STATE OF NEW YORK

8861

IN ASSEMBLY

January 18, 2024

Introduced by M. of A. FAHY, BARRETT, McDONALD -- read once and referred to the Committee on Tourism, Parks, Arts and Sports Development

AN ACT to amend the arts and cultural affairs law, in relation to establishing the New York state museum partnership trust

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

Section 1. Legislative findings and intent. The legislature finds that the New York state museum is a vital interest of the state, enabling us to pass New York's past and present on to our children and our children's children. The museum welcomes visitors to explore its rotating and permanent exhibitions. The museum also offers educational programming, including after-school programs that have benefited more than 4,000 students in the city of Albany. The museum is essential for education, public programs, and generating tourism and economic activity. Unfortunately, present conditions inhibit its ability to thrive and serve New Yorkers to its fullest potential. Therefore, it is the purpose of this act to support the museum's operations and align its oversight structure with that of the other departments under the office of cultural education at the state education department. Both the New York state library and the New York state archives benefit from the support of an affiliated trust that obtains non-state funding to supplement the operations and programming of the library and archives, respectively. It is time to bring the New York state museum in line with the other divisions of the office of cultural education at the state education department. To accomplish this, a New York state museum partnership trust is created in order to: create an endowment to help collect and preserve art, historical items, objects of material culture, natural history specimens, and other objects that tell the story of the people who call New York home; make possible special projects and inform the citizens of New York about the exhibits and programs of the state museum; and work in conjunction with the board of regents, the office of cultural education at the state education department, the commissioner of education, and the museum advisory council under the board of regents to advise and support the New York state museum.

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

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§ 2. The arts and cultural affairs law is amended by adding a new title Q to read as follows:

TITLE Q
NEW YORK STATE MUSEUM PARTNERSHIP TRUST

ARTICLE 45
NEW YORK STATE MUSEUM PARTNERSHIP TRUST

Section 45.01. Short title.
45.03. Definitions.
45.05. New York state museum partnership trust.
45.07. Purpose and powers of trust.
45.09. Temporary assignment and transfer of employees.
45.11. Authorized expenditures.
45.13. New York state museum partnership trust fund.
45.15. Creation of trust for a public purpose.
45.17. Members and employees not to profit.

§ 45.01. Short title. This title shall be known and may be cited as the "New York state museum partnership trust act".

§ 45.03. Definitions. For the purposes of this article, the following terms shall have the following meanings:

1. "Trust" or "corporation" shall mean the New York state museum partnership trust established by section 45.05 of this article.

2. "Board" shall mean the members of the corporation appointed pursuant to section 45.05 of this article.

3. "Trust fund" or "fund" shall mean the New York state museum partnership trust fund established in section 45.13 of this article.

§ 45.05. New York state museum partnership trust. 1. A trust to be known as the New York state museum partnership trust is hereby established. Such trust shall be governed by a board which shall be a body corporate and politic constituting a public benefit corporation and its existence shall commence upon the appointment of the members as herein provided. Such board shall consist of twenty total members to be appointed as follows: five members appointed by the governor; five appointed by the board of regents; four appointed by the majority leader of the senate, two of whom shall be private citizens; four appointed by the speaker of the assembly, two of whom shall be private citizens; and one appointed each by minority leaders of the senate and assembly. Members shall be appointed for their interest in the art, history, culture and natural history of New York; their knowledge and experience regarding resources for cultural and educational programs; and their support for the purposes of the museum partnership trust. Members shall be appointed no later than ninety days following an appropriation made by the legislature for the purposes of this article.

2. At the first meeting of the board and the first meeting thereof in each two fiscal years thereafter, the members of the board shall choose from their members, a chairperson and vice-chairperson. Initial appointments shall be for staggered terms; appointments by the governor shall be for three-year terms; appointments by the legislative leaders shall be for two-year terms; appointments by the board of regents shall be for one-year terms. All subsequent terms shall be for three years. Members may be reappointed and may serve two consecutive full terms, in addition to the term of the initial appointments, but not more than eight consecutive years. Each member shall continue in office until such member's successor has been appointed and qualifies. Such continuation in office

shall not be counted in determining whether a member has served eight consecutive years. In the event of a vacancy occurring in the office of any member, other than by the expiration of a member's term, such vacancy shall be filled for the balance of the unexpired term, if applicable, in the same manner as the original appointment. Members from government shall be replaced if they leave government service; a new appointee shall serve for the unexpired term of the departing member and may be reappointed.

3. A majority of the whole number of members then in office shall constitute a quorum for the transaction of any business or the exercise of any power of the board. Except as otherwise specified in this article, for the transaction of any business or the exercise of any power of the board, the board shall have power to act by a majority of members present at any meeting at which a quorum is in attendance. The board may delegate to one or more of its members, or to its officers, agents and employees, or to its executive committee, such powers and duties as the board may deem proper. The members of the board shall serve without compensation, but shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their official duties.

4. Notwithstanding any inconsistent provision of this or any other law, general, special or local, no officer or employee of the state, or of any public corporation as defined in the general construction law, shall be deemed to have forfeited or shall forfeit his or her office or employment or any benefits provided under the retirement and social security law or under any public retirement system maintained by the state or any of its subdivisions by reason of his or her acceptance of membership on or chairmanship of the board.

5. The trust and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the trust shall have bonds, notes and other obligations outstanding, unless adequate provision has been made for the payment thereof in the documents securing the same. Upon termination of the existence of the trust, all its rights and properties shall vest in the state.

§ 45.07. Purpose and powers of trust. 1. The purpose of the trust shall be to serve as a focal point for the receipt and administration of private gifts, devises and bequests of real and personal property donated to use the arts, history, and material culture to help New Yorkers and visitors understand the world in which we live, and to oversee and support the state museum in conjunction with the board of regents, the office of cultural education at the department of education, the commissioner of education, and the museum advisory council under the board of regents.

2. To carry out such purposes under subdivision one of this section, the trust shall:

(a) Oversee, and participate actively in, a campaign to secure private and public funds to create an initial endowment;

(b) Review and approve a budget request and work plan annually for the operation of the board and for the use of trust funds to support the purposes of the trust fund; and

(c) Report to the governor and the legislature at least every three years as to the activities of the trust including information pertaining to fund raising, expenditures and projects undertaken and the sufficiency of the principal to generate interest adequate to achieve the purposes of the trust.

3. The trust shall have the power:

(a) To make and adopt official bylaws for the management and regulation of its affairs provided that such bylaws shall only be made, adopted or amended by a majority of the whole number of the members of the board then in office;

(b) To contract for and to accept assistance, including but not limited to unconditional gifts, devises and bequests, and, with the approval of the governor, conditional gifts, devises and bequests, of real or personal property for art, material culture, historic preservation, natural history studies, environmental education and to administer and expend funds made available to the corporation for any of its purposes;

(c) To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this article;

(d) To appoint officers, agents and employees, and prescribe their duties and qualifications and fix their compensation;

(e) To contract for professional and technical assistance and advice;

(f) To provide in its official bylaws for the holding of an annual meeting, at which annual meeting a majority of the whole number of the members of the board then in office may transact any business or exercise any power of the board;

(g) To invest and reinvest moneys as provided in this article and to enter into agreements with the state comptroller concerning the transfer of moneys among the various accounts;

(h) To create committees, including an executive committee composed of not fewer than five members of the board including one of the members appointed by the governor, one of the members appointed by the majority leader of the senate, one of the members appointed by the speaker of the assembly and one of the members appointed by the board of regents, and special committees, to carry out its business effectively and may also create task forces, regional campaign committees, and other bodies made up of individuals beyond its own members to assist in the work of the board;

(i) To exercise and perform such other powers and duties as shall have been or may be from time to time conferred by law;

(j) To participate and cooperate with other public and private agencies having mutual interests and purposes in appropriate programs and projects intended to preserve and improve the history, arts and cultural resources of the New York state museum in furtherance of the education, welfare and enjoyment of its people;

(k) To sue and be sued; and

(l) To do all things necessary or convenient to carry out the purposes of this article.

§ 45.09. Temporary assignment and transfer of employees. Whenever in the opinion of the board it would be in the public interest, it may, after prior approval of the director of the budget, request the temporary assignment and transfer of certain employees of any other board, commission, agency or department of the state or its political subdivisions, and such other board, commission, agency or department, if in its opinion such transfer will not interfere with the performance of its duties and functions may make such assignment and transfer of such employees to the trust. Such assignment and transfer or extension thereof shall not in any way affect the civil service status, continuity of service, retirement plan status, right to compensation, grade or compensation or other rights or privileges of any employee so transferred.

§ 45.11. Authorized expenditures. The trust may make expenditures from the trust fund, subject to availability of fund monies, provided such

expenditures are within a budget approved by the board and are not otherwise restricted by law, for the following purposes:

1. Support for a development campaign to obtain donations from non-state government sources including private citizens, foundations, organizations and the federal government and for expenses for the meetings and operation of the board and the trust;

2. Internships to students in New York state who are preparing for careers in museums and fellowships to expert practitioners in museum preservation and curation and educational programs under the direction of the professional staff of the New York state museum;

3. Hiring an executive director to administer the funds of the trust, which may include the hiring of expert staff in preservation, curation, and public and educational programs; and

4. Purchase of supplies and services and purchase or lease of equipment needed for activities authorized by this article.

§ 45.13. New York state museum partnership trust fund. 1. There is hereby established in the custody of the trust a special fund to be known as the "New York state museum partnership trust fund". The trust shall establish the following three separate and distinct accounts within the New York state museum partnership trust fund: the endowment account, and the special project account, which shall each be in the custody of the trust, and the operation and maintenance account, which shall be in the joint custody of the state comptroller and the commissioner of taxation and finance.

2. Moneys in the trust fund shall consist of appropriations therefor and donations which may include any form of equity, fixed income securities, insurance or any other asset convertible into cash, and earnings thereon. Pursuant to agreements made at least annually between the trust board and the state comptroller, the trust shall transfer sufficient funds from the endowment account to the operation and maintenance account for the timely payment of estimated costs and operating expenses pursuant to budgets adopted by the trust.

3. Earnings from the endowment account may be used by the trust board for its operation and for the other purposes authorized in this article. Moneys in the endowment account, and earnings thereon, may be invested and reinvested by the trust board consistent with the prudent investor standard of section 11-2.3 of the estates, powers and trusts law and pursuant to the provisions of section twenty-nine hundred twenty-five of the public authorities law. The trust board shall give due consideration to balancing the long-term growth of the endowment, long-term trends of the economy and the needs of trust operations and the state archives with the goal that the endowment shall provide a permanent, growing and viable source of funds to fulfill the trust purposes. The trust board shall obtain an annual independent audit and audited financial statement of the books and accounts of the trust, by a certified accounting firm.

4. Moneys in the special project account shall be used for carrying out the special projects designated in the donation thereof.

5. The trust is intended to supplement, not replace or reduce, regular state appropriations to the state museum. The state may match the first five million dollars donated to the endowment account in any fiscal year following the receipt of moneys.

§ 45.15. Creation of trust for a public purpose. It is hereby found, determined and declared that the creation of the trust and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York, for the preservation and improvement of the history, arts and cultural resources through the state museum, and

is a public purpose, in that the trust will be performing an essential governmental function in the exercise of the powers conferred upon it by this article and the trust shall not be required to pay taxes or assessments upon any of the property acquired by it or under its jurisdiction and control, or upon its activities in the operation and maintenance of such properties or use of any moneys, revenues or other income received by the corporation. All contributions of real or personal property made to the trust whether by gift, devise or bequest shall qualify as deductions in computing the net taxable income of the donor for the purposes of any income tax imposed by the state or any political subdivision thereof.

§ 45.17. Members and employees not to profit. No officer, member or employee of the trust shall receive or may be lawfully entitled to receive any pecuniary profit from the operation thereof except reasonable compensation for services in effecting one or more of its purposes set forth under this article.

§ 3. The sum of two hundred fifty thousand dollars ($250,000), is hereby appropriated to the New York state museum partnership trust established pursuant to section one of this act out of any moneys in the state treasury general fund to the credit of the board of such trust, not otherwise appropriated, and made immediately available, for the purpose of hiring an executive director of the New York state museum partnership trust. Such moneys shall be payable on the audit and warrant of the comptroller on vouchers certified or approved by the New York state museum partnership trust in the manner prescribed by law.

§ 4. This act shall take effect immediately.