

# STATE OF NEW YORK

S. 4610--A

A. 6721--A

## SENATE - ASSEMBLY

March 31, 2015 ✓

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- 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

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend chapter 41 of the laws of 1985 relating to providing for the construction of a civic center in Albany and making appropriations relating to the construction of such facility, in relation to the repayment of such appropriation (Part A); to amend the economic development law, in relation to START-UP NY airport facilities (Part B); to amend the education law, in relation to transportation aid (Part C); to amend the administrative code of the city of New York, in relation to the taxation of business corporations (Part D); establishing a commission on legislative, judicial and executive compensation, and providing for the powers and duties of the commission and for the dissolution of the commission and repealing chapter 567 of the laws of 2010 relating to establishing a special commission on compensation, and providing for their powers and duties; and to provide periodic salary increases to state officers (Part E); to permit authorized state entities to utilize the design-build method for infrastructure projects; and providing for the repeal of such provisions upon expiration thereof (Part F); establishing the New York State water infrastructure improvement act of 2015 (Part G); to amend the state finance law, in relation to the creation of a new dedicated infrastructure investment fund (Part H); and to provide for the administration of certain funds and accounts related to the 2015-16 budget, authorizing certain payments and transfers; to amend the state finance law, in relation to the rainy day reserve fund and the school tax relief fund; to amend the state finance law, in relation to payments, transfers and deposits; to amend the state finance law, in relation to the issuance of bonds and notes; to amend the New York state urban development

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

LBD12578-02-5



corporation act, in relation to funding project costs for certain capital projects; to amend chapter 389 of the laws of 1997, relating to the financing of the correctional facilities improvement fund and the youth facility improvement fund, in relation to the issuance of bonds; to amend the private housing finance law, in relation to housing program bonds and notes; to amend chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, in relation to the issuance of bonds; to amend the public authorities law, in relation to the dormitory authority; to amend chapter 61 of the laws of 2005, providing for the administration of certain funds and accounts related to the 2005-2006 budget, in relation to issuance of bonds by the urban development corporation; to amend the New York state urban development corporation act, in relation to funding project costs for the Binghamton university school of pharmacy, New York power electronic manufacturing consortium and the nonprofit infrastructure capital investment program; to amend the public authorities law, in relation to the state environmental infrastructure projects; to amend the New York state urban development corporation act, in relation to authorizing the urban development corporation to issue bonds to fund project costs for the implementation of a NY-CUNY challenge grant program; to amend chapter 81 of the laws of 2002, providing for the administration of certain funds and accounts related to the 2002-2003 budget, in relation to increasing the aggregate amount of bonds to be issued by the New York state urban development corporation; to amend the public authorities law, in relation to financing of peace bridge and transportation capital projects; to amend the public authorities law, in relation to dormitories at certain educational institutions other than state operated institutions and statutory or contract colleges under the jurisdiction of the state university of New York; to amend the public authorities law, in relation to authorization for the issuance of bonds for the capital restructuring bond finance program and the health care facility transformation program; to amend chapter 389 of the laws of 1997, relating to the financing of the correctional facilities improvement fund and the youth facility improvement fund, in relation to the issuance of bonds; to amend the New York state medical care facilities finance agency act, in relation to bonds and mental health facilities improvement notes; to amend the New York state urban development corporation act, in relation to the aggregate amount of and issuance of certain bonds; and to amend chapter 63 of the laws of 2005, relating to the composition and responsibilities of the New York state higher education capital matching grant board, in relation to increasing the amount of authorized matching capital grants; to amend the New York state urban development corporation act, in relation to the issuance of bonds or notes for the purpose of funding project costs associated with capital projects; to amend the public authorities law, in relation to financing of the metropolitan transportation authority transportation facilities; and providing for the repeal of certain provisions upon expiration thereof (Part I); and to amend the public health law, in relation to establishing the health care facility transformation program in Kings and Oneida counties; in relation to establishing the essential health care provider support program; in relation to the capital restructuring financing program; and in relation to establishing the community health care revolving capital fund (Part J)



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

1 Section 1. This act enacts into law major components of legislation  
2 which are necessary to implement the state fiscal plan for the 2015-2016  
3 state fiscal year. Each component is wholly contained within a Part  
4 identified as Parts A through J. The effective date for each particular  
5 provision contained within such Part is set forth in the last section of  
6 such Part. Any provision in any section contained within a Part, includ-  
7 ing the effective date of the Part, which makes a reference to a section  
8 "of this act", when used in connection with that particular component,  
9 shall be deemed to mean and refer to the corresponding section of the  
10 Part in which it is found. Section three of this act sets forth the  
11 general effective date of this act.

12 PART A

13 Section 1. Section 20 of chapter 41 of the laws of 1985 relating to  
14 providing for the construction of a civic center in Albany and making  
15 appropriations relating to the construction of such facility, is amended  
16 to read as follows:

17 § 20. The state comptroller is hereby authorized to receive from the  
18 county, repayment of money disbursed from this appropriation and any  
19 income or increment related thereto due to the investment thereof, and  
20 to deposit the same to the credit of the capital projects fund;  
21 provided, however that any and all moneys received by the state comp-  
22 troller from the county of Albany on or before April 30, 2015, shall be  
23 deemed to be full repayment of the money disbursed from the appropri-  
24 ation made in section eleven of this act and any income or increment  
25 related thereto due to the investment thereof.

26 § 2. This act shall take effect immediately.

27 PART B

28 Section 1. Section 431 of the economic development law is amended by  
29 adding a new subdivision 15 to read as follows:

30 15. "START-UP NY airport facility" means vacant land or space owned by  
31 the state of New York on the premises of Stewart Airport or Republic  
32 Airport.

33 § 2. Subdivision 4 of section 435 of the economic development law, as  
34 amended by section 2 of part BB of chapter 55 of the laws of 2014, is  
35 amended to read as follows:

36 4. The START-UP NY approval board, by majority vote, shall designate  
37 correctional facilities described in subdivision fourteen of section  
38 four hundred thirty-one of this article, START-UP NY airport facilities  
39 described in subdivision fifteen of section four hundred thirty-one of  
40 this article and up to twenty strategic state assets as tax-free NY  
41 areas. Each shall be affiliated with a state university campus, city  
42 university campus, community college, or private college or university  
43 and such designation shall require the support of the affiliated campus,  
44 college or university. Each strategic state asset and START-UP NY  
45 airport facility, other than a correctional facility, may not exceed a  
46 maximum of two hundred thousand square feet of vacant land or vacant  
47 building space designated as a tax-free NY area. Designation of strate-  
48 gic state assets [and], correctional facilities described in subdivision  
49 fourteen of section four hundred thirty-one of this article, and START-



1

## PART E

2 Section 1. Chapter 567 of the laws of 2010 relating to establishing a  
3 special commission on compensation, and providing for their powers and  
4 duties; and to provide periodic salary increases to state officers is  
5 REPEALED.

6 § 2. 1. On the first of June of every fourth year, commencing June 1,  
7 2015, there shall be established a commission on legislative, judicial  
8 and executive compensation to examine, evaluate and make recommendations  
9 with respect to adequate levels of compensation and non-salary benefits  
10 for members of the legislature, judges and justices of the state-paid  
11 courts of the unified court system, statewide elected officials, and  
12 those state officers referred to in section 169 of the executive law.

13 2. (a) In accordance with the provisions of this section, the commis-  
14 sion shall examine: (1) the prevailing adequacy of pay levels and other  
15 non-salary benefits received by members of the legislature, statewide  
16 elected officials, and those state officers referred to in section 169  
17 of the executive law; and

18 (2) the prevailing adequacy of pay levels and non-salary benefits  
19 received by the judges and justices of the state-paid courts of the  
20 unified court system and housing judges of the civil court of the city  
21 of New York and determine whether any of such pay levels warrant adjust-  
22 ment; and

23 (b) The commission shall determine whether: (1) for any of the four  
24 years commencing on the first of April of such years, following the year  
25 in which the commission is established, the annual salaries for the  
26 judges and justices of the state-paid courts of the unified court system  
27 and housing judges of the civil court of the city of New York warrant an  
28 increase; and

29 (2) on the first of January after the November general election at  
30 which members of the state legislature are elected following the year in  
31 which the commission is established, and on the first of January follow-  
32 ing the next such election, the like annual salaries and allowances of  
33 members of the legislature, and salaries of statewide elected officials  
34 and state officers referred to in section 169 of the executive law  
35 warrant an increase.

36 3. In discharging its responsibilities under subdivision two of this  
37 section, the commission shall take into account all appropriate factors  
38 including, but not limited to: the overall economic climate; rates of  
39 inflation; changes in public-sector spending; the levels of compensation  
40 and non-salary benefits received by executive branch officials and  
41 legislators of other states and of the federal government; the levels of  
42 compensation and non-salary benefits received by professionals in  
43 government, academia and private and nonprofit enterprise; and the  
44 state's ability to fund increases in compensation and non-salary bene-  
45 fits.

46 § 3. 1. The commission shall consist of seven members to be appointed  
47 as follows: three shall be appointed by the governor; one shall be  
48 appointed by the temporary president of the senate; one shall be  
49 appointed by the speaker of the assembly; and two shall be appointed by  
50 the chief judge of the state, one of whom shall serve as chair of the  
51 commission. With regard to any matters regarding legislative or execu-  
52 tive compensation, the chair shall preside but not vote. Vacancies in  
53 the commission shall be filled in the same manner as original appoint-  
54 ments. To the extent practicable, members of the commission shall have



1 experience in one or more of the following: determination of executive  
2 compensation, human resource administration or financial management.

3 2. The commission shall only meet within the state, may hold public  
4 hearings, at least one of which shall be open for the public to provide  
5 comments and shall have all the powers of a legislative committee pursu-  
6 ant to the legislative law. It shall be governed by articles 6, 6-A and  
7 7 of the public officers law.

8 3. The members of the commission shall receive no compensation for  
9 their services but shall be allowed their actual and necessary expenses  
10 incurred in the performance of their duties hereunder.

11 4. No member of the commission shall be disqualified from holding any  
12 other public office or employment, nor shall he or she forfeit any such  
13 office or employment by reason of his or her appointment pursuant to  
14 this section, notwithstanding the provisions of any general, special or  
15 local law, regulation, ordinance or city charter.

16 5. To the maximum extent feasible, the commission shall be entitled to  
17 request and receive and shall utilize and be provided with such facili-  
18 ties, resources and data of any court, department, division, board,  
19 bureau, commission, agency or public authority of the state or any poli-  
20 tical subdivision thereof as it may reasonably request to carry out  
21 properly its powers and duties pursuant to this section.

22 6. The commission may request, and shall receive, reasonable assist-  
23 ance from state agency personnel as necessary for the performance of its  
24 function.

25 7. The commission shall make a report to the governor, the legisla-  
26 ture and the chief judge of the state of its findings, conclusions,  
27 determinations and recommendations, if any, not later than the thirty-  
28 first of December of the year in which the commission is established for  
29 judicial compensation and the fifteenth of November the following year  
30 for legislative and executive compensation. Any findings, conclusions,  
31 determinations and recommendations in the report must be adopted by a  
32 majority vote of the commission and findings, conclusions, determi-  
33 nations and recommendations with respect to executive and legislative  
34 compensation shall also be supported by at least one member appointed by  
35 each appointing authority. Each recommendation made to implement a  
36 determination pursuant to section two of this act shall have the force  
37 of law, and shall supersede, where appropriate, inconsistent provisions  
38 of article 7-B of the judiciary law, section 169 of the executive law,  
39 and sections 5 and 5-a of the legislative law, unless modified or abro-  
40 gated by statute prior to April first of the year as to which such  
41 determination applies to judicial compensation and January first of the  
42 year as to which such determination applies to legislative and executive  
43 compensation.

44 8. Upon the making of its report as provided in subdivision seven of  
45 this section, each commission established pursuant to this section shall  
46 be deemed dissolved.

47 § 4. Date of entitlement to salary increase. Notwithstanding the  
48 provisions of this act or of any other law, each increase in salary or  
49 compensation of any officer or employee provided by this act shall be  
50 added to the salary or compensation of such officer or employee at the  
51 beginning of that payroll period the first day of which is nearest to  
52 the effective date of such increase as provided in this act, or at the  
53 beginning of the earlier of two payroll periods the first days of which  
54 are nearest but equally near to the effective date of such increase as  
55 provided in this act; provided, however, the payment of such salary  
56 increase pursuant to this section on a date prior thereto instead of on



1 such effective date, shall not operate to confer any additional salary  
2 rights or benefits on such officer or employee. The annual salaries as  
3 prescribed pursuant to this act whenever adjusted pursuant to the  
4 provisions of this act, shall be rounded up to the nearest multiple of  
5 one hundred dollars.

6 § 5. This act shall take effect immediately and shall be deemed to  
7 have been in full force and effect on and after April 1, 2015.

8

## PART F

9 Section 1. This act shall be known and may be cited as the "Infras-  
10 tructure investment act".

11 § 2. For the purposes of this act:

12 (a) "authorized state entity" shall mean the New York state thruway  
13 authority, the department of transportation, the office of parks, recre-  
14 ation and historic preservation, the department of environmental conser-  
15 vation and the New York state bridge authority.

16 (b) "best value" shall mean the basis for awarding contracts for  
17 services to the offerer that optimize quality, cost and efficiency,  
18 price and performance criteria, which may include, but is not limited  
19 to:

- 20 1. The quality of the contractor's performance on previous projects;
- 21 2. The timeliness of the contractor's performance on previous  
22 projects;
- 23 3. The level of customer satisfaction with the contractor's perform-  
24 ance on previous projects;
- 25 4. The contractor's record of performing previous projects on budget  
26 and ability to minimize cost overruns;
- 27 5. The contractor's ability to limit change orders;
- 28 6. The contractor's ability to prepare appropriate project plans;
- 29 7. The contractor's technical capacities;
- 30 8. The individual qualifications of the contractor's key personnel;
- 31 9. The contractor's ability to assess and manage risk and minimize  
32 risk impact; and
- 33 10. The contractor's past record of compliance with article 15-A of  
34 the executive law.

35 Such basis shall reflect, wherever possible, objective and quantifi-  
36 able analysis.

37 (c) "capital project" shall have the same meaning as such term is  
38 defined by subdivision 2-a of section 2 of the state finance law.

39 (d) "cost plus" shall mean compensating a contractor for the cost to  
40 complete a contract by reimbursing actual costs for labor, equipment and  
41 materials plus an additional amount for overhead and profit.

42 (e) "design-build contract" shall mean a contract for the design and  
43 construction of a capital project with a single entity, which may be a  
44 team comprised of separate entities.

45 (f) "procurement record" means documentation of the decisions made and  
46 the approach taken in the procurement process.

47 § 3. Notwithstanding the provisions of section 38 of the highway law,  
48 section 136-a of the state finance law, section 359 of the public  
49 authorities law, section 7210 of the education law, and the provisions  
50 of any other law to the contrary, and in conformity with the require-  
51 ments of this act, an authorized state entity may utilize the alterna-  
52 tive delivery method referred to as design-build contracts, in consulta-  
53 tion with relevant local labor organizations and construction industry,  
54 for capital projects related to the state's physical infrastructure,