

6836

2009-2010 Regular Sessions

I N A S S E M B L Y

March 13, 2009

Introduced by M. of A. ROSENTHAL -- read once and referred to the
Committee on Tourism, Arts and Sports Development

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 Planetarium Authority," to be located in the city of New York, for the
18 purpose of establishing and maintaining in such city a planetarium upon
19 a site provided by the authorities of such city adjacent to The American
20 Museum of Natural History in such city; of encouraging and developing
21 the study of astronomical science; of advancing the general knowledge of
22 kindred subjects, and to that end, of furnishing popular instruction.
23 Such authority shall constitute a public benefit corporation.
24

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.