



State of New York

Executive Chamber

No. 11

E X E C U T I V E O R D E R

ESTABLISHING A COMMISSION TO UNDERTAKE A STATE ASSET ANALYSIS AND RECOMMEND STANDARDS AND LEGISLATION TO MAXIMIZE THE VALUE AND USE OF SUCH ASSETS

WHEREAS, alliances with the private sector can potentially increase value to both public property and services by combining private sector efficiencies with appropriate government oversight;

WHEREAS, the State has critical physical and non-physical assets, including an extensive, aging transportation infrastructure, which could be repaired, maintained, replaced, enhanced or financed through alliances with the private sector;

WHEREAS, the State must develop an infrastructure investment plan over the next ten years to ensure the safety and integrity of our existing assets;

WHEREAS, strengthening the means by which the State finances and delivers infrastructure projects will make the most of limited resources during this climate of constrained funding.

WHEREAS, the State operates valuable assets and services that could be maximized to better serve long term State needs;

WHEREAS, a recommendation should be made to the Legislature and the Governor regarding specific State assets that could be maximized through an alliance with the private sector;

WHEREAS, recommended standards must be developed for potential alliances with the private sector to ensure the greatest benefit to the State and to protect State workers and the environment;

WHEREAS, an appropriate procurement process should be recommended to the Legislature and the Governor should the State enter into an alliance with the private sector to maximize State assets.

NOW, THEREFORE, I, David A. Paterson, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the laws of the State of New York, including section six of the Executive Law, do hereby establish the New York State Commission on State Asset Maximization, and order as follows:

A. Definitions

1. "State agency" or "agency" shall mean any State agency, department, office, board, commission or other instrumentality of the State, other than a public authority.

2. "Public authority" or "authority" shall mean a public authority or public benefit corporation created by or existing under any State law, with one or more of its members appointed by the Governor or who serve as members by virtue of holding a civil office of the State, other than an interstate or international authority or public benefit corporation, including any subsidiaries of such public authority or public benefit corporation.

3. "Asset maximization" means an arrangement between the State and one or more public or private entities that relates to the development, financing, maintenance, securitization, monetization or operation of a State asset.

4. "State asset" means any infrastructure, property, real property, intellectual property, facility, revenue, payment or service owned or provided by a State agency, public authority or public benefit corporation.

5. "User fees" means rates, tolls, fares, rentals, fees, or other charges imposed for or associated with the use or operation of all or a portion of a State asset.

B. New York State Commission on State Asset Maximization

1. There is hereby established the New York State Commission on State Asset Maximization ("Commission").

2. The Commission shall be comprised of eleven members to be appointed by the Governor: one on the recommendation of the Majority Leader of the Senate, one on the recommendation of the Speaker of the Assembly, one on the recommendation of the New York State Comptroller, one on the recommendation of the New York State Attorney General, one on the recommendation of organized labor and seven without prior recommendation, one of whom shall be selected by the Governor to be the Chair.

3. A majority of the appointed members of the Commission shall constitute a quorum, and all recommendations of the Commission shall require approval of a majority of the members of the Commission. Members of the Commission shall serve without compensation, but shall be reimbursed for all actual and necessary expenses incurred in the performance of their duties. No member of the Commission shall be disqualified from holding any public office or employment, nor shall he or she forfeit any such office or employment by virtue of his or her appointment hereunder.

4. The Governor shall appoint an Executive Director and staff to render assistance to the Commission. The Executive Director and staff shall be selected from one of the following agencies or State Authorities each of whom shall offer assistance to the Commission: the Departments of Economic Development, Transportation, Taxation and Finance, and Civil Service as well as the Urban Development Corporation and the Division of the Budget. Every State Agency and State Authority shall cooperate with the Commission.

5. The Chair of the Commission shall establish any number of advisory committees consisting of interested individuals and entities, including but not limited to civic groups, industry representatives and local governments.

C. Duties and Purpose

1. The Commission's review shall include an examination of State assets appropriate for asset maximization, including but not limited to:

- (i) transportation assets;
- (ii) the State lottery; and
- (iii) real property, intellectual property, recreational facilities, revenues and other State assets as the Commission deems appropriate.

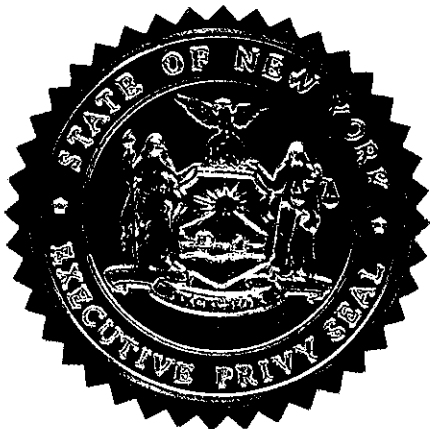
2. The Commission shall accept ideas for asset maximization from private and public entities, not-for-profit institutions, research and academic institutions and the public.

D. Reporting

1. The Commission shall make recommendations to the Governor, the Legislature, agencies and State authorities regarding asset maximization, including:

- (i) procurement process and timeline for selecting a financial advisor to assist in the selection of investment and other professionals necessary for asset maximization;
- (ii) procurement process and timeline for selecting underwriters for asset maximization, including appropriate participation by Minority and Women-Owned Business investment banks;
- (iii) the ability to use tax exempt financing;
- (iv) use of proceeds;
- (v) performance standards;
- (vi) regulation of user fees;
- (vii) protection of public employees;
- (viii) prevailing wage and other labor standards;
- (ix) non-compete clauses;
- (x) proposed timeline for legislative approval;
- (xi) providing a means by which the Executive can engage in asset maximization; and
- (xii) other factors as the Commission deems appropriate.

2. No later than 90 days after the issuance of this Order, the Commission shall transmit a Preliminary Report to the Legislature and the Governor containing recommendations of State assets suitable for asset maximization through private alliances. No later than 180 days after the issuance of this Order, the Commission shall transmit to the Legislature and the Governor a Final Report containing its recommendation of standards and proposed legislation that may be required to implement asset maximization.



BY THE GOVERNOR

Secretary to the Governor

G I V E N under my hand and the Privy
Seal of the State in the
City of Albany this second
day of October in the year
two thousand eight.

David A. Paterson