

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. LITTLE -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to municipal cooperative health benefit plans, a study of community rating and the provision of claims experience to a municipality; to amend the agriculture and markets law and the county law, in relation to the sharing of the duties of weights and measures between municipalities; to amend the general municipal law and the highway law, in relation to mutual aid; and to amend the public health law, in relation to the composition of county and part-county boards of health

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subsection (d) of section 3231 of the insurance law, as
2 added by chapter 501 of the laws of 1992, is amended to read as follows:
3 (d) (1) Notwithstanding any other provision of this chapter to the
4 contrary, no policy form subject to this section shall be issued or
5 delivered, nor any insurance contract entered into, unless and until the
6 insurer has filed with the superintendent a schedule of premiums, not to
7 exceed twelve months in duration, to be paid under the policy forms and
8 obtained the superintendent's approval thereof. The superintendent may
9 refuse such approval if he or she finds that such premiums are exces-
10 sive, inadequate, or unfairly discriminatory. The superintendent may
11 consider the financial condition of such insurer in approving or disap-
12 proving any premium. In determining whether to approve the schedule of
13 premiums filed, the superintendent shall, subject to the provisions of
14 section three thousand two hundred thirty-three of this article, consid-
15 er the prior experience of the insurer's community pool and the insur-
16 er's projections relating to claim costs, utilization and administrative
17 expenses and shall not adjust the insurer's rates based upon the rates
18 approved for other insurers.

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

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(2) AN INSURER SHALL PROVIDE SPECIFIC CLAIMS EXPERIENCE TO A MUNICIPAL CORPORATION, AS DEFINED IN SUBSECTION (F) OF SECTION FOUR THOUSAND SEVEN HUNDRED TWO OF THIS CHAPTER, COVERED BY THE INSURER UNDER A COMMUNITY RATED POLICY WHEN THE MUNICIPAL CORPORATION REQUESTS ITS CLAIMS EXPERIENCE FOR PURPOSES OF FORMING OR JOINING A MUNICIPAL COOPERATIVE HEALTH BENEFIT PLAN CERTIFIED PURSUANT TO ARTICLE FORTY-SEVEN OF THIS CHAPTER. NOTWITHSTANDING THE FORGOING PROVISIONS, NO INSURER SHALL BE REQUIRED TO PROVIDE MORE THAN THREE YEARS' CLAIMS EXPERIENCE TO A MUNICIPAL CORPORATION MAKING THIS REQUEST.

S 2. Subsection (d) of section 4317 of the insurance law, as added by chapter 501 of the laws of 1992, is amended to read as follows:

(d) (1) This section shall also apply to contracts issued to a group defined in subsection (c) of section four thousand two hundred thirty-five, including but not limited to an association or trust of employers, if the group includes one or more member employers or other member groups which have fifty or fewer employees or members exclusive of spouses and dependents.

(2) A CORPORATION SHALL PROVIDE SPECIFIC CLAIMS EXPERIENCE TO A MUNICIPAL CORPORATION, AS DEFINED IN SUBSECTION (F) OF SECTION FOUR THOUSAND SEVEN HUNDRED TWO OF THIS CHAPTER, COVERED BY THE CORPORATION UNDER A COMMUNITY RATED CONTRACT WHEN THE MUNICIPAL CORPORATION REQUESTS ITS CLAIMS EXPERIENCE FOR PURPOSES OF FORMING OR JOINING A MUNICIPAL COOPERATIVE HEALTH BENEFIT PLAN CERTIFIED PURSUANT TO ARTICLE FORTY-SEVEN OF THIS CHAPTER. NOTWITHSTANDING THE FOREGOING PROVISIONS, NO CORPORATION SHALL BE REQUIRED TO PROVIDE MORE THAN THREE YEARS' CLAIMS EXPERIENCE TO A MUNICIPAL CORPORATION MAKING THIS REQUEST.

S 3. Paragraph 2 of subsection (a) of section 4704 of the insurance law, as added by chapter 689 of the laws of 1994, is amended to read as follows:

(2) except for any plan that provided medical, surgical and hospital services on or before January first, nineteen hundred ninety-three pursuant to a municipal cooperation agreement, the number of municipal corporations participating in the municipal cooperative health benefit plan shall be at least [five] THREE;

S 4. Paragraph 1 of subsection (a) of section 4706 of the insurance law, as added by chapter 689 of the laws of 1994, is amended to read as follows:

(1) a reserve for payment of claims and expenses thereon reported but not yet paid, and claims and expenses thereon incurred but not yet reported which [shall not be less than an amount equal to twenty-five percent of expected incurred claims and expenses thereon for the current plan year, unless a qualified actuary has demonstrated to the superintendent's satisfaction that a lesser amount will be adequate] SHALL PROVIDE FOR THE PAYMENT OF ALL LOSSES OR CLAIMS AND EXPENSES INCURRED ON OR PRIOR TO THE DATE OF STATEMENT AS DETERMINED BY A QUALIFIED ACTUARY, MEETING THE REQUIREMENTS PRESCRIBED BY THE SUPERINTENDENT;

S 5. The opening paragraph of section 4714 of the insurance law, as added by chapter 689 of the laws of 1994, is amended to read as follows:

For municipal cooperative health benefit plans [that provided medical, surgical or hospital services on or before January first, nineteen hundred ninety-three pursuant to a municipal cooperation agreement authorized under article five-G of the general municipal law] CERTIFIED ON OR AFTER JULY FIRST, TWO THOUSAND NINE, the reserve and surplus requirements in section four thousand seven hundred six of this article may be phased in over a period of up to five plan years, provided that:

1 S 6. Paragraph 1 of subsection (a) of section 4714 of the insurance
2 law, as added by chapter 689 of the laws of 1994, is amended to read as
3 follows:

4 (1) at the end of the first plan year [on or] after [the effective
5 date of this article] CERTIFICATION shall not be less than [twelve]
6 FIFTY percent of [expected incurred claims and expenses thereon for such
7 plan year] THE AMOUNT ESTABLISHED PURSUANT TO SUCH PARAGRAPH; and

8 S 7. The superintendent of insurance shall order a study of the impact
9 to the community rated health insurance market of allowing a public
10 entity, as defined in paragraph 51 of subsection (a) of section 107 of
11 the insurance law, with fifty or fewer employees to join with public
12 entities with more than fifty employees to purchase health insurance
13 coverage under experience rated policies. The study shall be performed
14 by a member of the American academy of actuaries. The study shall be
15 completed and a report submitted by September 1, 2010 to the governor,
16 the superintendent of insurance, the temporary president of the senate
17 and the speaker of the assembly.

18 S 8. Section 180 of the agriculture and markets law, as added by chap-
19 ter 874 of the laws of 1977, is amended to read as follows:

20 S 180. Municipal directors of weights and measures. 1. There shall be
21 a county director of weights and measures in each county, except where
22 A. a county is wholly embraced within a city there shall be a city
23 director of weights and measures, OR B. WHERE TWO OR MORE COUNTIES HAVE
24 ENTERED INTO AN INTERMUNICIPAL AGREEMENT, PURSUANT TO ARTICLE FIVE-G OF
25 THE GENERAL MUNICIPAL LAW, TO SHARE THE FUNCTIONS, POWERS, AND DUTIES OF
26 ONE DIRECTOR OF WEIGHTS AND MEASURES. Any county or city having a popu-
27 lation of one million or more may elect to designate its commissioner of
28 consumer affairs as its director of weights and measures. Subdivision
29 four of this section shall not apply to a commissioner of consumer
30 affairs so designated.

31 2. No city may institute a weights and measures program. Provided,
32 that any city which maintained a weights and measures program on January
33 first, nineteen hundred seventy-six may continue such program under a
34 city director of weights and measures.

35 a. Any such city may contract with the legislature of the county in
36 which it is located for the county director of weights and measures to
37 perform the duties of and have the same powers within such city as the
38 city director. Such contract shall fix the amount to be paid annually by
39 the city to the county for such services. During the period such
40 contract is in force and effect, the office of city director of weights
41 and measures shall be abolished.

42 b. The county director shall not have jurisdiction in any city which
43 has a city director of weights and measures, except in the county of
44 Westchester the county director shall have concurrent jurisdiction with
45 city directors of weights and measures in such county.

46 3. Nothing contained herein shall prohibit the governing body of any
47 county or city from assigning to its municipal director powers and
48 duties in addition to the powers and duties prescribed by this article
49 provided such additional powers and duties deal primarily with services
50 designed to aid and protect the consumer and are not inconsistent with
51 the provisions of this article.

52 4. The municipal director shall be appointed by the appropriate
53 authority of the municipality in which he resides having the general
54 power of appointment of officers and employees. WHERE TWO OR MORE COUN-
55 TIES HAVE ENTERED INTO AN INTERMUNICIPAL AGREEMENT, PURSUANT TO ARTICLE
56 FIVE-G OF THE GENERAL MUNICIPAL LAW, TO SHARE THE FUNCTIONS, POWERS, AND

DUTIES OF ONE DIRECTOR OF WEIGHTS AND MEASURES, SAID MUNICIPAL DIRECTOR MAY RESIDE IN ANY COUNTY THAT IS A PARTY TO THE INTERMUNICIPAL AGREEMENT. He shall be paid a salary determined by the appropriate authority and shall be provided by such authority with the working standards of weights, measures and other equipment as required by rules and regulations promulgated in accordance with this article. The position of municipal director shall be in the competitive class of the civil service with respect to all persons appointed on or after the effective date of this act.

S 9. Section 775 of the county law is amended to read as follows:

S 775. [County sealer] DIRECTOR OF WEIGHTS AND MEASURES; duties. The [county sealer] DIRECTOR OF WEIGHTS AND MEASURES shall perform the duties prescribed by law for the enforcement of honest weights and measures. He shall perform such additional and related duties as may be prescribed by law and directed by the board of supervisors.

S 10. Section 99-r of the general municipal law, as amended by chapter 165 of the laws of 2008, is amended to read as follows:

S 99-r. Contracts for services. Notwithstanding any other provisions of law to the contrary, the governing board of any municipal corporation may enter into agreements and/or contracts with any state agency including any department, board, bureau, commission, division, office, council, committee, or officer of the state, whether permanent or temporary, [or a] ANY public benefit corporation or public authority, [or a] ANY soil and water conservation district, [and] THE GOVERNING BOARD OF ANY OTHER MUNICIPAL CORPORATION AND/OR any unit of the state university of New York, pursuant to and consistent with sections three hundred fifty-five and sixty-three hundred one of the education law within or without such municipal corporation to provide OR RECEIVE fuel, equipment, maintenance and repair, supplies, water supply, street sweeping or maintenance, sidewalk maintenance, RIGHT-OF-WAY MAINTENANCE, STORM WATER AND OTHER drainage, sewage disposal, LANDSCAPING, MOWING, HIGHWAY INFRASTRUCTURE INSPECTION, REPAIR OR MAINTENANCE, INCLUDING RELATED TRAFFIC CONTROL AND ENFORCEMENT, TRAINING AND EDUCATION, ENGINEERING, or any other services of government. Such MUNICIPAL CORPORATION, state agency, soil and water conservation district, or unit of the state university of New York, within the limits of any [specific] statutory appropriation authorized and made available therefor by the legislature or by the governing body responsible for the operation of such state agency, soil and water conservation district, or unit of the state university of New York may contract with any municipal corporation for such services as [herein] provided IN THIS SECTION AND MAY PROVIDE, IN AGREEMENTS AND/OR CONTRACTS ENTERED INTO PURSUANT TO THIS SECTION, FOR THE RECIPROCAL PROVISION OF SERVICES OR OTHER CONSIDERATION OF APPROXIMATELY EQUIVALENT VALUE, INCLUDING, BUT NOT LIMITED TO, ROUTINE AND/OR EMERGENCY SERVICES, MONIES, EQUIPMENT, BUILDINGS AND FACILITIES, MATERIALS OR A COMMITMENT TO PROVIDE FUTURE ROUTINE AND/OR EMERGENCY SERVICES, MONIES, EQUIPMENT, BUILDINGS AND FACILITIES OR MATERIALS. Any such contract may be entered into by direct negotiations and shall not be subject to the provisions of section one hundred three of this chapter.

S 11. Section 10 of the highway law is amended by adding a new subdivision 46 to read as follows:

46. HAVE THE AUTHORITY TO ENTER INTO AGREEMENTS AND/OR CONTRACTS TO PROVIDE OR RECEIVE SERVICES PURSUANT TO SECTION NINETY-NINE-R OF THE GENERAL MUNICIPAL LAW UPON SUCH TERMS AND CONDITIONS AS DEEMED APPROPRIATE BY THE COMMISSIONER OR COMMISSIONER'S DESIGNEE.

1 S 12. Section 12 of the highway law, as amended by chapter 1110 of the
2 laws of 1971, subdivision 2 as amended by chapter 249 of the laws of
3 1972, subdivision 2-a as added by chapter 568 of the laws of 1986 and
4 subdivision 7 as added by chapter 691 of the laws of 1971, is amended to
5 read as follows:

6 S 12. Commissioner of transportation to provide for maintenance,
7 repair, and [for] control of snow and ice; roads and driveways on state
8 lands. 1. The maintenance and repair of improved state highways in towns
9 and incorporated villages, exclusive, however, of the cost of maintain-
10 ing and repairing bridges having a span in excess of twenty feet shall
11 be under the direct supervision and control of the commissioner of
12 transportation and he shall be responsible therefor. The cost of such
13 maintenance and repair shall be borne wholly by the state and be paid
14 from moneys appropriated therefor by the legislature. Such maintenance
15 and repair may be done in the discretion of the commissioner either
16 directly by the department of transportation or by contract awarded to
17 the lowest responsible bidder at a public letting after due advertise-
18 ment, and under such rules and regulations as the commissioner of trans-
19 portation may prescribe. The commissioner of transportation shall also
20 have the power to adopt such system as may seem expedient so that each
21 section of such highways shall be effectively and economically
22 preserved, maintained and repaired.

23 2. The maintenance of state highways shall include the control of
24 snow and ice AND OTHER HIGHWAY MAINTENANCE ACTIVITIES on such highways
25 or any parts thereof, as the commissioner of transportation may deem to
26 be necessary to provide reasonable passage and movement of vehicles over
27 such highways. The commissioner of transportation is authorized also to
28 erect snow fences at suitable locations. The work of such control of
29 snow and ice AND OTHER HIGHWAY MAINTENANCE ACTIVITIES may be done by any
30 municipality which for the purposes of this section shall include only a
31 county, city, town or village. The governing board or body of any such
32 municipality and the commissioner of transportation are hereby author-
33 ized to enter into an agreement for the performance of the work of such
34 control of snow and ice AND OTHER HIGHWAY MAINTENANCE ACTIVITIES upon
35 such terms, rules and regulations as may be deemed by the commissioner
36 of transportation to be for the best interest of the public. Such agree-
37 ment may provide for periodic payments based upon a percentage of the
38 estimated total cost. Any agreement authorized by this subdivision shall
39 be for a term of [three] UP TO FIVE years and at the expiration of
40 [each] THE year PRECEDING THE LAST YEAR of the term specified in the
41 agreement, as such term may be extended as herein provided, the munici-
42 pality shall notify the commissioner either (a) that it requests, with
43 the approval of the commissioner, that the term of the agreement be
44 extended for [one year] A SPECIFIED TERM OF UP TO FIVE YEARS or (b) it
45 intends not to extend the agreement and such agreement shall expire at
46 the end of the term. If the municipality fails to notify the commission-
47 er as herein provided, it shall be deemed that the municipality intends
48 not to extend the agreement. SUCH AGREEMENT MAY BE TERMINATED DURING
49 THE SPECIFIED TERM PROVIDED THE MUNICIPALITY SHALL NOTIFY THE COMMIS-
50 SIONER EIGHTEEN MONTHS PRIOR TO SUCH TERMINATION OF AN AGREEMENT FOR THE
51 CONTROL OF SNOW AND ICE. If any such agreement expires, a new agreement
52 between the commissioner and a municipality may be entered into for a
53 term of [three] UP TO FIVE years, with extended term or terms upon
54 notification as above provided. Whenever the commissioner shall deem the
55 work of control of snow and ice AND OTHER HIGHWAY MAINTENANCE ACTIVITIES
56 by any municipality to be inadequate or unsatisfactory according to the

1 terms of any such agreement, he OR SHE may, by official order to be
2 filed in [his office] THE DEPARTMENT, and by filing a certified copy
3 thereof in the office of the department of state, cancel said agreement,
4 and the payments thereunder provided by the state shall cease; whereupon
5 the commissioner may carry out the work of control of snow and ice AND
6 OTHER HIGHWAY MAINTENANCE ACTIVITIES. [The] AN official order provided
7 in this subdivision AND RELATING TO THE CONTROL OF SNOW AND ICE shall
8 become effective at the expiration of five days after the commissioner
9 shall mail a certified copy thereof to the clerk or other official who
10 performs related duties in such municipality. The governing board or
11 body of any such municipality is authorized to appropriate such sum as
12 it deems necessary to enable such municipality to perform the terms of
13 such agreement. The work of such control of snow and ice AND OTHER HIGH-
14 WAY MAINTENANCE ACTIVITIES may be done by any of the methods provided in
15 subdivision one of this section for the work of maintenance and repair,
16 or by a combination of such methods. Any county is hereby authorized to
17 enter into a contract with another municipality located within the same
18 county for the performance of the work of such control of snow and ice
19 AND OTHER HIGHWAY MAINTENANCE ACTIVITIES as a subcontractor under any
20 agreement with the commissioner of transportation as such agreement is
21 hereinbefore provided. Moneys received by a county under the terms of
22 any agreement authorized by this subdivision shall be credited to the
23 fund from which moneys were appropriated to enable the county to perform
24 the terms of such agreement. Moneys so received by a town shall be cred-
25 ited to the highway fund. Moneys so received by a city or village shall
26 be credited to the general fund.

27 2-a. (a) Except as provided hereafter the state shall indemnify and
28 hold harmless such municipalities for any and all liability for damages
29 for personal injury, injury to property or wrongful death for losses
30 arising from or occasioned by the manner of performance of the functions
31 under any agreement with a municipality for the control of snow and ice
32 AND OTHER HIGHWAY MAINTENANCE ACTIVITIES pursuant to this section.

33 (b) In no event shall the state be obligated to defend or indemnify
34 such municipality, in any action, proceeding, claim or demand arising
35 out of the actual operation of an insured vehicle or vehicle subject to
36 self-insurance while engaged in the operation of snow and ice control
37 functions AND OTHER HIGHWAY MAINTENANCE ACTIVITIES under such agreement.

38 (c) The municipality shall be entitled to representation by the attor-
39 ney general in any claim described in paragraph (a) of this subdivision,
40 provided, however, that the municipality shall be entitled to itself
41 defend any such action, proceeding, claim or demand whenever the attor-
42 ney general determines, based upon his investigation and review of the
43 facts and circumstances of the case that representation by the attorney
44 general would be inappropriate, or whenever a court of competent juris-
45 diction determines that a conflict of interest exists and that the muni-
46 cipality is entitled to be separately represented. Whenever the muni-
47 cipality is entitled to defend the action itself, the state shall
48 reimburse the municipality for any and all costs and expenses, includ-
49 ing, but not limited to, counsel fees and disbursements.

50 (d) The state shall indemnify and save harmless such municipality in
51 the amount of any judgment obtained against such municipality in any
52 state or federal court on any claim described in paragraph (a) of this
53 subdivision, or in the amount of any settlement of such claim, or shall
54 pay such judgment or settlement; provided, however, that the act or
55 omission from which such judgment or settlement arose occurred while the
56 municipality was acting within the scope of its functions for control of

snow and ice AND OTHER HIGHWAY MAINTENANCE ACTIVITIES; provided, further, that no stipulation of settlement of any such action, proceeding, claim or demand shall be made or executed without approval of the attorney general and of the commissioner of transportation or his designee. Payment of any claim made pursuant to settlement shall not exceed the sum of fifty thousand dollars. Nothing herein shall authorize the state to indemnify or save harmless with respect to punitive or exemplary damages.

(e) The duty to defend or indemnify and save harmless prescribed by this subdivision shall be conditioned upon (i) delivery to the attorney general or an assistant attorney general at the office of the department of law located in Albany or New York city and by delivery to the commissioner of transportation or his designee a copy of any claim, summons, complaint, process, notice, demand or other pleading within ten days after such municipality is served with such document and (ii) the full cooperation of the municipality in the defense of such action, proceeding, claim or demand and in the defense of any action, proceeding, claim or demand against the state based upon the same act or omission, and in the prosecution of any appeal.

(f) The benefits of this subdivision shall inure only to such municipalities and shall not enlarge or diminish the rights of any other party nor shall any provision of this subdivision be construed to effect, alter or repeal any provision of the workers' compensation law.

(g) This subdivision shall not in any way affect the obligation of any claimant to give notice to the state under section ten of the court of claims act or any other provision of law.

(h) The provisions of this subdivision shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any insurance agreement.

(i) Except as otherwise specifically provided in this subdivision, the provisions of this subdivision shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee of the state or municipality or any other level of government, or any right to defense and indemnification provided for any governmental officer or employee by, in accordance with, or by reason of, any other provision of state or federal statutory or common law.

3. The commissioner of transportation shall have the power to purchase (a) materials for such maintenance and repair, except where such work is done by contract, and to contract for the delivery thereof at convenient intervals along such highways, and (b) equipment and appliances that he may deem necessary to carry out the provisions of this section. Any municipality, acting by and through its authorized official, is hereby empowered to rent its machinery, tools, equipment, and storage space, to the state, acting by and through the commissioner of transportation, for the purpose of such control of snow and ice AND OTHER HIGHWAY MAINTENANCE ACTIVITIES upon such terms and at such rate as may be agreed between the municipality and the commissioner of transportation. Notwithstanding the provisions of any general, special or local law or of any charter, the governing board or body of any such municipality is hereby authorized to sell such machinery, tools and equipment to the state, acting by and through the commissioner of transportation, for the purposes of this section and without competitive bidding or other limitation or restriction provided in any general, special or local law or of any charter, and the commissioner of transportation, may, upon approval by the state comptroller and the state commissioner of general

1 services, purchase such machinery, tools and equipment from any such
2 municipality as herein provided.

3 4. Whenever funds therefor are made available, the commissioner of
4 transportation shall have power to acquire for the state, by purchase,
5 or by appropriation through the procedure described in section thirty of
6 this chapter, property for the purpose of storing, maintaining or proc-
7 essing construction [and], maintenance supplies, material or equipment
8 and for the purpose of providing, erecting and maintaining offices for
9 department personnel and structures for storing, maintaining or process-
10 ing construction and maintenance materials or equipment.

11 5. Whenever a state highway has been constructed at a greater width
12 than that provided in the original plans, upon petition of a village, as
13 provided in sections forty-six and forty-seven OF THIS CHAPTER, or upon
14 petition of a town or county, as provided in sections forty-eight,
15 forty-nine, or fifty-nine OF THIS CHAPTER, or whenever such highway has
16 been widened by a town or county under a permit granted as provided in,
17 or under conditions and regulations prescribed pursuant to section
18 fifty-two OF THIS CHAPTER, the additional width of pavement shall be
19 deemed to be a part of the highway and shall be maintained by the
20 commissioner of transportation as provided herein, but in no case where
21 any such highway has been widened as provided above, shall the state be
22 responsible for the maintenance of any curb or of any paved gutter or
23 paved shoulder, provided, however, that on any highway maintained by the
24 state the commissioner shall have authority to clean any pavement or
25 paved gutter or repair any unpaved shoulder or unpaved gutter outside of
26 the pavement maintained by the state, where necessary for the protection
27 of such pavement.

28 6. Whenever the head of any state department having jurisdiction or
29 control over lands owned and occupied by the state, requests the commis-
30 sioner of transportation to maintain and to repair any road and driveway
31 which is located on, over and across such lands, the commissioner of
32 transportation is, notwithstanding the provisions of any general,
33 special or local law, authorized to grant such request by his official
34 order therefor. Such official order shall contain a general description
35 of any such road and driveway. A certified copy of such official order
36 shall be filed by the commissioner of transportation in the office of
37 (a) the state department having jurisdiction or control over such lands,
38 and (b) the department of audit and control. Thereupon any such road
39 and driveway shall be maintained and repaired under the direct super-
40 vision and control of the commissioner of transportation in the same
41 manner as is provided in this section for the maintenance and repair of
42 improved state highways in towns and in incorporated villages.

43 7. Whenever the head of any state department, agency, institution or
44 public benefit corporation having jurisdiction or control over the lands
45 owned and occupied by the state or such department, agency, institution
46 or public benefit corporation requests the commissioner to construct,
47 reconstruct, and/or maintain any loop or peripheral roadway which is or
48 is to be located on, around, over, or across such lands, notwithstanding
49 the provisions of any general, special or local law, the commissioner is
50 authorized to grant such request and undertake such construction, recon-
51 struction and/or maintenance. Before undertaking the work of
52 construction, reconstruction and/or maintenance of such roadways, the
53 commissioner and the head of the state department, agency, institution
54 or public benefit corporation shall enter into a written agreement,
55 subject to the approval of the director of the budget, providing the
56 funds therefor, or reimbursement by such state department, agency,

1 institution or public benefit corporation of the funds therefor, includ-
2 ing all costs incurred by the department in connection with such
3 construction, reconstruction and/or maintenance. Where such loop or
4 peripheral roadway is to be constructed, reconstructed and/or maintained
5 on lands occupied by either the state university of New York or the
6 state university construction fund, both the state university of New
7 York and the state university construction fund shall be parties to such
8 agreement. Such roadway shall be constructed, or reconstructed, to
9 mutually agreeable standards, in the same manner as state highways are
10 constructed or reconstructed pursuant to this chapter. The maintenance
11 of such roadway shall be in the same manner as provided for state high-
12 ways in this chapter. If such a maintenance agreement extends for a
13 period greater than one year, the funds shall be made available for, or
14 reimbursed, on an annual basis. The head of such state department, agen-
15 cy, institution or public benefit corporation may terminate such mainte-
16 nance agreement upon six months written notice to the commissioner
17 making provision for the department of transportation to be reimbursed
18 for all costs incurred by such department up to such termination date.
19 In connection with the maintenance of such a roadway the commissioner
20 shall cause an official order to be issued therefor. Such official order
21 shall contain a general description of such roadway. A certified copy of
22 such official order shall be filed by the commissioner in the office of
23 the head of the state department, agency, institution or public benefit
24 corporation making such request for maintenance and with the department
25 of audit and control.

26 S 13. Section 55 of the highway law, as amended by chapter 1110 of the
27 laws of 1971, is amended to read as follows:

28 S 55. Emergency aid [for control of snow and ice] in municipalities.
29 Notwithstanding any inconsistent provision of law, general, special or
30 local, the commissioner of transportation, when authorized by the gover-
31 nor OR THE GOVERNOR'S DESIGNEE, is empowered to aid AND ACCEPT AID FROM
32 any county, city, town or village of the state in [the control of snow
33 and ice during] emergency situations, providing the governing board or
34 body of any such municipality OR THE COMMISSIONER certifies to the
35 governor (a) that such aid is required to promote the public welfare,
36 (b) that such municipality OR THE DEPARTMENT does not have available and
37 is unable to secure and provide the necessary equipment, facilities and
38 personnel to perform the immediate work [of control of snow and ice],
39 and (c) that adequate and appropriate provision has been made [to reim-
40 burse the state for] FOR REIMBURSEMENT OF any actual costs of labor and
41 of maintenance and operation and for the depreciation of the necessary
42 equipment and facilities [of the state]. The governing board or body of
43 any such municipality and the commissioner of transportation are hereby
44 authorized to enter into a contract for the purposes of this section
45 upon such terms and conditions as shall be reasonable for the protection
46 of the public.

47 S 14. Section 351 of the public health law, subdivision 1 as amended
48 by chapter 83 of the laws of 1975, is amended to read as follows:

49 S 351. County or part-county health commissioner, PUBLIC HEALTH DIREC-
50 TOR OR COUNTY HEALTH DIRECTOR; appointment; compensation. 1. The board
51 of health of each county and part-county health district OR OTHER BODY
52 HAVING THE POWERS AND DUTIES OF A BOARD OF HEALTH OF A COUNTY OR
53 PART-COUNTY HEALTH DISTRICT or the county executive in those counties
54 where the county charter provides that said commissioner is to be
55 appointed by the county executive shall appoint a county health commis-

1 sioner, COUNTY HEALTH DIRECTOR OR, WHEN AUTHORIZED UNDER THE STATE SANI-
2 TARY CODE, PUBLIC HEALTH DIRECTOR; except, however,

3 (A) that the boards of health of not more than three county or part-
4 county health districts OR OTHER BODIES HAVING THE POWERS AND DUTIES OF
5 A BOARD OF HEALTH OF A COUNTY OR PART-COUNTY HEALTH DISTRICT may appoint
6 the same person to serve as county health commissioner, COUNTY HEALTH
7 DIRECTOR OR, WHEN AUTHORIZED BY THE STATE SANITARY CODE, PUBLIC HEALTH
8 DIRECTOR for said health districts, if the total population of health
9 districts is not in excess of one hundred fifty thousand according to
10 the latest federal decennial census, provided the approval of the
11 commissioner is obtained[. The]; OR

12 (B) THE board of health OR OTHER BODY HAVING THE POWERS AND DUTIES OF
13 A BOARD OF HEALTH OF A COUNTY OR PART-COUNTY HEALTH DISTRICT of any
14 county health district with a population of less than thirty-five thou-
15 sand [population] according to the latest federal decennial census may
16 appoint the same person employed by a contiguous county or part-county
17 health district to serve as county health commissioner, COUNTY HEALTH
18 DIRECTOR OR, WHEN AUTHORIZED BY THE STATE SANITARY CODE, PUBLIC HEALTH
19 DIRECTOR without regard to the total population of both health
20 districts, provided the approval of the commissioner is obtained.

21 THE COMMISSIONER SHALL PERIODICALLY REVIEW HIS OR HER DETERMINATION TO
22 ENSURE SUCH EMPLOYMENT OF THE SAME COUNTY HEALTH DIRECTOR, DIRECTOR OF
23 PUBLIC HEALTH OR COUNTY HEALTH COMMISSIONER CONTINUES TO SERVE THE
24 INTEREST OF PUBLIC HEALTH AND MAY TERMINATE HIS OR HER APPROVAL AT HIS
25 OR HER DISCRETION.

26 2. IF THE COMMISSIONER HAS APPROVED THE APPOINTMENT OF THE SAME PERSON
27 TO SERVE AS THE COUNTY COMMISSIONER OF HEALTH OR PUBLIC HEALTH DIRECTOR
28 OF MORE THAN ONE COUNTY OR PART-COUNTY HEALTH DISTRICT PURSUANT TO
29 SUBDIVISION ONE OF THIS SECTION, THEN DURING THE CONTINUATION OF SUCH
30 APPROVAL THE COMMISSIONER MAY ALSO AUTHORIZE THE SAME MEMBERS TO BE
31 APPOINTED TO THE BOARD OF HEALTH OF EACH RESPECTIVE HEALTH DISTRICT,
32 NOTWITHSTANDING THEIR RESIDENCY IN THE OTHER COUNTY.

33 3. ANY BOARDS OF HEALTH OR OTHER BODIES HAVING THE POWERS AND DUTIES
34 OF A BOARD OF HEALTH OF A COUNTY OR PART-COUNTY HEALTH DISTRICT HAVING
35 THE SAME MEMBERS SHALL ANNUALLY SUBMIT SUCH INFORMATION AND REPORTS
36 REGARDING THE EFFECT OF SUCH EMPLOYMENT ON ADMINISTRATION OF THE RESPEC-
37 TIVE HEALTH DISTRICTS AND THE PROVISION OF PUBLIC HEALTH SERVICES AS THE
38 COMMISSIONER MAY REQUIRE. THE COMMISSIONER SHALL USE SUCH INFORMATION IN
39 DETERMINING WHETHER SUCH COMMON MEMBERSHIP CONTINUES TO SERVE THE INTER-
40 EST OF PUBLIC HEALTH.

41 4. The county health commissioner OR PUBLIC HEALTH DIRECTOR shall
42 possess such qualifications for office as are prescribed in the sanitary
43 code.

44 [3.] 5. The county health commissioner OR PUBLIC HEALTH DIRECTOR shall
45 serve for a term of six years and shall not be removed during the term
46 for which he OR SHE shall have been appointed, except upon written
47 charges after a hearing and upon notice.

48 [4.] 6. The county health commissioner OR PUBLIC HEALTH DIRECTOR shall
49 receive such compensation as may be fixed by the board of supervisors
50 OR, IF THE COMMISSIONER'S APPROVAL HAS BEEN OBTAINED FOR THE EMPLOYMENT
51 OF THE SAME PERSON AS THE COUNTY HEALTH COMMISSIONER OR PUBLIC HEALTH
52 DIRECTOR PURSUANT TO SUBDIVISION ONE OF THIS SECTION, BY THE BOARDS OF
53 SUPERVISORS.

54 S 15. This act shall take effect immediately.