

LAWS OF NEW YORK, 1976
CHAPTER 508

AN ACT to amend chapter fifty-one of the laws of nineteen hundred seventy-six, entitled "An Act making appropriations for the support of government LEGISLATURE AND JUDICIARY BUDGET", in relation to appropriations to the senate and assembly; and to amend the legislative law, in relation to the payment of allowances to members serving as an officer of either house of the legislature or in a special capacity

Became a law July 9, 1976, with the approval of the Governor. Passed on message of necessity pursuant to Article III, section 14 of the Constitution by a majority vote, three-fifths being present.

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

Section 1. The legislature hereby finds and declares that in nineteen hundred forty-seven the people of this state approved an amendment to section six of article three of the constitution authorizing the payment of allowances to legislators over and above the salary fixed by law for such officers. These payments have been made without interruption or judicial restraint from nineteen hundred forty-seven until nineteen hundred seventy-five. On June seventeenth, nineteen hundred seventy-six, the court of appeals unanimously upheld the constitutionality of these payments and noted that: "In face of the continuous practice—both before and after enactment of Section 3—of providing allowances by budgetary appropriation alone, and deferring to the legislative choice of method by which its authority shall be exercised, we recognize allowances so provided as "fixed by law" for the purpose of applying Section 6."

Thus, the court recognized the fact that though these payments were not fixed by general law, the budgetary legislation containing the allowances passed each year was by legislative practice a fixing by law. The court stated that: "The fact that the appropriations are annual only and that they may have been paid in full before the end of the year in which they were adopted and thus have been exhausted as a predicate for a claim against public funds, does not diminish their status as allowances "fixed by law"."

Another factor considered by the court was the uniform practice of the legislature, at the opening of each term, to create officers and committees of each house. In this, the court gave cognizance to the fundamental principle of our system of government that there are three separate and distinct, yet co-equal, branches of government, the executive, the legislature and the judiciary. As the court stated "that determinations as to identity of officers benefited is a legislative prerogative, exercised by that body "in the discharge of its own functions and peculiar duties" and should normally be free from interference by other branches of government".

The fixing of allowance for the particular and additional services contemplated by the constitution, in light of the recent court of appeals decision, clearly is the concern of the legislature and part of the internal organization of such body. However, the June seventeenth decision did place a limitation on the legislature to the extent that certain individual allowances for particular and additional services fixed for certain officers in nineteen hundred seventy-five exceeded the allowances allocated to the same offices in nineteen hundred seventy-four, or represented allowances to officers not included in the nineteen hundred seventy-four budgetary legislation. Within such limitations, the legislature may now fix allowances for nineteen hundred seventy-six at the same level as fixed in nineteen hundred seventy-four and may allocate thereto the allowances con-

EXPLANATION—Matter in *italics* is new; matter in brackets () is old law to be omitted.

tained in the nineteen hundred seventy-four budgetary legislation.

Accordingly, the legislature hereby exercises its constitutional powers, pursuant to section six of article three, and by the enactment of sections two and three of this chapter of the laws of nineteen hundred seventy-six, makes provisions for the payment of allowances for the year nineteen hundred seventy-six.

§ 2. The following provisions are hereby added after that part of section one entitled "THE SENATE—PERSONAL SERVICE" of chapter fifty-one of the laws of nineteen hundred seventy-six, entitled "AN ACT making appropriations for the support of government LEGISLATURE AND JUDICIARY BUDGET", to read as follows:

For payment of allowances to members designated by the Temporary President for particular and additional services as an officer of the house or in any other special capacity therein or directly connected therewith, pursuant to the schedule of such allowances set forth in Chapter 892 of the Laws of 1974 . . . 320,000

§ 3. The following provisions are hereby added after that part of such section entitled "THE ASSEMBLY—PERSONAL SERVICE" of such chapter to read as follows:

For payment of allowances to members designated by the Speaker for particular and additional services as an officer of the house or in any other special capacity therein or directly connected therewith, pursuant to the schedule of such allowances set forth in Chapter 892 of the Laws of 1974 . . . 472,000

§ 4. The legislative law is hereby amended by adding thereto a new section, to be section five-a, to read as follows:

§ 5-a. Allowances for members serving as an officer of either house of the legislature or in a special capacity therein. 1. Any member of either house of the legislature serving as an officer of his house or in any other special capacity therein shall be paid an allowance in accordance with the following schedule:

SCHEDULE

SENATE OFFICERS

Temporary president of the senate	\$1,000
Deputy majority leader of the senate	18,000
Minority leader of the senate	18,000
Deputy minority leader of the senate	9,500
Chairman of the senate majority conference	14,000
Chairman of the senate minority conference	7,500
Secretary of the senate majority conference	5,000
Secretary of the senate minority conference or policy committee	3,500

SENATORS SERVING IN SPECIAL CAPACITY

Chairman of senate finance committee	18,000
Ranking minority member of senate finance committee	8,500
Chairman of senate judiciary committee	8,000
Ranking minority member of senate judiciary committee	5,000
Chairman of senate codes committee	9,000
Ranking minority member of senate codes committee	5,000
Chairman of senate banks committee	7,000
Ranking minority member of senate banks committee	4,000
Chairman of senate education committee	7,000
Ranking minority member of senate education committee	4,000
Chairman of senate health committee	7,000
Ranking minority member of senate health committee	4,000
Chairman of senate local government committee	5,000

Ranking minority member of senate local government committee	3,500
Chairman of senate labor committee	5,000
Ranking minority member of senate labor committee	3,500
Chairman of senate mental hygiene and addiction control committee	5,000
Ranking minority member of senate mental hygiene and addiction control committee	3,500
Chairman of senate insurance committee	5,000
Ranking minority member of senate insurance committee	3,500
Chairman of senate social services committee	5,000
Ranking minority member of senate social services committee	3,500
Chairman of senate tax committee	5,000
Ranking minority member of senate tax committee	3,500
Chairman of senate corporations, authorities and public utilities committee	5,000
Ranking minority member of senate corporations, authorities and public utilities committee	3,500
Chairman of senate transportation committee	5,000
Ranking minority member of senate transportation committee	3,500
Chairman of senate agriculture committee	5,000
Ranking minority member of senate agriculture committee	3,500
Chairman of senate consumer protection committee	5,000
Ranking minority member of senate consumer protection committee	3,500
Chairman of senate cities committee	7,000
Ranking minority member of senate cities committee	4,000
Chairman of senate civil service and pensions committee	5,000
Ranking minority member of senate civil service and pensions committee	3,500
Chairman of senate commerce and economic development committee	5,000
Ranking minority member of senate commerce and economic development committee	3,500
Chairman of senate conservation and recreation committee	5,000
Ranking minority member of senate conservation and recreation committee	3,500
Chairman of senate crime and correction committee	5,000
Ranking minority member of senate crime and correction committee	3,500
Chairman of senate elections committee	5,000
Ranking minority member of senate elections committee	3,500
Chairman of senate higher education committee	5,000
Ranking minority member of senate higher education committee	3,500
Chairman of senate housing and urban development committee	5,000
Ranking minority member of senate housing and urban development committee	3,500

ASSEMBLY OFFICERS

Speaker of the assembly	21,000
Majority leader of the assembly	18,500
Minority leader of the assembly	18,500
Speaker pro tempore of the assembly	14,000
Chairman of the committee on standing committees	14,000
Ranking minority member of the committee on standing committees	10,000
Deputy majority leader of the assembly	10,000
Deputy minority leader of the assembly	10,000
Assistant majority leader of the assembly	10,000
Assistant minority leader of the assembly	10,000
Majority whip of the assembly	8,000
Minority whip of the assembly	8,000
Chairman of the assembly majority conference	8,000
Chairman of the assembly minority conference	8,000
Vice chairman of the assembly majority conference	4,000
Vice chairman of the assembly minority conference	4,000

ASSEMBLYMEN SERVING IN SPECIAL CAPACITY

Chairman of assembly ways and means committee	18,000
Ranking minority member of assembly ways and means committee	9,500
Chairman of assembly judiciary committee	9,000
Ranking minority member of assembly judiciary committee	5,000
Chairman of assembly codes committee	9,000
Ranking minority member of assembly codes committee	5,000
Chairman of assembly banks committee	7,000
Ranking minority member of assembly banks committee	4,000
Chairman of assembly committee on cities	7,000
Ranking minority member of assembly committee on cities	4,000
Chairman of assembly education committee	7,000
Ranking minority member of assembly education committee	4,000
Chairman of assembly health committee	7,000
Ranking minority member of assembly health committee	4,000
Chairman of assembly local governments committee	7,000
Ranking minority member of assembly local governments committee	4,000
Chairman of assembly agriculture committee	5,000
Ranking minority member of assembly agriculture committee	3,500
Chairman of assembly commerce, industry and economic development committee	5,000
Ranking minority member of assembly commerce, industry and economic development committee	3,500
Chairman of assembly environmental conservation committee	5,000
Ranking minority member of assembly environmental conservation committee	3,500
Chairman of assembly corporations, authorities and commissions committee	5,000
Ranking minority member of assembly corporations, authorities, and commissions committee	3,500
Chairman of assembly ethics and guidance committee	5,000
Ranking minority member of assembly ethics and guidance committee	3,500
Chairman of assembly governmental employees committee	5,000
Ranking minority member of assembly governmental employees committee	3,500
Chairman of assembly governmental operations committee	5,000
Ranking minority member of assembly governmental operations committee	3,500
Chairman of assembly housing committee	5,000
Ranking minority member of assembly housing committee	3,500
Chairman of assembly insurance committee	5,000
Ranking minority member of assembly insurance committee	3,500
Chairman of assembly labor committee	6,000
Ranking minority member of assembly labor committee	3,500
Chairman of assembly social services committee	5,000
Ranking minority member of assembly social services committee	3,500
Chairman of assembly transportation committee	5,000
Ranking minority member of assembly transportation committee	3,500
Chairman of assembly aging committee	5,000
Ranking minority member of assembly aging committee	3,500
Chairman of assembly mental health committee	5,000
Ranking minority member of assembly mental health committee	3,500
Chairman of assembly higher education committee	5,000
Ranking minority member of assembly higher education committee	3,500
Chairman of assembly real property taxation committee	5,000
Ranking minority member of assembly real property taxation committee	3,500
Chairman of assembly election law committee	5,000
Ranking minority member of assembly election law committee	3,500
Chairman of assembly child care committee	5,000

Ranking minority member of assembly child care committee 3,500
Chairman of assembly consumer protection committee 5,000
Ranking minority member of assembly consumer protection committee 3,500

2. Such allowances shall be paid at such time or times as the temporary president of the senate or speaker of the assembly shall direct for their respective houses.

§ 5. If any clause, sentence, paragraph, section or part of this act or any list or lists of allowances to a designated member or members pursuant to sections two and three hereof shall be adjudged by any court of competent jurisdiction, to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this act or any list or lists of allowances to a designated member or members pursuant to sections two and three hereof directly involved in the controversy in which such judgment shall have been rendered.

§ 6. This act shall take effect immediately, except that sections two and three hereof shall be retroactive to and deemed to be in full force and effect for the calendar year commencing after December thirty-first, nineteen hundred seventy-five and section four hereof shall take effect January first, nineteen hundred seventy-seven

The Legislature of the }
 STATE OF NEW YORK } ss:

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction, and, in accordance with such section is entitled to be read into evidence.

WARREN M. ANDERSON
Temporary President of the Senate

STANLEY STEINGUT
Speaker of the Assembly

● SENATE

Introduced by:

ASSEMBLY

No.

Committee on Rules

No. 13110

Law: Chapter 51 of the Laws of 1976 Sections:
Legislative Law

Division of the Budget recommendation on the above bill:

Approve: Veto: No Objection: No Recommendation:

1. Subject and Purpose: To amend the 1976-77 appropriation for the Legislature by providing for the payment of allowances to members who serve as officers in either house of the Legislature or in some other special capacity.
2. Summary of provisions: This bill amends the appropriations for both houses of the Legislature by adding \$329,000 for the Senate and \$472,000 for the Assembly for the payment of special allowances.
3. Legislative history: In past years the special allowances were included in the Supplemental Budget Bill as a deficiency appropriation.
4. Arguments in support: In 1947, a Constitutional Amendment to Section 6, Article 3 was approved authorizing the payment of allowances for extra services performed by legislators in addition to the salaries fixed by law. On June 17, 1976, the State Court of Appeals upheld the constitutionality of these allowances. Therefore, it is the Legislature's prerogative to include the allowances in its personal service schedule.

It may be argued that legislators who devote time to work on legislative committees and undertake other special assignments should be compensated beyond the salary provided for routine legislative duties.

5. Possible objections: It has been argued in correspondence to the Governor from the general public that members of the Legislature are adequately compensated for the quality and quantity of work performed without receiving special allowances. During the past two years the Division of the Budget has responded to several hundred pieces of correspondence, all of which have criticized the practice of issuing special allowances.

The total of the Senate schedule in Section 4 of this bill (\$340,500) exceeds the amount appropriated in Section 2 (\$329,000). Therefore, the appropriation is not sufficient.

Also, the amount appropriated for the Assembly in Section 2 of this bill (\$472,000) does not equal the schedule total of \$451,000 for the Assembly. This does not present a problem since sufficient appropriations are available.

Date: _____ Examiner: _____

Disposition:

Chapter No.

Veto No.

The June 17, 1976 Court of Appeals decision ruled that the allowances could not exceed those allocated in 1974. There is some question whether this ruling referred to the amount of the total allowances, or the allocated amount for individual offices. The total appropriation made by this bill does not exceed the amount appropriated in 1974-75 for the special allowances; however, amounts for individual offices do vary from 1974-75 levels.

6. Other State agencies interested: State Court of Appeals.
7. Other interested groups: New York Public Interest Research Group.
8. Budget implications: This bill would increase the Legislature's 1976-77 budget by \$801,000.

As mentioned in item 5 of this memorandum, the personal service schedules should coincide with the appropriated amount. In the case of the Senate, since the personal service schedule exceeds the appropriation, all of the special allowances cannot be paid.

9. Recommendation: Since the Court of Appeals has upheld the constitutionality of the issuance of these allowances, we recommend that this bill be approved. We have no comment on the need for these allowances.

As noted in item 5 of this memorandum, there is some question as to whether or not the June 17, 1976 Court of Appeals decision permits a variation from the 1974-75 amount for individual offices. We recommend that counsel review this question.

"no objection"



Date: _____ Examiner: _____

Disposition: _____ Chapter No. _____ Veto No. _____

STATE OF NEW YORK

The Legislature

ALBANY

June 26, 1976

Honorabel Arthur Levitt
Comptroller
State of New York
Albany, New York 12235

Honorable Louis J. Lefkowitz
Attorney General
State of New York
Albany, New York 12224

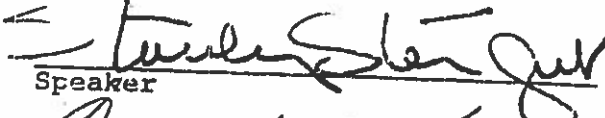
Dear Comptroller Levitt and General Lefkowitz:

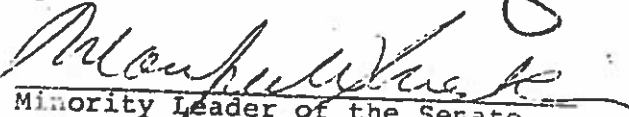
Enclosed please find copies of Senate Int. No. 10750, and Assembly Int. No. 13110. This uni-bill provides for the payment of allowances to members of the Legislature serving as an officer of their house or in a special capacity for the year 1976. The amount of such allowances proposed for the year 1976 is based on those authorized by Chapter 992 of the Laws of 1974, in conformity with the opinion of the Court of Appeals in PIRG v. Steingut, et al. This bill also amends the Legislative Law to provide a new Section 5-A which sets forth a schedule for allowances for members of the Legislature serving as an officer of their house or in a special capacity for years subsequent to 1976 on a permanent basis.


Because of the recent Court decision we would appreciate your advice as to the legality of this proposed Chapter of the Laws of 1976.

Sincerely,


Temporary President


Speaker


Minority Leader of the Senate


Minority Leader of the Assembly

Enclosures

MEMORANDUM

TO: Honorable Warren M. Anderson,
Majority Leader of the Senate

June 26, 1976

Honorable Stanley S. Steingut,
Speaker of the Assembly

Honorable Manford Ohrenstein,
Minority Leader of the Senate

Honorable Perry B. Duryea,
Minority Leader of the Assembly

FROM: Arthur Levitt, Comptroller and
Louis J. Lefkowitz, Attorney General

In response to your request of June 26, 1976, the undersigned representatives of the State Comptroller and the Attorney General have examined Senate Bill No. 10750 and Assembly Bill No. 13110, submitted with your request and attached hereto, relating to the payment of allowances to members serving as an officer of either House of the Legislature or in a special capacity with respect to its legality only.

The respective Departments of Law and Audit and Control are in agreement that the language of Section 2 and Section 3 of the above-numbered bill, insofar as they provide a lump sum appropriation equivalent to and not more than appropriated for identical purposes in Chapter 992 of the Laws of 1974 and, insofar as payment thereunder is made pursuant to the schedule of such allowances set forth in Chapter 992 of the Laws of 1974, appears to comply with the recent decision of the Court of Appeals as to allowances. However, obviously we can not at this time pass upon the legality of any specific allowance to a particular member inasmuch as no such allocation has yet been made.

There is no apparent legal impediment to the enactment of Section 4 of the bill which applies prospectively only to future legislatures in the manner required by such Court of Appeals' decision.

DEPARTMENT OF AUDIT AND CONTROL

BY: 

THEODORE SPATZ
Counsel

DEPARTMENT OF LAW

BY: 

DONALD HIRSHORN
Assistant Attorney General