STATE OF NEW YORK

7998

2023-2024 Regular Sessions

IN ASSEMBLY

September 1, 2023

Introduced by M. of A. BICHOTTE HERMELYN -- read once and referred to the Committee on Ways and Means

AN ACT to amend the executive law, in relation to contingency planning by state agencies for extended federal government shutdowns

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

Section 1. Legislative intent. The legislature finds that:

a. Shutdowns of operations by federal agencies, once unthinkable events, are now occurring with increasing frequency and duration;

b. Such shutdowns may cause financial hardships in this state to federal employees, whether furloughed or required to report to work without pay, and to businesses and their employees involved in the provision of goods and services to federal agencies, and may also adversely impact New York's economy, environment, and the people and institutions in this state who rely on programs and services provided by the federal government;

c. In recent federal shutdowns New York state has properly taken several steps to mitigate adverse impacts, but has not undertaken other remedial actions that have been determined to be essential in similarly impacted states;

d. The use of short-term continuing resolutions has made the federal budget process unpredictable, yet unlike other states New York state currently has no formal planning process for evaluation and coordination of potential mitigation measures; and

e. Federal employees and contractors and the general public in this state would benefit from a systematic effort to develop informed contingency plans to ensure state agencies are prepared to initiate proactive measures to mitigate the impacts of an extended federal shutdown.

Therefore the legislature intends by this act to provide for a flexible and effective contingency planning effort to provide guidance and information to each appropriate state agency on the activities it should

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

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be prepared to undertake in the event of any future extended federal shutdown.

§ 2. The executive law is amended by adding a new section 94-d to read as follows:

§ 94-d. State agency contingency planning for extended federal shutdowns. 1. Definitions. As used in this section, the following terms shall have the following meanings:

a. "Federal shutdown" means a lapse in funding for one or more operations of the federal government due to the failure of the executive and congress to appropriate funding or to increase the federal debt limit;

b. "Extended federal shutdown" means a federal shutdown that continues for a period of two weeks or more;

c. "Federal shutdown contingency plan" means a document setting forth the measures that a state agency may take to mitigate the adverse impacts of an extended federal shutdown on employees and contractors of federal agencies and businesses or members of the public in this state;

d. "Secretary" means the secretary of state;

e. "Agency" means any state board, bureau, committee, commission, council, department, public authority, public benefit corporation, division, office or any other governmental entity performing a governmental or proprietary function for the state of New York, except the judiciary or the state legislature or any unit of local government and shall not include offices of district attorneys.

2. Federal shutdown contingency planning process. a. The secretary of state shall oversee the development of federal shutdown contingency plans by state agencies. The secretary shall solicit information from each state agency that operates programs that may be impacted by a federal shutdown or that may undertake efforts to mitigate the impact of an extended shutdown on employees and contractors of federal agencies and businesses or members of the public in this state. Such information shall be submitted by the agency in such form and manner as the secretary shall prescribe.

b. Each state agency shall respond to such solicitation by providing the secretary with a draft federal shutdown contingency plan, which shall include information as appropriate on:

(i) any programs or activities of the agency that may be impacted by a loss of ongoing federal funding;

(ii) any programs or activities of the agency that may be impacted by the cessation or substantial curtailment of federal activities that are not identified as excepted or exempted activities in the most recent shutdown contingency plan filed by a federal agency with the office of management and budget;

(iii) any programs identified in subparagraphs (i) or (ii) of this paragraph that could be impacted to the extent that the health, safety or economic well-being of the people of this state or the natural resources of the state could be substantially impaired;

(iv) any positions at the agency that are federally funded and the ability of the agency to pay such employees during the shutdown subject to future reimbursement;

(v) any actions that could be taken by the agency to mitigate the impacts of an extended federal shutdown, including any actions that could be taken by the agency or by entities under the jurisdiction of the agency that could mitigate any financial hardships on federal employees or by businesses impacted by the shutdown;

(vi) any actions that will be necessary to resume orderly operations upon cessation of the federal shutdown; and

(vii) any other information that the secretary or the agency determines is appropriate for inclusion in the plan.

c. After reviewing the information submitted by an agency, the secretary:

(i) shall determine that the submission is complete or shall solicit additional information from the agency to permit such a determination; and

(ii) upon receipt of a complete submission shall approve an agency's federal shutdown contingency plan, or shall identify any deficiencies precluding such approval and direct the agency to submit a revised plan that addresses such deficiencies.

d. The secretary shall issue guidance to agencies on the federal shutdown contingency planning process.

3. Before taking any action that may have a fiscal or budgetary implication the secretary shall consult with the director of the budget.

4. Each agency shall utilize its federal shutdown contingency plan to enable a rapid and effective response to any extended federal shutdown; provided, however, that no agency shall be required to undertake all actions or any specific action that has been identified in its plan.

5. Each agency shall review its federal shutdown contingency plan and submit updates to the secretary for approval as frequently as necessary, and upon request of the secretary shall conduct such a review and submit an updated plan or advise the secretary that no revision is necessary. Each agency shall maintain a copy of its current federal shutdown contingency plan on its website, and the secretary shall maintain a webpage on the department of state's website with information on the federal shutdown contingency planning process and a link to each agency's current plan.

§ 3. This act shall take effect immediately.