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

1314

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. BRODSKY -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the not-for-profit corporation law, in relation to the creation of the higher education research foundation accountability and transparency act

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

Section 1. This act shall be known and may be cited as the "higher education research foundation accountability and transparency act".

S 2. Legislative findings and declarations. The legislature finds and declares that the state has a vital interest in the oversight of its educational centers and associated research foundations for higher education and in the research foundations' viability as not-for-profit entities, as well as preserving the high academic standards and research done throughout the state's university system. The state has an essential interest in protecting and ensuring that funding, grants and other monies used by the state university system of New York in conjunction with not-for-profit research foundations is facilitated in an open and accountable manner. The combination and close relationship of a public university system with not-for-profit research foundations presents certain challenges and potential conflicts with the academic, labor and other policies of the state. Therefore, the legislature finds and declares that additional oversight and accountability is necessary to preserve the integrity of the state university system.

S 3. The not-for-profit corporation law is amended by adding a new section 1413 to read as follows:

S 1413. HIGHER EDUCATION RESEARCH FOUNDATIONS.

(A) FOR THE PURPOSES OF THIS SECTION, THE TERM "HIGHER EDUCATION RESEARCH FOUNDATION" SHALL MEAN A NOT-FOR-PROFIT CORPORATION, COMPANY OR PARTNERSHIP CLOSELY AFFILIATED WITH THE STATE UNIVERSITY OF NEW YORK AND

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

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WHOSE PURPOSES ARE ESSENTIALLY TO SUPPORT, SUPPLEMENT OR EXTEND THE FUNCTIONS AND PROGRAMS OF SUCH STATE UNIVERSITY, INCLUDING WITHOUT LIMITATION THE RESEARCH FOUNDATION OF THE STATE UNIVERSITY OF NEW YORK AND ITS AFFILIATED ENTITIES.

(B) BUDGET REPORTS AND OVERSIGHT. HIGHER EDUCATION RESEARCH FOUNDATIONS SHALL BE CONSIDERED A PUBLIC BENEFIT CORPORATION AS THAT TERM IS USED IN SECTION TWO OF THE PUBLIC AUTHORITIES LAW FOR THE PURPOSE OF SUBMITTING SUCH HIGHER EDUCATION RESEARCH FOUNDATIONS TO THE PROVISIONS OF TITLE ONE OF ARTICLE NINE OF THE PUBLIC AUTHORITIES LAW. SUCH FOUNDATIONS SHALL SUBMIT ANNUALLY TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY AND THE COMPTROLLER, REPORTS OF BUDGET INFORMATION AS REQUIRED BY TITLE ONE OF ARTICLE NINE OF THE PUBLIC AUTHORITIES LAW. REPORTS REQUIRED BY THIS SECTION SHALL BE MAINTAINED AT THE PRINCIPAL OFFICE OF THE HIGHER EDUCATION RESEARCH FOUNDATION AS A PUBLIC RECORD AVAILABLE FOR PUBLIC INSPECTION AND COPYING. A HIGHER EDUCATION RESEARCH FOUNDATION SHALL BE CONSIDERED A STATE AGENCY FOR THE PURPOSES OF COMPLYING WITH ARTICLE SIX OF THE PUBLIC OFFICERS LAW.

(C) RESTRICTIONS OF THE TRANSFER OF FUNCTIONS. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, NO FUNCTION WHICH IS PRIMARILY PERFORMED BY EMPLOYEES OF THE STATE UNIVERSITY OF NEW YORK SHALL BE TRANSFERRED TO, OR ASSUMED BY, OR PERFORMED BY HIGHER EDUCATION RESEARCH FOUNDATIONS, UNLESS SUCH TRANSFER OR ASSUMPTION OR PERFORMANCE IS SPECIFICALLY AUTHORIZED IN LAW BY AN ACT OF THE STATE LEGISLATURE.

(D) CIVIL SERVICE STATUS OF EMPLOYEES. ANY PERMANENT EMPLOYEE OF A HIGHER EDUCATION RESEARCH FOUNDATION WHO IS HIRED AFTER THE EFFECTIVE DATE OF THIS SECTION, SHALL BE DEEMED TO BE IN THE CLASSIFIED CIVIL SERVICE OR THE UNCLASSIFIED CIVIL SERVICE AS PROVIDED FOR IN THE CIVIL SERVICE LAW AND SHALL BE SUBJECT TO THE PROVISIONS OF THE CIVIL SERVICE LAW IN THE SAME MANNER AS AN EMPLOYEE OF A DEPARTMENT OR AGENCY OF THE STATE.

S 4. The state civil service commission may prescribe rules and regulations to define permanent employees of a higher education research foundation as defined in section 1413 of the not-for-profit corporation law, as added by section three of this act.

S 5. This act shall take effect on the one hundred eightieth day after it shall have become a law.