

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:

1 Section 1. Legislative findings and intent. The legislature finds that
2 the New York state museum is a vital interest of the state, enabling us
3 to pass New York's past and present on to our children and our chil-
4 dren's children. The museum welcomes visitors to explore its rotating
5 and permanent exhibitions. The museum also offers educational program-
6 ming, including after-school programs that have benefited more than
7 4,000 students in the city of Albany. The museum is essential for educa-
8 tion, public programs, and generating tourism and economic activity.
9 Unfortunately, present conditions inhibit its ability to thrive and
10 serve New Yorkers to its fullest potential. Therefore, it is the purpose
11 of this act to support the museum's operations and align its oversight
12 structure with that of the other departments under the office of
13 cultural education at the state education department. Both the New York
14 state library and the New York state archives benefit from the support
15 of an affiliated trust that obtains non-state funding to supplement the
16 operations and programming of the library and archives, respectively. It
17 is time to bring the New York state museum in line with the other divi-
18 sions of the office of cultural education at the state education depart-
19 ment. To accomplish this, a New York state museum partnership trust is
20 created in order to: create an endowment to help collect and preserve
21 art, historical items, objects of material culture, natural history
22 specimens, and other objects that tell the story of the people who call
23 New York home; make possible special projects and inform the citizens of
24 New York about the exhibits and programs of the state museum; and work
25 in conjunction with the board of regents, the office of cultural educa-
26 tion at the state education department, the commissioner of education,
27 and the museum advisory council under the board of regents to advise and
28 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

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

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

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

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

35 § 45.07. Purpose and powers of trust. 1. The purpose of the trust
36 shall be to serve as a focal point for the receipt and administration of
37 private gifts, devises and bequests of real and personal property
38 donated to use the arts, history, and material culture to help New York-
39 ers and visitors understand the world in which we live, and to oversee
40 and support the state museum in conjunction with the board of regents,
41 the office of cultural education at the department of education, the
42 commissioner of education, and the museum advisory council under the
43 board of regents.

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

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

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

51 (c) Report to the governor and the legislature at least every three
52 years as to the activities of the trust including information pertaining
53 to fund raising, expenditures and projects undertaken and the sufficien-
54 cy of the principal to generate interest adequate to achieve the
55 purposes of the trust.

56 3. The trust shall have the power:

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

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

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

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

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

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

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

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

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

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

40 (k) To sue and be sued; and

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

43 § 45.09. Temporary assignment and transfer of employees. Whenever in
44 the opinion of the board it would be in the public interest, it may,
45 after prior approval of the director of the budget, request the tempo-
46 rary assignment and transfer of certain employees of any other board,
47 commission, agency or department of the state or its political subdivi-
48 sions, and such other board, commission, agency or department, if in its
49 opinion such transfer will not interfere with the performance of its
50 duties and functions may make such assignment and transfer of such
51 employees to the trust. Such assignment and transfer or extension there-
52 of shall not in any way affect the civil service status, continuity of
53 service, retirement plan status, right to compensation, grade or compen-
54 sation or other rights or privileges of any employee so transferred.

55 § 45.11. Authorized expenditures. The trust may make expenditures from
56 the trust fund, subject to availability of fund monies, provided such

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

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

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

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

14 4. Purchase of supplies and services and purchase or lease of equip-
15 ment needed for activities authorized by this article.

16 § 45.13. New York state museum partnership trust fund. 1. There is
17 hereby established in the custody of the trust a special fund to be
18 known as the "New York state museum partnership trust fund". The trust
19 shall establish the following three separate and distinct accounts with-
20 in the New York state museum partnership trust fund: the endowment
21 account, and the special project account, which shall each be in the
22 custody of the trust, and the operation and maintenance account, which
23 shall be in the joint custody of the state comptroller and the commis-
24 sioner of taxation and finance.

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

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

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

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

52 § 45.15. Creation of trust for a public purpose. It is hereby found,
53 determined and declared that the creation of the trust and the carrying
54 out of its corporate purposes is in all respects for the benefit of the
55 people of the state of New York, for the preservation and improvement of
56 the history, arts and cultural resources through the state museum, and

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

12 § 45.17. Members and employees not to profit. No officer, member or
13 employee of the trust shall receive or may be lawfully entitled to
14 receive any pecuniary profit from the operation thereof except reason-
15 able compensation for services in effecting one or more of its purposes
16 set forth under this article.

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

26 § 4. This act shall take effect immediately.