

10299--C

I N   A S S E M B L Y

March 17, 2010

---

Introduced by M. of A. JEFFRIES -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to the appointment and reporting duties of the superintendent of the state police and the appointment of employees of the state police

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

1     Section 1. Section 210 of the executive law, as amended by chapter 169  
2     of the laws of 1994, is amended to read as follows:  
3     S 210. Division of state police. (A) The division of state police in  
4     the executive department shall be known as the "New York State Police."  
5     (B) (1) The head of the New York state police shall be the superinten-  
6     dent of state police who shall be appointed by the governor by and with  
7     the advice and consent of the senate, and hold office during his or her  
8     pleasure. The superintendent shall be a member of the state police,  
9     shall receive as salary such sum as may be appropriated by law, and  
10    shall accrue such leave credits and be eligible for the same retirement  
11    benefits, service credits and other benefits as any other member of the  
12    state police. If, prior to appointment, the superintendent served as a  
13    member of the state police, he or she, upon appointment, shall be enti-  
14    tled to continue to accrue and receive such credits and benefits as he  
15    or she would have been entitled to accrue and receive prior to appoint-  
16    ment.  
17    (2) If, prior to his or her appointment, the superintendent shall have  
18    served as a member of the State Police for a period of ten years or  
19    more, he or she shall, provided he or she is not eligible for retire-  
20    ment, upon termination of service as superintendent, be reappointed,  
21    without examination, as a member of the state police in the grade held  
22    by him or her prior to appointment as superintendent, notwithstanding

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

LBD16293-08-0

1 the absence of any vacancy in such grade. For the purpose of determin-  
2 ing the annual salary to be paid upon such reappointment, the period of  
3 service as superintendent shall be counted as service in the grade to  
4 which reappointed.

5 (3) TRADITIONAL SERVICES MEANS AS FOLLOWS: TO PROTECT PEOPLE AND PROP-  
6 ERTY; TO PREVENT AND DETECT CRIME AND OTHER VIOLATIONS OF LAW AND PURSUE  
7 CRIMINAL INVESTIGATIONS AND ARREST CRIMINALS; TO MAKE ROADS SAFE FOR ALL  
8 USERS; TO REDUCE THE DEATHS, INJURIES AND PROPERTY DAMAGE CAUSED BY  
9 MOTOR VEHICLE ACCIDENTS THROUGH VEHICLE AND TRAFFIC ENFORCEMENT AND  
10 EDUCATION; TO PROVIDE DISORDER CONTROL AND SECURITY IN ALL TYPES OF  
11 NATURAL AND MAN-MADE EMERGENCIES; TO PROVIDE FOR THE SAFETY AND SECURITY  
12 OF INDIVIDUALS AND GROUPS OF CITIZENS IN FURTHERANCE OF THEIR RIGHTS,  
13 DUTIES AND RESPONSIBILITIES; AND TO SUPPORT OTHERS BY CREATING PARTNER-  
14 SHIPS FOR SAFETY AND SECURITY WITH INDIVIDUALS, GROUPS AND COMMUNITIES  
15 THROUGHOUT THE STATE.

16 (4) EFFECTIVE WITH RESPECT TO ANY INDIVIDUAL APPOINTMENT BY THE GOVER-  
17 NOR, BY AND WITH THE ADVICE AND CONSENT OF THE SENATE, AFTER JANUARY  
18 FIRST, TWO THOUSAND ELEVEN, THE TERM OF SERVICE OF THE SUPERINTENDENT OF  
19 THE STATE POLICE SHALL BE SEVEN YEARS. A SUPERINTENDENT MAY NOT SERVE  
20 MORE THAN ONE SEVEN-YEAR TERM. THE APPOINTMENT OF THE FIRST DEPUTY  
21 SUPERINTENDENT SHALL ALSO BE SUBJECT TO SENATE CONFIRMATION.

22 (5) NOTWITHSTANDING SECTIONS THIRTY-THREE AND THIRTY-THREE-A OF THE  
23 PUBLIC OFFICERS LAW, A SUPERINTENDENT SHALL BE REMOVED FROM OFFICE FOR  
24 FAILURE TO FULFILL HIS OR HER DUTIES ONLY BY A MAJORITY VOTE OF EACH  
25 HOUSE OF THE LEGISLATURE OR IN ACCORDANCE WITH THE PROVISIONS OF SUBDI-  
26 VISIONS E, F OR G OF SECTION THIRTY OF THE PUBLIC OFFICERS LAW.

27 (6) IN THE EVENT THE SUPERINTENDENT RESIGNS FROM OFFICE, IS REMOVED  
28 FROM OFFICE OR IS INCAPABLE OF CONTINUING IN OFFICE DUE TO PHYSICAL  
29 ILLNESS, MENTAL ILLNESS OR DEATH THE FIRST DEPUTY SUPERINTENDENT SHALL  
30 ASSUME THE SUPERINTENDENT POSITION. IF AFTER FORTY-FIVE DAYS THE GOVER-  
31 NOR HAS NOT APPOINTED A NEW SUPERINTENDENT TO A FULL TERM, THE FIRST  
32 DEPUTY SUPERINTENDENT SHALL COMPLETE THE REMAINDER OF THE PREVIOUS  
33 SUPERINTENDENT'S TERM. UPON ASSUMPTION OF THE DUTIES OF SUPERINTENDENT,  
34 THE FIRST DEPUTY SUPERINTENDENT SHALL BE SUBJECT TO ALL REQUIREMENTS AND  
35 PROVISIONS ASSOCIATED WITH THE SUPERINTENDENT'S POSITION. IF THE FIRST  
36 DEPUTY SUPERINTENDENT COMPLETES THE TERM OF A PREVIOUSLY APPOINTED  
37 SUPERINTENDENT, THE FIRST DEPUTY IS ELIGIBLE FOR APPOINTMENT TO A FULL  
38 TERM AS SUPERINTENDENT IN HIS OR HER OWN RIGHT. ALL OTHER POTENTIAL  
39 REPLACEMENTS WITHIN THE RANKS OF THE STATE POLICE OR FROM OUTSIDE ITS  
40 RANKS FOR SUPERINTENDENT, IN THE EVENT THE FIRST DEPUTY IS UNABLE TO  
41 COMPLETE THE PREVIOUS SUPERINTENDENT'S POSITION, SHALL HAVE THE SAME  
42 RIGHTS AND ELIGIBILITIES AS THE FIRST DEPUTY SUPERINTENDENT AND SHALL BE  
43 SUBJECT TO ALL THE REQUIREMENTS AND PROVISIONS ASSOCIATED WITH THE  
44 SUPERINTENDENT.

45 S 2. The executive law is amended by adding a new section 210-a to  
46 read as follows:

47 S 210-A. SUPERINTENDENT'S ANNUAL REPORTS AND BIENNIAL TESTIMONY. (A)  
48 THE SUPERINTENDENT SHALL SUBMIT AN ANNUAL REPORT TO THE GOVERNOR, THE  
49 TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE  
50 MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF THE ASSEMBLY NO  
51 LATER THAN SEPTEMBER FIRST OF EACH YEAR.

52 (1) SUCH REPORT SHALL CONTAIN THE FOLLOWING INFORMATION:

53 (A) A DETAILED DESCRIPTION OF ANY SPECIAL REQUESTS MADE BY OR ON  
54 BEHALF OF THE GOVERNOR OR ANY MEMBER OF THE LEGISLATURE FOR SERVICES OF  
55 THE STATE POLICE BEYOND TRADITIONAL SERVICES PROVIDED BY THE STATE  
56 POLICE;

(B) A DETAILED DESCRIPTION OF ANY INFORMATION, UNLESS IT IS PRIVILEGED OR REQUIRES CONFIDENTIALITY, PROVIDED BY THE STATE POLICE TO THE GOVERNOR, AND/OR HIS OR HER STAFF, AND/OR TO ANY MEMBER OF THE LEGISLATURE, AND/OR HIS OR HER STAFF, BEYOND THE GENERAL PROGRAMMATIC AND BUDGETARY REPORTING REQUIREMENTS OF THE STATE POLICE AND A DESCRIPTION OF THE PURPOSE FOR WHICH SUCH INFORMATION WAS PROVIDED;

(C) A DESCRIPTION OF ANY SPECIAL DISCIPLINARY ACTIONS TAKEN BY THE SUPERINTENDENT REGARDING INTER- OR INTRA-GOVERNMENTAL AFFAIRS INVOLVING STATE POLICE PERSONNEL, BASED UPON SPECIAL REQUESTS MADE TO THE STATE POLICE BY OR ON BEHALF OF THE GOVERNOR, ANY MEMBER OF THE LEGISLATURE AND/OR ANY OTHER PUBLIC OR QUASI-PUBLIC ENTITY; AND

(D) A DESCRIPTION OF EACH REQUEST MADE BY OR ON BEHALF OF THE GOVERNOR AND/OR ANY MEMBER OF THE LEGISLATURE FOR INFORMATION OF ANY KIND OTHER THAN THE GENERAL INFORMATION PROVIDED BY THE STATE POLICE TO THE EXECUTIVE BRANCH, THE LEGISLATIVE BRANCH, PUBLIC AUTHORITIES OR LOCAL GOVERNMENT ENTITIES.

(2) THE SUPERINTENDENT SHALL INCLUDE A SIGNED CERTIFICATION WITH THE REPORT THAT THE INFORMATION PROVIDED IS TRUE TO THE BEST OF HIS OR HER KNOWLEDGE. IF SUCH CERTIFICATION IS FOUND TO BE FALSE, THE SUPERINTENDENT MAY BE SUBJECT TO REMOVAL BY THE LEGISLATURE.

(B) EVERY TWO YEARS, COMMENCING IN TWO THOUSAND ELEVEN, THE SUPERINTENDENT SHALL ATTEND A PROCEEDING TO TESTIFY BEFORE THE SENATE FINANCE COMMITTEE, THE ASSEMBLY WAYS AND MEANS COMMITTEE, THE SENATE INVESTIGATIONS AND GOVERNMENT OPERATIONS COMMITTEE AND THE ASSEMBLY OVERSIGHT, ANALYSIS AND INVESTIGATION COMMITTEE TO REVIEW THE PERSONNEL AND ADMINISTRATIVE ACTIVITIES OF THE STATE POLICE AND THE FUTURE PLANS AND INITIATIVE OF THE STATE POLICE. SUCH PROCEEDING SHALL BE CONDUCTED JOINTLY AT THE DIRECTION OF THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY AND SHALL TAKE PLACE NO LATER THAN NOVEMBER FIRST OF EVERY OTHER YEAR DURING WHICH THE PROCEEDING IS CONDUCTED.

(C) THE REPORTING REQUIREMENTS DESCRIBED IN THIS SECTION SHALL BE IN ADDITION TO, AND NOT IN LIEU OF, ANY OTHER REPORTING REQUIREMENTS PROVIDED BY LAW.

S 3. Section 211 of the executive law, as amended by chapter 331 of the laws of 1993, is amended to read as follows:

S 211. Employees. (A) The superintendent may appoint such employees as may be necessary and fix their compensation within such sum as may be appropriated by law. Persons appointed to competitive positions within the division who meet the definition of veteran or disabled veteran as defined in section eighty-five of the civil service law shall be entitled to additional credit and preference as conferred by that law and in the same manner, except that, notwithstanding any law to the contrary, with respect to any candidate applying for credit in a competitive examination for original appointment as a disabled or non-disabled veteran, such candidate may apply provisionally for such credit while still an active member of the armed forces. The application for provisional credit may be made at any time between the date of his or her application for the competitive examination and the date the eligible list is established. In cases where there has been a provisional application, the superintendent shall grant final credit only if the candidate renews his or her application within ninety days following termination of the candidate's military duty, and the candidate's period of eligibility on the list has not expired, and the candidate satisfies the appropriate statutory requirements for eligibility. Pending the granting of final credit, the candidate's ranking on any eligible list shall reflect the provisional credit.

1 (B) ANY EMPLOYEE APPOINTED TO THE EXECUTIVE SERVICES UNIT OR ANY OTHER  
2 UNIT ASSOCIATED WITH SECURITY AND/OR PROTECTING OTHER ELECTED AND/OR  
3 PUBLIC OFFICIALS SHALL HOLD SUCH APPOINTMENT FOR NO MORE THAN TWO YEARS  
4 AFTER WHICH PERIOD, THE EMPLOYEE SHALL BE REAPPOINTED TO THE POSITION HE  
5 OR SHE HELD PRIOR TO THE APPOINTMENT TO THE EXECUTIVE SERVICES UNIT OR  
6 ANY OTHER UNIT ASSOCIATED WITH SECURITY AND/OR PROTECTING OTHER ELECTED  
7 AND/OR PUBLIC OFFICIALS OR TO SUCH OTHER POSITION AND DUTIES AS ARE  
8 DETERMINED BY THE SUPERINTENDENT.

9 S 4. This act shall take effect January 1, 2011.