

# STATE OF NEW YORK

7915--A

## IN SENATE

January 3, 2024

Introduced by Sens. PARKER, BAILEY, JACKSON, KRUEGER, PERSAUD, SEPULVEDA, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public service law and the state finance law, in relation to state contracts being only with internet service providers compliant with net neutrality

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 "NYS Net  
2 Neutrality Protection Act".

3 § 2. Subdivision 1 of section 5 of the public service law is amended  
4 by adding a new paragraph j to read as follows:

5 j. To every broadband internet line which lies wholly within the state  
6 and that part within the state of New York of every broadband internet  
7 line which lies partly within and partly without the state and to the  
8 persons or corporations owning, leasing or operating any such broadband  
9 internet line.

10 § 3. Section 5 of the public service law is amended by adding a new  
11 subdivision 7 to read as follows:

12 7. The commission shall require any person engaged in the provision of  
13 broadband internet access service in New York state to report to the  
14 commission, and publicly disclose annually, accurate information regard-  
15 ing the network management practices, performance, and commercial terms  
16 of its broadband internet access services sufficient for consumers to  
17 make informed choices regarding use of such services and for content,  
18 application, service, and device providers to develop, market, and main-  
19 tain internet offerings.

20 § 4. Subdivision 1 of section 165 of the state finance law is amended  
21 by adding three new paragraphs f, g and h to read as follows:

22 f. A "net neutral source of internet services" shall mean an internet  
23 service provider who adheres to the principles of net neutrality.

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

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1 g. A "non-net neutral source of internet services" shall mean an  
2 internet service provider who violates any of the principles of net  
3 neutrality.

4 h. "The principles of net neutrality" shall mean the rules and regu-  
5 lations under the open internet report and order on remand, declaratory  
6 ruling, and order by the federal communications commission released  
7 March twelfth, two thousand fifteen, GN Docket No. 14-28.

8 § 5. Section 165 of the state finance law is amended by adding a new  
9 subdivision 9 to read as follows:

10 9. Prohibition on purchase of internet services from a non-net neutral  
11 source of internet services.

12 a. (i) With respect to contracts described in subparagraphs (ii) and  
13 (iii) of this paragraph, and in accordance with such subparagraphs, the  
14 state and any governmental agency or political subdivision or public  
15 benefit corporation or municipality of the state shall not contract for  
16 the supply of internet services with any contractor who does not agree  
17 to stipulate to the following, if there is another contractor who will  
18 contract to supply internet services of comparable quality at a compara-  
19 ble price or cost, the contractor and any individual or legal entity in  
20 which the contractor holds a ten percent or greater ownership interest  
21 and any individual or legal entity that holds a ten percent or greater  
22 ownership interest in the contractor shall make lawful steps in good  
23 faith to conduct any business operations as a net neutral source of  
24 internet services.

25 (ii) In the case of contracts let by a competitive process, whenever  
26 the responsive and responsible offerer having the lowest price or best  
27 value offer has not agreed to stipulate to the conditions set forth in  
28 this subdivision and another responsive and responsible offerer who has  
29 agreed to stipulate to such conditions has submitted an offer shall  
30 determine that the contract be awarded to the lowest price or best value  
31 offer for internet services from a net neutral source of internet  
32 services.

33 (iii) In the case of contracts let by other than a competitive process  
34 internet services involving an expenditure of an amount greater than the  
35 discretionary buying threshold as specified in section one hundred  
36 sixty-three of this article, the contracting entity shall not award to a  
37 proposed contractor who has not agreed to stipulate to the conditions  
38 set forth in this subdivision unless the entity seeking to use the  
39 internet services determines that the internet services are necessary  
40 for the entity to perform its functions and there is no other responsi-  
41 ble contractor who will supply internet services of comparable quality  
42 at a comparable price. Such determinations shall be made in writing and  
43 shall be public documents.

44 b. Upon receiving information that a contractor who has made the stip-  
45 ulation required by this subdivision is in violation thereof, the  
46 contracting entity shall review such information and offer the contrac-  
47 tor an opportunity to respond. If the contracting entity finds that a  
48 violation has occurred, it shall take such action as may be appropriate  
49 and provided for by law, rule or contract, including, but not limited  
50 to, imposing sanctions, seeking compliance, recovering damages or  
51 declaring the contractor in default.

52 c. As used in this subdivision, the term "contract" shall not include  
53 contracts with governmental and non-profit organizations, contracts  
54 awarded pursuant to emergency procurement procedures or contracts,  
55 resolutions, indentures, declarations of trust or other instruments  
56 authorizing or relating to the authorization, issuance, award, sale or

1 purchase of bonds, certificates of indebtedness, notes or other fiscal  
2 obligations, provided that the policies of this subdivision shall be  
3 considered when selecting a contractor to provide financial or legal  
4 advice, and when selecting managing underwriters in connection with such  
5 activities.

6 d. The provisions of this subdivision shall not apply to contracts for  
7 which the state or other contracting entity receives funds administered  
8 by the United States, except to the extent congress has directed to not  
9 withhold funds from states and localities that choose to implement  
10 selective purchasing policies based on an agreement to comply with the  
11 principles of net neutrality, or to the extent that such funds are not  
12 otherwise withheld by congress.

13 § 6. This act shall take effect immediately.