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

172

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

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

AN ACT in relation to appointing a special prosecutor to investigate certain violations by the New York city school construction authority

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

Section 1. 1. (a) The governor, by and with the advice and consent of the senate, shall within thirty days of the effective date of this act appoint a special prosecutor to investigate safety violations by the New York city school construction authority. The special prosecutor shall serve for a term of three years unless removed by the governor, after notice and an opportunity for a hearing, and then only for one or more of the following reasons: permanent disability which renders the special prosecutor incapable of performing the duties of his or her office; gross inefficiency, typified by a lack of ability to properly conduct investigations and prosecutions; neglect of duty, including an unwillingness to pursue claims of criminal fraud, abuse or corruption; malfeasance; conviction of a felony; or conduct involving moral turpitude.

(b) Such special prosecutor shall receive an annual salary to be fixed by law from within the amounts appropriated therefor. Such special prosecutor shall possess all of the powers of an assistant attorney general otherwise authorized by this act provided, however that such special prosecutor shall devote his or her full time and effort exclusively to investigations and prosecutions of actions and proceedings relating to claims of safety violations and negligence against the New York city school construction authority.

2. The special prosecutor may appoint such other deputies, directors, assistants, and other employees to serve at the special prosecutor's pleasure and discretion as may be needed for the performance of duties

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

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and may prescribe their powers and fix their compensation within the amounts appropriated therefor.

3. The special prosecutor shall have the following special functions, powers and duties:

(a) To receive, investigate and prosecute complaints as more particularly enumerated in paragraphs (b), (c) and (d) of this subdivision whenever such special prosecutor reasonably concludes that the activity alleged may constitute a crime;

(b) To receive, investigate and prosecute complaints from the public or any other source concerning alleged safety violations which are the responsibility of the New York city school construction authority;

(c) To receive, investigate and prosecute complaints of alleged failures to enforce the state's laws and pertinent rules and regulations regarding workplace or construction site safety;

(d) To receive, investigate and prosecute complaints of alleged failures of local officials and employees and private individuals to comply with state laws and rules and regulations regarding workplace or construction site safety;

(e) To make an annual report to the governor, the attorney general and the legislature concerning such work during the preceding year, and to make such further interim reports to them as they or any of them shall deem advisable or require; and

(f) To do all things necessary or convenient to carry out the functions, powers and duties set forth in this act.

4. For any claim involving safety violations or negligence by the New York city school construction authority, in addition to criminally prosecuting any person so charged the special prosecutor shall have a civil right of action to recover damages. Amounts collected pursuant to the authority of this subdivision shall be deposited in the general fund to the credit of the special prosecutor to offset the expenses of the office herein created.

S 2. This act shall take effect on the sixtieth day after it shall have become a law.