

3583

2009-2010 Regular Sessions

I N S E N A T E

March 25, 2009

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the arts and cultural affairs law, in relation to the American Museum of Natural History Planetarium Authority

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

1 Section 1. Subdivisions 1 and 4 of section 59.03 of the arts and  
2 cultural affairs law are amended to read as follows:  
3 1. The term ["authority"] "PLANETARIUM AUTHORITY" shall mean the  
4 corporation created by section 59.05 of this chapter;  
5 4. The term "board" shall mean the members of the [authority] BOARD OF  
6 DIRECTORS OF THE PLANETARIUM AUTHORITY.  
7 S 2. Section 59.05 of the arts and cultural affairs law is amended to  
8 read as follows:  
9 S 59.05. The American Museum of Natural History Planetarium Authority.  
10 The trustees of The American Museum of Natural History, a corporation  
11 created by chapter one hundred and nineteen of the laws of eighteen  
12 hundred sixty-nine, and their successors in such office [are] SHALL  
13 APPOINT NO LESS THAN THREE NOR MORE THAN FIVE INDIVIDUALS TO SERVE AS  
14 MEMBERS OF THE BOARD OF DIRECTORS OF THE PLANETARIUM AUTHORITY FOR TERMS  
15 OF ONE TO THREE YEARS (AS DETERMINED BY THE TRUSTEES OF THE AMERICAN  
16 MUSEUM OF NATURAL HISTORY), AND WHICH IS hereby continued as a body  
17 corporate by the name of "The American Museum of Natural History Plane-  
18 tarium Authority," to be located in the city of New York, for the  
19 purpose of establishing and maintaining in such city a planetarium upon  
20 a site provided by the authorities of such city adjacent to The American  
21 Museum of Natural History in such city; of encouraging and developing  
22 the study of astronomical science; of advancing the general knowledge of  
23 kindred subjects, and to that end, of furnishing popular instruction.  
24 Such authority shall constitute a public benefit corporation.

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

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1 EACH MEMBER OF THE BOARD OF THE PLANETARIUM AUTHORITY SHALL BE INDE-  
2 PENDENT OF THE PLANETARIUM AUTHORITY AND OF THE AMERICAN MUSEUM OF  
3 NATURAL HISTORY AS DESCRIBED IN THE PUBLIC AUTHORITIES LAW; AND THE  
4 AMERICAN MUSEUM OF NATURAL HISTORY SHALL NOT BE CONSIDERED AN AFFILIATE  
5 OF THE PLANETARIUM AUTHORITY.

6 [The president of the authority shall be the president of The American  
7 Museum of Natural History.] THE BOARD OF THE PLANETARIUM AUTHORITY MAY  
8 APPOINT AN EXECUTIVE DIRECTOR. The members of the [authority] BOARD AND  
9 THE EXECUTIVE DIRECTOR OF THE PLANETARIUM AUTHORITY SHALL SERVE PRO BONO  
10 AND shall be entitled to no compensation for their services [but shall  
11 be entitled to] OR reimbursement for [all] expenses incurred or to be  
12 incurred in connection with the planetarium hereby authorized. [Nine  
13 members of the authority, or, if nine be more than a majority of all of  
14 the members then in office, a] A majority of the members of the [author-  
15 ity,] BOARD OF THE PLANETARIUM AUTHORITY shall constitute a quorum at  
16 any meeting of the board, and a majority of the members present at a  
17 meeting of the board at which there is a quorum may exercise the powers  
18 of the authority. The [authority] BOARD OF THE PLANETARIUM AUTHORITY  
19 may delegate to one or more of its members or to its officers, [agents  
20 and employees,] ANY such powers and duties as it may deem proper. THE  
21 PLANETARIUM AUTHORITY SHALL CONTINUE THE LEASE WITH THE AMERICAN MUSEUM  
22 OF NATURAL HISTORY FOR THE EXCLUSIVE OCCUPANCY, OPERATION AND USE OF THE  
23 PLANETARIUM BY THE AMERICAN MUSEUM OF NATURAL HISTORY FOR THE PURPOSE OF  
24 CARRYING OUT THE PURPOSES SET FORTH ABOVE AND RELATED PURPOSES, ALL UPON  
25 THE OBLIGATION OF THE AMERICAN MUSEUM OF NATURAL HISTORY TO KEEP THE  
26 PLANETARIUM IN REASONABLE REPAIR, AND TO MAINTAIN AND OPERATE THE PLANE-  
27 TARIUM, WHICH LEASE MAY BE OF INDEFINITE DURATION TERMINABLE ONLY UPON  
28 SURRENDER OF THE LEASE BY THE DIRECTION AND AUTHORIZATION OF THE BOARD  
29 OF TRUSTEES OF THE AMERICAN MUSEUM OF NATURAL HISTORY.

30 The existence of the [authority] PLANETARIUM AUTHORITY shall continue  
31 [only for a period of five years and thereafter] until DISSOLVED BY ITS  
32 BOARD, PROVIDED THAT all its liabilities have been met and its bonds  
33 have been paid in full or such liabilities or bonds have [otherwise]  
34 been discharged AND PROVIDED FURTHER THAT THE PLANETARIUM AUTHORITY'S  
35 LEASE TO THE AMERICAN MUSEUM OF NATURAL HISTORY SHALL HAVE BEEN SURREN-  
36 DERED BY THE AMERICAN MUSEUM OF NATURAL HISTORY. NOTWITHSTANDING THE  
37 FOREGOING, THE PLANETARIUM AUTHORITY SHALL BE DISSOLVED WHEN THE AMERI-  
38 CAN MUSEUM OF NATURAL HISTORY SURRENDERS ITS LEASE OF THE PLANETARIUM TO  
39 THE PLANETARIUM AUTHORITY, PROVIDED THAT ALL ITS LIABILITIES HAVE BEEN  
40 MET AND ITS BONDS HAVE BEEN PAID IN FULL OR SUCH LIABILITIES OR BONDS  
41 HAVE BEEN DISCHARGED OR ASSUMED BY THE AMERICAN MUSEUM OF NATURAL HISTO-  
42 RY. Upon its ceasing to exist, all of its real property shall pass to  
43 the city of New York and all of its personal property shall pass to The  
44 American Museum of Natural History for its corporate purposes. Thereup-  
45 on, such real property shall be maintained and operated in the same  
46 manner and subject to the same provisions, restrictions and authorities  
47 and by the same corporation as the other property of the city of New  
48 York which is now occupied by The American Museum of Natural History.

49 S 3. Section 59.07 of the arts and cultural affairs law is amended to  
50 read as follows:

51 S 59.07. Powers of the [authority] PLANETARIUM AUTHORITY. The  
52 [authority] PLANETARIUM AUTHORITY shall have power:

- 53 1. To sue and be sued;
- 54 2. To have a seal and alter the same at pleasure;
- 55 3. To acquire, hold and dispose of personal property for its corporate  
56 purposes;

1 4. To make by-laws for the management and regulation of its affairs;

2 5. [With the consent of The American Museum of Natural History, to] TO  
3 use the agents, employees and facilities of [said] The American Museum  
4 of Natural History, paying its proper proportion of the compensation or  
5 cost;

6 6. To appoint officers[,] AND agents [and employees and fix their  
7 compensation];

8 7. To make contracts and to execute all instruments necessary or  
9 convenient;

10 8. By contract or contracts or by its own employees, to construct such  
11 planetarium building, together with incidental machinery, equipment and  
12 facilities;

13 9. To purchase or construct, or acquire by gift, loan or otherwise  
14 from The American Museum of Natural History or other persons or corpo-  
15 rations, and install in such planetarium building, a planetarium instru-  
16 ment or instruments and such other astronomical instruments and exhibits  
17 as to such board shall seem best adapted for astronomical instruction;

18 10. To maintain, reconstruct and operate the planetarium;

19 11. To charge OR GRANT TO THE AMERICAN MUSEUM OF NATURAL HISTORY IN  
20 THE LEASE THE RIGHT TO CHARGE admission fees for exhibiting the plane-  
21 tarium or some part or parts thereof, subject to and in accordance with  
22 section 59.09 of this title and such agreements with bondholders as may  
23 be made as hereinafter provided;

24 12. To issue negotiable bonds and to provide for the rights of the  
25 holders thereof; and

26 13. To do all things necessary or convenient to carry out the powers  
27 expressly given by this title.

28 S 4. Section 59.09 of the arts and cultural affairs law is amended to  
29 read as follows:

30 S 59.09. Admission fees. In order that the educational influence of  
31 the planetarium shall reach as many persons as possible, the board shall  
32 not fix admission fees, at rates higher than are necessary to pay the  
33 cost of construction, operation, maintenance and repair of the planetar-  
34 ium and instruction in connection therewith, AND RESERVES THEREFOR, and  
35 to pay the principal of and interest on any bonds issued hereunder, and  
36 to meet the reserves and sinking funds provided for in any resolution  
37 authorizing such bonds. Classes from the public schools and colleges of  
38 the city of New York shall be admitted to the planetarium [without  
39 charge] at such times and upon such days of the week and under such  
40 reasonable rules and regulations as the board shall prescribe.

41 S 5. Section 59.11 of the arts and cultural affairs law is amended to  
42 read as follows:

43 S 59.11. Moneys of the [authority] PLANETARIUM AUTHORITY. The moneys  
44 in the deposit account of the [authority] PLANETARIUM AUTHORITY shall be  
45 paid out on checks signed by the [president] EXECUTIVE DIRECTOR of the  
46 [authority] PLANETARIUM AUTHORITY or by such other person or persons as  
47 the [authority] PLANETARIUM AUTHORITY may authorize. All deposits of  
48 such moneys shall, if required by the [authority] PLANETARIUM AUTHORITY,  
49 be secured by obligations of the United States or the state of New York,  
50 of a market value equal at all times to the amount of the deposit and  
51 all banks and trust companies are authorized to give such security for  
52 such deposits. The comptroller of the city of New York and his legally  
53 authorized representatives are hereby authorized and empowered from time  
54 to time to examine the accounts and books of the [authority] PLANETARIUM  
55 AUTHORITY, including its receipts, disbursements, contracts, sinking

1 funds, investments and any other matters relating to its financial  
2 standing.

3 S 6. The section heading and subdivisions 1, 3 and 6 of section 59.13  
4 of the arts and cultural affairs law are amended to read as follows:

5 Bonds of the [authority] PLANETARIUM AUTHORITY. 1. [The authority]  
6 SUBJECT TO THE CONSENT OF THE AMERICAN MUSEUM OF NATURAL HISTORY, THE  
7 PLANETARIUM AUTHORITY shall have power and is hereby authorized from  
8 time to time to issue its negotiable bonds in conformity with applicable  
9 provisions of the uniform commercial code in the aggregate principal  
10 amount of not exceeding one million dollars. The [authority] PLANETARIUM  
11 AUTHORITY shall have power from time to time to refund any bonds by the  
12 issuance of new bonds, whether the bonds to be refunded have or have not  
13 matured, and may issue bonds partly to refund bonds then outstanding and  
14 partly for any other corporate purpose. In computing the total amount of  
15 bonds of the [authority] PLANETARIUM AUTHORITY which may at any time be  
16 outstanding the amount of the outstanding bonds to be refunded from the  
17 proceeds of the sale of new bonds or by exchange for new bonds shall be  
18 excluded.

19 3. Such bonds may be issued for any corporate purposes of the [author-  
20 ity] PLANETARIUM AUTHORITY.

21 6. The [authority] PLANETARIUM AUTHORITY shall have power out of any  
22 funds available therefor to purchase any bonds issued by it at a premium  
23 of not more than four percentum and accrued interest. All bonds so  
24 purchased shall be cancelled.

25 S 7. Section 59.15 of the arts and cultural affairs law is amended to  
26 read as follows:

27 S 59.15. State and city not liable on bonds. The bonds and other obli-  
28 gations of the [authority] PLANETARIUM AUTHORITY shall not be a debt of  
29 the state of New York or city of New York and neither the state nor such  
30 city shall be liable thereon, nor shall they be payable out of any funds  
31 other than those of the [authority] PLANETARIUM AUTHORITY.

32 S 8. Subdivision 1, paragraph (a) of subdivision 2 and subdivisions 4  
33 and 5 of section 59.21 of the arts and cultural affairs law are amended  
34 to read as follows:

35 1. In the event that the [authority] PLANETARIUM AUTHORITY shall  
36 default in the payment of principal of or interest on any of the bonds  
37 after the same shall become due, whether at maturity or upon call for  
38 redemption, and such default shall continue for a period of thirty days,  
39 or in the event that the [authority] PLANETARIUM AUTHORITY shall fail or  
40 refuse to comply with the provisions of this title, or shall default in  
41 any agreement made with the holders of the bonds, the holders of twen-  
42 ty-five percentum in aggregate principal amount of the bonds then  
43 outstanding by instrument or instruments filed in the office of the  
44 clerk of the county of New York and proved or acknowledged in the same  
45 manner as a deed to be recorded may appoint a trustee to represent the  
46 bondholders for the purposes herein provided;

47 (a) By suit, action or special proceeding enforce all rights of the  
48 bondholders, including the right to require the [authority] PLANETARIUM  
49 AUTHORITY and the board to collect admission fees adequate to carry out  
50 any agreement as to, or pledge of, such admission fees, and to require  
51 the [authority] PLANETARIUM AUTHORITY and the board to carry out any  
52 other agreements with the bondholders and to perform its and their  
53 duties under this title;

54 4. Before declaring the principal of all bonds due and payable the  
55 trustee shall first give thirty days' notice in writing to the [authori-  
56 ty] PLANETARIUM AUTHORITY.

1 5. Any such trustee, whether or not all bonds have been declared due  
2 and payable, shall be entitled as of right to the appointment of a  
3 receiver who may enter and take possession of the planetarium or any  
4 part or parts thereof and operate and maintain the same and collect and  
5 receive all admission fees and other revenues thereafter arising there-  
6 from in the same manner as the [authority] PLANETARIUM AUTHORITY itself  
7 might do and shall deposit all such moneys in a separate account and  
8 apply the same in such manner as the court shall direct. In any suit,  
9 action or proceeding by the trustee the fees, counsel fees and expenses  
10 of the trustee and of the receiver, if any, shall constitute taxable  
11 disbursements and all costs and disbursements allowed by the court shall  
12 be a first charge on any admission fees and other revenues derived from  
13 the planetarium.

14 S 9. Section 59.23 of the arts and cultural affairs law is amended to  
15 read as follows:

16 S 59.23. Members OF THE BOARD OF THE PLANETARIUM AUTHORITY and employ-  
17 ees not to profit. No officer, member OF THE BOARD or employee of the  
18 corporation shall receive or may be lawfully entitled to receive any  
19 pecuniary profit from the operation thereof [except reasonable compen-  
20 sation for services in effecting one or more of its purposes herein set  
21 forth].

22 S 10. Section 59.25 of the arts and cultural affairs law is amended to  
23 read as follows:

24 S 59.25. Visitation by regents. The regents, or the commissioner of  
25 education, or their representatives, may visit, examine into and  
26 inspect, the [authority] PLANETARIUM AUTHORITY as an institution under  
27 the educational supervision of the state, and may require, as often as  
28 desired, duly verified reports therefrom giving such information and in  
29 such form as the regents or the commissioner of education shall  
30 prescribe.

31 S 11. Section 59.27 of the arts and cultural affairs law is amended to  
32 read as follows:

33 S 59.27. Application of law. All of the general provisions of the  
34 public authorities law or of any other law shall apply to the [authori-  
35 ty] PLANETARIUM AUTHORITY herein continued in the same manner as if the  
36 language of such law had been incorporated in full into this article,  
37 except to the extent that such provisions are inconsistent with the  
38 provisions of this article.

39 S 12. This act shall take effect immediately.