

NEW YORK CONSTITUTION, ART. IV, § 7; ART. VII, § 4 – LAWS OF
1978, CH. 13 – Governor's power to veto items in deficiency budget.

Governor's veto of lines 42 through 51, inclusive, of Assembly Bill 9381-A included the entire item added by the Legislature to the Budget Bill as submitted by the Governor and was, thus, within the veto power of the Governor pursuant to Article IV, § 7 of the State Constitution.

This is in reply to your letter of March 20 requesting an opinion as to whether the Governor's action with respect to Assembly Bill Number 9381-A in striking lines 42 through 51 on page 6 of the bill when signing it into law violated the New York State Constitution.

The deficiency budget bill as submitted by the Governor to the Legislature (Assembly 9381) contained no appropriation for the Commerce Department. The appropriation vetoed by the Governor was added in its entirety to the bill by the Legislature.

Pursuant to Article VII, § 4 of the New York State Constitution, the Legislature may not alter an appropriation bill submitted by the Governor except to strike out or reduce items therein or by adding thereto items of appropriation. Such items added by the Legislature shall be subject to approval by the Governor as provided in Article IV, § 7 of the New York State Constitution.

Lines 42 through 51, inclusive, of Assembly Bill Number 9381-A contain the entire item added by the Legislature to the Budget Bill as submitted by the Governor. As such, this item was properly subject to a line item veto by the Governor pursuant to Article IV, § 7 of the New York State Constitution.

Recognizing that the dollar amount of the appropriation is the same as that passed by the Legislature in the 1977 main budget (L. 1977, Ch. 50), as amended by the supplemental budget (L. 1977, Ch. 460), I would further note that Article VII, § 4 of the Constitution only authorizes the Legislature to act in relation to appropriation bills by reducing, striking or adding items of *appropriation* and that where there is no change in the dollar amount of an item of appropriation, there is no authority for the Legislature to add the item to a succeeding appropriation bill for the sole purpose of adding qualifying language thereto (see, also, *Saxton v. Carey*, 61 A D 2d 645 [3d Dept., March 29, 1978], p. 2 slip opinion).

I conclude, therefore, that the Governor had the power to line item veto lines 42 through 61 of Assembly 9381-A.

Dated: April 5, 1978

Hon. Warren M. Anderson
President Pro Tem
New York State Senate

PUBLIC AUTHORITY

Where an agreement between the Power Authority and a consultant for services have been entered into by the trustee of the Power Authority for the trustee's services voluntarily.

This is in response to the request requested my opinion as to whether the action of the Authority as a consulting fee of the Authority.

Section 1004 of the Power Authority of the State of New York provides for compensation of the trustee of the Authority. It appears that the trustee's compensation per day, but with a maximum of \$100 per day, Service Commission apparently to work a total of 100 days would only be paid two years.

Your specific question is whether a trustee's compensation sum of money for the trustee's services as a consultant addition to the trustee's compensation agreed to work without authority to make a gift.

In my opinion, the trustee's compensation reached between the trustee and an individual trustee an agreed amount paid, then divided an additional amount of the trustee's compensation of the trustee.

Dated: March 2, 1978

Hon. Frederick R. ...
Chairman
Power Authority of ...