S T A T E O F N E W Y O R K

7015--B

I N S E N A T E

April 14, 2014

Introduced by Sen. AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Cities -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend chapter 164 of the laws of 1907 relating to the incorporation of the Queens Borough Public Library, in relation to the membership and duties of the board of trustees and the oversight of the executive director and key library executive personnel; to amend the New York City Charter, in relation to public libraries; and to amend the public officers law, in relation to the definition of agency

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

Section 1. Section 1 of chapter 164 of the laws of 1907 relating to the incorporation of the Queens Borough Public Library, as amended by chapter 495 of the laws of 1980, is amended to read as follows:

Section 1. A. The following persons, to wit: The mayor, comptroller and president of the city council of the city of New York and the president of the borough of Queens, by virtue of their offices, and fifteen additional persons who, at the date of the passage of this act, shall constitute the board of trustees of the "Queens Borough Library," a corporation incorporated by the regents of the university of the state of New York on March nineteen, eighteen hundred [and] ninety-six, as amended December twenty-one, eighteen hundred [and] ninety-nine, under the provisions of the laws of eighteen hundred [and] ninety-two, chapter three hundred [and] seventy-eight, as amended by the laws of eighteen hundred [and] ninety-five, chapter eight hundred [and] fifty-nine, are hereby constituted a body politic and corporate under and by the name of "The Queens Borough Public Library," for the purpose of constructing and maintaining libraries and a free public library system in the borough of Queens in the city of New York.

B. ON JANUARY FIRST, TWO THOUSAND FIFTEEN, A NEW BOARD OF TRUSTEES SHALL BE NAMED, PROVIDED THAT ON OR AFTER SUCH DATE, THE NUMBER OF TRUSTEES SHALL BE REDUCED TO ELEVEN.

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

LBD14637-07-4

S 2. Section 3 of chapter 164 of the laws of 1907 relating to the incorporation of the Queens Borough Public Library, as amended by chapter 561 of the laws of 2002, is amended to read as follows:

S 3. The corporation shall organize by the adoption of by-laws and the election of officers. The by-laws shall provide for the terms of office of the trustees of the corporation, not to exceed the period of five years, PROVIDED, THAT TRUSTEES APPOINTED ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN SHALL BE APPOINTED FOR A PERIOD OF TWO YEARS, PROVIDED, FURTHER, THAT SUCH TRUSTEES MAY ONLY SERVE A MAXIMUM OF FIVE CONSECUTIVE TWO-YEAR TERMS, FOR A TOTAL OF A TEN-YEAR MAXIMUM, excepting that the mayor, comptroller, public advocate, ONE EMPLOYEE FROM THE QUEENS BOROUGH PUBLIC LIBRARY SYSTEM WHO SHALL BE APPOINTED BY THE EXECUTIVE DIRECTOR OF THE EMPLOYEE REPRESENTATIVE ORGANIZATION, OR HIS OR HER DESIGNEE, and speaker of the city council of the city of New York and the president of the borough of Queens, shall at all times be members of the board ex-officio AND SUCH EX-OFFICIO MEMBERS MAY DESIGNATE A REPRESENTATIVE TO SERVE EX-OFFICIO IN HIS OR HER PLACE. The trustees shall hereafter be chosen and vacancies occurring in such office filled by an appointment which shall alternate between the mayor of the city of New York and the president of the [Borough] BOROUGH of Queens SUCH THAT THE PRESIDENT OF THE BOROUGH OF QUEENS SHALL APPOINT SIX TRUSTEES AND THE MAYOR OF THE CITY OF NEW YORK SHALL APPOINT FIVE TRUSTEES; PROVIDED, HOWEVER, THAT TRUSTEES MUST BE EITHER A RESIDENT OF QUEENS OR OWN OR OPERATE A BUSINESS IN QUEENS; AND PROVIDED FURTHER THAT AT LEAST ONE TRUSTEE MUST BE A CERTIFIED PUBLIC ACCOUNTANT, ONE TRUSTEE MUST BE A DISTRICT MANAGER OF ONE OF THE COMMUNITY BOARDS IN THE BOROUGH OF QUEENS, ONE TRUSTEE MUST BE A CHAIR OF ONE OF THE COMMUNITY BOARDS IN THE BOROUGH OF QUEENS, AND TWO TRUSTEES MUST BE PERSONS WHO HOLD A MASTER'S DEGREE IN LIBRARY SCIENCE OR LIBRARY AND INFORMATION STUDIES FROM AN ACCREDITED COLLEGE OR UNIVERSITY PROGRAM; AND PROVIDED FURTHER THAT THE APPOINTING PARTIES SHALL NOTIFY THE OTHER APPOINTING PARTY OF WHO WAS APPOINTED. THE APPOINTING PARTIES SHALL BE AUTHORIZED TO RECOMMEND TO THE BOARD OF TRUSTEES REMOVAL OF A TRUSTEE WHOM SUCH PARTY APPOINTED IF, IN ACCORDANCE WITH THE BY-LAWS ADOPTED BY THE CORPORATION, THERE IS REASONABLE CAUSE FOR SUCH REMOVAL. HOWEVER, SUCH RECOMMENDATION MUST BE AGREED UPON BY THE OTHER APPOINTING PARTY PRIOR TO ANY ACTION BEING TAKEN BY THE BOARD OF TRUSTEES. THE BOARD OF TRUSTEES MAY RECOMMEND REMOVAL OF A TRUSTEE, IF IN ACCORDANCE WITH THE BY-LAWS ADOPTED BY THE CORPORATION, THERE IS REASONABLE CAUSE FOR SUCH REMOVAL. WITHIN TEN DAYS AFTER A RECOMMENDATION FOR REMOVAL OF A TRUSTEE IS MADE BY THE BOARD OR AN AGREED UPON RECOMMENDATION FOR REMOVAL BY THE APPOINTING PARTIES IS RECEIVED BY THE BOARD, THE TRUSTEE SUBJECT TO A RECOMMENDATION OF REMOVAL SHALL BE GIVEN NOTICE AND AN OPPORTUNITY TO APPEAL THE RECOMMENDATION FOR REMOVAL IN WRITING TO THE BOARD OF TRUSTEES WITHIN FIVE DAYS OF RECEIPT OF SUCH NOTICE. THE BOARD SHALL CONSIDER THE WRITTEN APPEAL AND MAKE A FINAL DECISION WITHIN FIVE DAYS OF RECEIPT OF SUCH APPEAL AND PRIOR TO ANY FINAL ACTION BY THE BOARD ON ITS OWN RECOMMENDATION FOR REMOVAL OR THE AGREED UPON RECOMMENDATION FOR REMOVAL BY THE APPOINTING PARTIES. The corporation shall have power from time to time to make such rules and regulations as the trustees thereof shall judge proper for the accomplishment of the objects of the corporation, for the election of officers, for prescribing their respective functions and the mode of discharging the same, for imposing and collecting dues, fines and contributions, for regulating the times and places of meetings, and generally for the management and direction of the affairs and concerns of the said corporation. The trustees shall

have absolute control of the expenditure of all moneys appropriated by the city of New York for the maintenance of libraries conducted, or to be conducted by the corporation in the borough of Queens, and shall have the power to appoint and fix the salaries of such officers and employees as they shall deem necessary, who, unless employed under special contract, shall hold their offices during the pleasure of the trustees, but no trustee shall receive compensation as such, and the authority of the trustees to so make and regulate expenditures for maintenance, and their right to select, employ, fix salaries and discharge employees, shall be absolute under this act, any acts of the legislature of the state of New York to the contrary notwithstanding.

S 3. Chapter 164 of the laws of 1907 relating to the incorporation of the Queens Borough Public Library is amended by adding four new sections 3-a, 4-a, 9-b, and 9-c to read as follows:

S 3-A. A. THE TRUSTEES SHALL HOLD ANNUAL PUBLIC BUDGET HEARINGS, PROVIDE A THIRTY DAY PUBLIC COMMENT PERIOD PRIOR TO ADOPTION OF THE BUDGET AND SHALL REPORT ALL REVENUE SOURCES OF FUNDING FOR THE BUDGET, BOTH PUBLIC AND PRIVATE.

B. THE TESTIMONY PRESENTED AT SUCH PUBLIC BUDGET HEARING MAY BE PRESENTED IN WRITING OR ORALLY, PROVIDED THAT THE TRUSTEES MAY MAKE RULES DESIGNED TO EXCLUDE REPETITIVE, REDUNDANT OR IRRELEVANT TESTIMONY. THE TRUSTEES SHALL MAKE A RECORD OF ALL TESTIMONY AT THE PUBLIC BUDGET HEARINGS. FOR PURPOSES OF THIS SECTION "PUBLIC BUDGET HEARING" MEANS A PUBLIC FORUM AT A PHYSICAL LOCATION, ATTENDED BY TRUSTEES AND THE LIBRARY'S EXECUTIVE DIRECTOR OR THEIR DESIGNEES, WHERE ORAL TESTIMONY IS ACCEPTED AND WRITTEN TESTIMONY MAY BE SUBMITTED FOR INCLUSION IN THE RECORD. SUCH FORUM SHALL BE OPEN TO THE GENERAL PUBLIC FOR THE PRESENTATION OF COMMENTS. SUCH HEARING SHALL BE COMMENCED UPON PROPER NOTICE TO THE PUBLIC AT LEAST THIRTY DAYS PRIOR TO THE SCHEDULED HEARING DATE. NOTICE OF THE PUBLIC BUDGET HEARING SHALL BE PROVIDED ON THE LIBRARY'S WEBSITE, ON FLIERS POSTED INSIDE THE LIBRARY'S MAIN LOCATION AND IN EACH OF ITS BRANCH LOCATIONS, AND IN ANY OTHER ALTERNATIVE MANNER CHOSEN BY THE TRUSTEES.

S 4-A. A. THE EXECUTIVE DIRECTOR AND KEY LIBRARY EXECUTIVE PERSONNEL SHALL COMPLY WITH FINANCIAL DISCLOSURE REQUIREMENTS WHEN PUBLIC MONEY IS USED TO FUND STAFF SALARIES. FOR THE PURPOSES OF THIS SECTION, "PUBLIC MONEY" SHALL MEAN MONEY FROM THE FEDERAL GOVERNMENT OR STATE OR COUNTY OR A TOWN, VILLAGE, OR CITY. THE BOARD OF TRUSTEES SHALL ADOPT BY-LAWS REQUIRING MANDATORY ANNUAL FINANCIAL DISCLOSURES FROM THE EXECUTIVE DIRECTOR AND OTHER KEY LIBRARY EXECUTIVE PERSONNEL THAT SHALL BE REPORTED TO THE NEW YORK CITY CONFLICT OF INTEREST BOARD AS SET FORTH IN CLAUSE 7 OF SUBPARAGRAPH A OF PARAGRAPH 3 OF SUBDIVISION B OF SECTION 12-110 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK.

B. THE BOARD OF TRUSTEES SHALL ADOPT BY-LAWS LIMITING THE TYPE AND EXTENT OF EMPLOYMENT THE EXECUTIVE DIRECTOR AND ANY KEY LIBRARY EXECUTIVE PERSONNEL MAY ENGAGE IN OTHER THAN HIS OR HER EMPLOYMENT WITH THE LIBRARY AND SHALL PROHIBIT OUTSIDE EMPLOYMENT FOR ANY EXECUTIVE DIRECTOR AND ANY KEY LIBRARY EXECUTIVE PERSONNEL WHO RECEIVES A STAFF SALARY IN EXCESS OF ONE HUNDRED FIFTY THOUSAND DOLLARS. SUCH BY-LAWS SHALL REQUIRE THE EXECUTIVE DIRECTOR AND THE KEY LIBRARY EXECUTIVE PERSONNEL TO REPORT ANY EMPLOYMENT OTHER THAN HIS OR HER EMPLOYMENT WITH THE LIBRARY TO THE BOARD OF TRUSTEES AND SHALL REQUIRE THE BOARD TO APPROVE SUCH EMPLOYMENT.

C. THE BOARD OF TRUSTEES SHALL ADOPT BY-LAWS REGARDING THE APPROVAL FOR HIRING AND ESTABLISHING POLICIES FOR THE COMPENSATION OF KEY LIBRARY EXECUTIVE PERSONNEL.

S 9-B. THE BOARD OF TRUSTEES SHALL APPOINT:

A. AN AUDIT COMMITTEE WHICH SHALL OVERSEE THE LIBRARY'S ACCOUNTING AND FINANCIAL REPORTING PROCESSES AND ANNUAL AUDITS. THE AUDIT COMMITTEE SHALL RETAIN AN AUDITOR, REVIEW THE SCOPE AND PLANNING OF ALL AUDITS WITH THE AUDITOR AND REVIEW AND DISCUSS THE RESULTS. THE AUDIT COMMITTEE SHALL CONSIDER THE AUDITOR'S PERFORMANCE AND INDEPENDENCE AND REPORT ANNUALLY ON THE AUDITOR'S ACTIVITIES TO THE BOARD OF TRUSTEES; ALL ANNUAL AUDITS SHALL BE PUBLISHED IN A REPORT AND MADE AVAILABLE ON THE LIBRARY WEBSITE;

B. AN EXECUTIVE COMMITTEE WHICH SHALL BE COMPRISED OF A REPRESENTATIVE CROSS-SECTION OF THE BOARD OF TRUSTEES. THE BOARD OF TRUSTEES SHALL ABOLISH THE ADMINISTRATIVE COMMITTEE AND ANY ESSENTIAL FUNCTIONS OR DUTIES OF SUCH COMMITTEE SHALL BE TRANSFERRED TO THE EXECUTIVE COMMITTEE; AND

C. A LABOR RELATIONS COMMITTEE TO ADDRESS LABOR ISSUES AND OVERSEE THE CONTRACTING OUT OF SERVICES.

S 9-C. THE BOARD OF TRUSTEES SHALL ESTABLISH BY-LAWS PROHIBITING A PERSON WITH A CONFLICT OF INTEREST FROM PARTICIPATING IN ANY DELIBERATIONS OR VOTING ON THE MATTER GIVING RISE TO THE CONFLICT. THE BY-LAWS SHALL ALSO PROHIBIT THE PERSON WITH THE CONFLICT FROM IMPROPERLY INFLUENCING THE DELIBERATION OR VOTING ON SUCH MATTER. ANY CONFLICTS OF INTEREST BROUGHT TO THE ATTENTION OF THE BOARD OF TRUSTEES OR THE AUDIT COMMITTEE AND SHALL BE DOCUMENTED IN THE MINUTES OF ANY MEETING AT WHICH SUCH CONFLICT WAS DISCUSSED.

S 4. The board of trustees of the Queens Borough Public Library shall engage an outside consultant with the requisite expertise to conduct and complete a comprehensive executive compensation study within ninety days of the date this act shall have become a law. Such study shall include, but not be limited to, a review of acceptable fringe benefits, including car allowances and tuition reimbursements.

S 5. Subdivision 2 of section 2601 of the New York City Charter, as added by a vote of the people of the city of New York at the general election held in November of 1988, is amended to read as follows:

2. "Agency" means a city, county, borough or other office, position, administration, department, division, bureau, board, commission, authority, corporation, advisory committee or other agency of government, the expenses of which are paid in whole or in part from the city treasury, and shall include but not be limited to, the council, the offices of each elected official, the board of education, community school boards, community boards, the financial services corporation, the health and hospitals corporation, the public development corporation, and the New York city housing authority, but shall not include any court or any corporation or institution maintaining or operating a [public library,] museum, botanical garden, arboretum, tomb, memorial building, aquarium, zoological garden or similar facility.

S 6. Subdivision 19 of section 2601 of the New York City Charter, as added by a vote of the people of the city of New York at the general election held in November of 1988, is amended to read as follows:

19. "Public servant" means all officials, officers and employees of the city, including members of community boards [and], members of advisory committees, except unpaid members of advisory committees [shall not be public servants], AND ALL EXECUTIVE DIRECTORS AND KEY LIBRARY EXECUTIVE PERSONNEL FROM THE QUEENS BOROUGH PUBLIC LIBRARY, THE BROOKLYN PUBLIC LIBRARY AND THE NEW YORK PUBLIC LIBRARY.

S 7. Subdivision 3 of section 86 of the public officers law, as added by chapter 933 of the laws of 1977, is amended to read as follows:

3. "Agency" means:

A. any state or municipal department, board, bureau, division, commission, committee, public authority, public corporation, council, office or other governmental entity performing a governmental or proprietary function for the state or any one or more municipalities thereof, except the judiciary or the state legislature[.]; AND

B. THE QUEENS BOROUGH PUBLIC LIBRARY, THE BROOKLYN PUBLIC LIBRARY AND THE NEW YORK PUBLIC LIBRARY.

S 8. This act shall take effect immediately.