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

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2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. GIANARIS, MARKEY, NOLAN, PHEFFER, BENEDETTO, COOK, ROSENTHAL, MILLMAN, GALEF, DIAZ, ROBINSON, FIELDS, JAFFEE -- Multi-Sponsored by -- M. of A. BING, BOYLAND, CYMBROWITZ, DESTITO, DINOWITZ, GOTTFRIED, McENENY, PERRY, REILLY, SAYWARD, TOWNS, WEISENBERG -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public service law, in relation to the appointment of members of the public service commission

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

Section 1. Section 4 of the public service law is amended by adding a new subdivision 4 to read as follows:

4. TO ENSURE THE HIGHEST STANDARD OF PUBLIC UTILITY REGULATION, ANY PERSON APPOINTED AS A COMMISSIONER PURSUANT TO THE PROVISIONS OF THIS SECTION SHALL BE QUALIFIED FOR SUCH APPOINTMENT AS PROVIDED IN SECTION FOUR-A OF THIS ARTICLE.

S 2. The public service law is amended by adding a new section 4-a to read as follows:

S 4-A. PUBLIC SERVICE COMMISSION NOMINATING BOARD. 1. ANY PERSON APPOINTED AS A COMMISSIONER PURSUANT TO THE PROVISIONS OF SECTION FOUR OF THIS ARTICLE SHALL (A) HAVE EDUCATION AND TRAINING, AND THREE OR MORE YEARS OF EXPERIENCE IN ONE OR MORE OF THE FOLLOWING FIELDS: ECONOMICS, ENGINEERING, LAW, ACCOUNTING, BUSINESS MANAGEMENT, UTILITY REGULATION, PUBLIC POLICY, CONSUMER ADVOCACY OR ENVIRONMENTAL MANAGEMENT; AND (B) SHALL BE SELECTED FROM A LIST OF INDIVIDUALS NOMINATED AS PROVIDED IN SUBDIVISION TWO OF THIS SECTION.

2. (A) THERE SHALL BE ESTABLISHED IN THE DEPARTMENT A PUBLIC SERVICE COMMISSION NOMINATING BOARD CONSISTING OF THE FOLLOWING:

(1) THE EXECUTIVE DIRECTOR OF THE STATE CONSUMER PROTECTION BOARD, OR HIS OR HER DESIGNEE;

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

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(2) THE PRESIDENT OF THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, OR HIS OR HER DESIGNEE;
(3) THE COMMISSIONER OF ECONOMIC DEVELOPMENT, OR HIS OR HER DESIGNEE;
(4) THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION, OR HIS OR HER DESIGNEE;
(5) THE ATTORNEY GENERAL, OR HIS OR HER DESIGNEE;
(6) A PROFESSIONAL ENGINEER APPOINTED BY THE COMMISSIONER OF EDUCATION, TO SERVE AT THE PLEASURE OF SUCH COMMISSIONER;
(7) A CERTIFIED PUBLIC ACCOUNTANT APPOINTED BY THE COMMISSIONER OF EDUCATION, TO SERVE AT THE PLEASURE OF SUCH COMMISSIONER;
(8) A PERSON SIXTY-FIVE YEARS OF AGE OF OLDER APPOINTED BY THE DIRECTOR OF THE STATE OFFICE FOR THE AGING, TO SERVE AT THE PLEASURE OF SUCH DIRECTOR;
(9) A REPRESENTATIVE OF BUSINESS ENTITIES REGULATED BY THE COMMISSION, APPOINTED BY THE GOVERNOR, TO SERVE AT THE PLEASURE OF THE GOVERNOR;
(10) A REPRESENTATIVE OF BUSINESS ENTITIES THAT ARE NOT REGULATED BY THE COMMISSION, APPOINTED BY THE GOVERNOR, TO SERVE AT THE PLEASURE OF THE GOVERNOR;
(11) A REPRESENTATIVE OF LABOR APPOINTED BY THE GOVERNOR, TO SERVE AT THE PLEASURE OF THE GOVERNOR;
(12) TWO MEMBERS OF THE PUBLIC APPOINTED BY THE SPEAKER OF THE ASSEMBLY, TO SERVE AT THE PLEASURE OF THE SPEAKER;
(13) TWO MEMBERS OF THE PUBLIC APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE, TO SERVE AT THE PLEASURE OF THE TEMPORARY PRESIDENT;
(14) A MEMBER OF THE PUBLIC APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY, TO SERVE AT THE PLEASURE OF THE MINORITY LEADER; AND
(15) A MEMBER OF THE PUBLIC APPOINTED BY THE MINORITY LEADER OF THE SENATE, TO SERVE AT THE PLEASURE OF THE MINORITY LEADER.
(B) AT ITS INITIAL MEETING IN EACH CALENDAR YEAR, SUCH BOARD SHALL SELECT FROM AMONG ITS MEMBERS A CHAIRPERSON. THE BOARD MAY ADOPT BYLAWS GOVERNING ITS PROCEEDINGS.
(C) THE PUBLIC SERVICE COMMISSION NOMINATING BOARD SHALL KEEP A RECORD OF ITS PROCEEDINGS. SPECIAL MEETINGS MAY BE CALLED BY THE CHAIRPERSON, AND SHALL BE CALLED BY THE CHAIRPERSON UPON RECEIPT OF A WRITTEN REQUEST FOR A MEETING SIGNED BY TWO OR MORE MEMBERS OF THE BOARD. WRITTEN NOTICE OF THE TIME AND PLACE OF EACH MEETING SHALL BE SENT TO EACH MEMBER OF THE BOARD.
(D) THE PUBLIC SERVICE COMMISSION NOMINATING BOARD SHALL:
(1) REVIEW AND EVALUATE POSSIBLE APPOINTEES FOR THE OFFICE OF COMMISSIONER OF THE COMMISSION;
(2) NOT MORE THAN EIGHTY-FIVE NOR LESS THAN SIXTY DAYS PRIOR TO THE EXPIRATION OF THE TERM OF A COMMISSIONER, OR NOT MORE THAN THIRTY DAYS AFTER THE DEATH OR RESIGNATION OF OR TERMINATION OF SERVICE BY, A COMMISSIONER, PROVIDE THE GOVERNOR WITH A LIST OF FOUR INDIVIDUALS MEETING THE QUALIFICATIONS OF THIS SECTION WHO ARE, IN THE JUDGMENT OF THE BOARD, THE MOST FULLY QUALIFIED TO SERVE ON THE COMMISSION. THE BOARD SHALL NOT INCLUDE THE NAME OF AN INDIVIDUAL UPON ANY SUCH LIST IF THE APPOINTMENT OF THAT INDIVIDUAL BY THE GOVERNOR WOULD RESULT IN A GREATER NUMBER OF MEMBERS OF THE COMMISSION BELONGING TO THE SAME POLITICAL PARTY THAN IS PERMITTED PURSUANT TO SECTION FOUR OF THIS ARTICLE.
(3) IN REVIEWING AND EVALUATING POSSIBLE APPOINTEES FOR THE OFFICE OF COMMISSIONER OF THE COMMISSION, THE BOARD MAY ACCEPT COMMENTS FROM, COOPERATE WITH AND REQUEST INFORMATION FROM ANY PERSON.
(E) WITHIN THIRTY DAYS OF RECEIPT OF THE BOARD'S RECOMMENDATIONS, THE GOVERNOR SHALL APPOINT ONE OF THE PERSONS RECOMMENDED BY THE BOARD TO FILL A VACANCY OCCURRING IN THE OFFICE OF COMMISSIONER. NOTHING IN THIS

SECTION SHALL PREVENT THE GOVERNOR IN THE GOVERNOR'S DISCRETION FROM REJECTING ALL OF THE NOMINEES OF THE BOARD AND RECONVENING THE BOARD IN ORDER TO SELECT FOUR ADDITIONAL NOMINEES. HOWEVER, WHEN THE GOVERNOR HAS RECONVENED THE BOARD AND THE BOARD HAS PROVIDED THE GOVERNOR WITH A SECOND LIST OF FOUR NAMES, THE GOVERNOR SHALL MAKE THE APPOINTMENT FROM ONE OF THE NAMES ON THE FIRST LIST OR THE SECOND LIST.

(F) THE MEMBERS OF THE BOARD SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES ON THE BOARD BUT SHALL BE ENTITLED TO REIMBURSEMENT OF THEIR ACTUAL AND NECESSARY EXPENSES.

S 3. This act shall take effect on the one hundred twentieth day after it shall have become a law.