

10591

I N A S S E M B L Y

April 8, 2010

Introduced by M. of A. TEDISCO -- read once and referred to the Committee on Local Governments

AN ACT to amend the county law, in relation to allowing a county clerk to employ an attorney-at-law to defend against certain civil actions; and to amend the public officers law, in relation to the removal of public officers by the governor

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

1 Section 1. Section 409 of the county law is amended by adding a new
2 subdivision 3 to read as follows:

3 3. (A) NOTWITHSTANDING SUBDIVISIONS ONE AND TWO OF THIS SECTION OR ANY
4 OTHER INCONSISTENT PROVISION OF LAW, A COUNTY CLERK MAY EMPLOY AN ATTOR-
5 NEY-AT-LAW TO DEFEND ANY CIVIL ACTION OR PROCEEDING BROUGHT AGAINST HIM
6 OR HER IN HIS OR HER OFFICIAL CAPACITY AS AN AGENT OF THE COMMISSIONER
7 OF MOTOR VEHICLES AS DESIGNATED UNDER SECTION TWO HUNDRED FIVE OF THE
8 VEHICLE AND TRAFFIC LAW.

9 (B) ALL DAMAGES RECOVERED AGAINST, OR COSTS AND EXPENSES LAWFULLY
10 INCURRED BY A COUNTY CLERK, INCLUDING ATTORNEY'S FEES, IN THE DEFENSE OF
11 A CIVIL ACTION OR PROCEEDING BROUGHT AGAINST SUCH CLERK IN HIS OR HER
12 CAPACITY AS AN AGENT OF THE COMMISSIONER OF MOTOR VEHICLES FOR AN OFFI-
13 CIAL ACT DONE, OR FOR FAILURE TO PERFORM AN OFFICIAL ACT, SHALL BE A
14 STATE CHARGE AND SHALL BE AUDITED AND PAID IN THE SAME MANNER AS STATE
15 CHARGES. WHEN THE ACT UPON WHICH THE ACTION OR PROCEEDING IS BASED WAS
16 DONE IN GOOD FAITH, BUT WITHOUT THE AUTHORITY OF LAW OR AUTHORIZATION BY
17 THE COMMISSIONER OF MOTOR VEHICLES, THE STATE COMPTROLLER MAY AUDIT AND
18 PAY THE SAME AS STATE CHARGES, EVEN IF SUCH ACTION OR PROCEEDING WAS
19 INITIATED AGAINST THE CLERK BY THE COMMISSIONER OF MOTOR VEHICLES.

20 S 2. Subdivision 1 of section 34 of the public officers law, as
21 amended by chapter 15 of the laws of 1928, is amended to read as
22 follows:

23 1. In any proceeding for the removal by the governor of a public offi-
24 cer, he OR SHE may conduct an investigation into the charges, and may
25 take the evidence as to the truth of the charges at a hearing for such
26 purpose, or he OR SHE may direct that such investigation or hearing, or

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

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1 both, shall be conducted by a justice of the supreme court of the judi-
2 cial district, or the county judge of the county, in which the officer
3 proceeded against shall reside, or by a commissioner appointed by the
4 governor, by an appointment, in writing, filed in the office of the
5 secretary of state. EXCEPT, NO SUCH PROCEEDING OR INVESTIGATION SHALL BE
6 UNDERTAKEN OR DIRECTED TO BE UNDERTAKEN AGAINST A PUBLIC OFFICER ON THE
7 BASIS OF AN ACTION, OR FAILURE TO ACT, OF SUCH PUBLIC OFFICER, IF DONE
8 IN GOOD FAITH AND WITH A REASONABLE BELIEF THAT THE PUBLIC OFFICER IS
9 DEFENDING, PROTECTING AND UPHOLDING THE CONSTITUTION OR LAWS OF THE
10 UNITED STATES OR OF THIS STATE, EVEN IF IT IS SUBSEQUENTLY DETERMINED
11 THAT SUCH ACTION OR INACTION WAS WITHOUT AUTHORITY OF LAW OR WITHOUT
12 EXPRESS AUTHORIZATION.

13 S 3. This act shall take effect immediately.