish a  
6 secure and transparent process to verify hours worked on computers and  
7 billed to the government for certain contracts to prevent abuse and  
8 overbilling.

9 § 2. The state finance law is amended by adding a new section 136-d to  
10 read as follows:

11 § 136-d. Contracts for professional or technical services to be  
12 performed with the use of a computer. 1. For the purposes of this  
13 section, "software" shall mean software which tracks computer usage in  
14 order to verify work hours performed.

15 2. A contract between a state agency and a contractor for more than  
16 two hundred fifty thousand dollars which includes professional or tech-  
17 nical services to be performed with the use of a computer and billed to  
18 the state at an hourly rate shall require such contractor to use soft-  
19 ware which verifies the hours billed for the work performed on a comput-  
20 er pursuant to such contract. This section shall not apply to any hours  
21 billed that are not performed with the use of a computer. This section  
22 also shall not apply to the following entities:

23 (a) state employees;

24 (b) state agencies contracting with other state agencies;

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

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1 (c) law enforcement agencies; and

2 (d) any individual who works for a contractor using a state-owned  
3 device.

4 3. A contract subject to this section shall require the contractor to  
5 use software which verifies that hours billed for work under such  
6 contract and performed on a computer are legitimate. Such contract shall  
7 specify that the contracting agency shall not pay for hours worked on a  
8 computer unless those hours are verifiable by the software or by data  
9 collected by the software. Such software shall:

10 (a) allow the contracting agency or an auditor of such agency to  
11 access any data collected or provided by the software;

12 (b) automatically gather verification data of state-funded activity by  
13 recording keystroke and mouse event frequency, but shall not record  
14 actual keystrokes or mouse events, and by taking a screenshot at least  
15 once every three minutes; and

16 (c) protect all private or confidential data as otherwise required by  
17 federal or state law.

18 4. Data collected by the software shall be considered financial  
19 records belonging to the contractor. Such contractor shall store, or  
20 arrange for the storage of, data collected by the software and provide  
21 access by the contracting agency or state auditors upon their request.  
22 Such contractor may not sell or use data generated by the software for  
23 any other purposes than to manage and verify hours worked on a computer  
24 and billed to the state.

25 5. The contractor shall not charge the agency or an auditor of the  
26 agency for access to or use of the work verification software, or for  
27 access to or retrievals of data collected by the software.

28 6. Software used under this section shall be procured by the contrac-  
29 tor from an independent entity. Such independent entity shall not have  
30 access to any screenshots generated by the software used to comply with  
31 this section.

32 § 3. This act shall take effect one hundred eighty days after it shall  
33 have become a law. Effective immediately, the addition, amendment and/or  
34 repeal of any rule or regulation necessary for the implementation of  
35 this act on its effective date are authorized to be made and completed  
36 on or before such effective date.