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

6302

2009-2010 Regular Sessions

I N S E N A T E

November 18, 2009

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

AN ACT to amend the public officers law, in relation to removing public officials from office who are convicted of certain misdemeanor offenses

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

Section 1. Subdivision 1 of section 30 of the public officers law, as amended by chapter 209 of the laws of 1954, paragraph e as amended by chapter 454 of the laws of 1987 and paragraph f as amended by chapter 550 of the laws of 1978, is amended to read as follows:

1. Every office shall be vacant upon the happening of one of the following events before the expiration of the term thereof:

a. The death of the incumbent;

b. His OR HER resignation;

c. His OR HER removal from office;

d. His OR HER ceasing to be an inhabitant of the state, or if he OR SHE be a local officer, of the political subdivision, or municipal corporation of which he OR SHE is required to be a resident when chosen;

e. His OR HER conviction of a felony, OR A MISDEMEANOR OFFENSE AGAINST ANOTHER PERSON INVOLVING PHYSICAL INJURY, SEXUAL CONDUCT, RESTRAINT OR INTIMIDATION, or a crime involving a violation of his OR HER oath of office, provided, however, that a non-elected official may apply for reinstatement to the appointing authority upon reversal or the vacating of such conviction where the conviction is the sole basis for the vacancy. After receipt of such application, the appointing authority shall afford such applicant a hearing to determine whether reinstatement is warranted. The record of the hearing shall include the final judgment of the court which reversed or vacated such conviction and may also include the entire employment history of the applicant and any other submissions which may form the basis of the grant or denial of reinstatement

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

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notwithstanding the reversal or vacating of such conviction. Notwithstanding any law to the contrary, after review of such record, the appointing authority may, in its discretion, reappoint such non-elected official to his OR HER former office, or a similar office if his OR HER former office is no longer available. In the event of such reinstatement, the appointing authority may, in its discretion, award salary or compensation in full or in part for the period from the date such office became vacant to the date of reinstatement or any part thereof;

f. The entry of a judgment or order of a court of competent jurisdiction declaring him OR HER to be incompetent;

g. The judgment of a court, declaring void his OR HER election or appointment, or that his OR HER office is forfeited or vacant;

h. His OR HER refusal or neglect to file his OR HER official oath or undertaking, if one is required, before or within thirty days after the commencement of the term of office for which he OR SHE is chosen, if an elective office, or if an appointive office, within thirty days after notice of his OR HER appointment, or within thirty days after the commencement of such term; or to file a renewal undertaking within the time required by law, or if no time be so specified, within thirty days after notice to him OR HER in pursuance of law, that such renewal undertaking is required. The neglect or failure of any state or local officer to execute and file his OR HER oath of office and official undertaking within the time limited therefor by law, shall not create a vacancy in the office if such officer was on active duty in the armed forces of the United States and absent from the county of his OR HER residence at the time of his OR HER election or appointment, and shall take his OR HER oath of office and execute his OR HER official undertaking within thirty days after receipt of notice of his OR HER election or appointment, and provided such oath of office and official undertaking be filed within ninety days following the date it has been taken and subscribed, any inconsistent provision of law, general, special, or local to the contrary, notwithstanding.

S 2. This act shall take effect immediately.