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

266

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

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

AN ACT to amend the insurance law, in relation to municipal cooperative health benefit plans, a study of community rating and the provision of claims experience to a municipality; to amend the agriculture and markets law and the county law, in relation to the sharing of the duties of weights and measures between municipalities; to amend the general municipal law and the highway law, in relation to mutual aid; and to amend the public health law, in relation to the composition of county and part-county boards of health

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

Section 1. Subsection (d) of section 3231 of the insurance law, as added by chapter 501 of the laws of 1992, is amended to read as follows:

(d) (1) Notwithstanding any other provision of this chapter to the contrary, no policy form subject to this section shall be issued or delivered, nor any insurance contract entered into, unless and until the insurer has filed with the superintendent a schedule of premiums, not to exceed twelve months in duration, to be paid under the policy forms and obtained the superintendent's approval thereof. The superintendent may refuse such approval if he or she finds that such premiums are excessive, inadequate, or unfairly discriminatory. The superintendent may consider the financial condition of such insurer in approving or disapproving any premium. In determining whether to approve the schedule of premiums filed, the superintendent shall, subject to the provisions of section three thousand two hundred thirty-three of this article, consider the prior experience of the insurer's community pool and the insurer's projections relating to claim costs, utilization and administrative expenses and shall not adjust the insurer's rates based upon the rates approved for other insurers.

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

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(2) AN INSURER SHALL PROVIDE SPECIFIC CLAIMS EXPERIENCE TO A MUNICIPAL CORPORATION, AS DEFINED IN SUBSECTION (F) OF SECTION FOUR THOUSAND SEVEN HUNDRED TWO OF THIS CHAPTER, COVERED BY THE INSURER UNDER A COMMUNITY RATED POLICY WHEN THE MUNICIPAL CORPORATION REQUESTS ITS CLAIMS EXPERIENCE FOR PURPOSES OF FORMING OR JOINING A MUNICIPAL COOPERATIVE HEALTH BENEFIT PLAN CERTIFIED PURSUANT TO ARTICLE FORTY-SEVEN OF THIS CHAPTER. NOTWITHSTANDING THE FORGOING PROVISIONS, NO INSURER SHALL BE REQUIRED TO PROVIDE MORE THAN THREE YEARS' CLAIMS EXPERIENCE TO A MUNICIPAL CORPORATION MAKING THIS REQUEST.

S 2. Subsection (d) of section 4317 of the insurance law, as added by chapter 501 of the laws of 1992, is amended to read as follows:

(d) (1) This section shall also apply to contracts issued to a group defined in subsection (c) of section four thousand two hundred thirty-five, including but not limited to an association or trust of employers, if the group includes one or more member employers or other member groups which have fifty or fewer employees or members exclusive of spouses and dependents.

(2) A CORPORATION SHALL PROVIDE SPECIFIC CLAIMS EXPERIENCE TO A MUNICIPAL CORPORATION, AS DEFINED IN SUBSECTION (F) OF SECTION FOUR THOUSAND SEVEN HUNDRED TWO OF THIS CHAPTER, COVERED BY THE CORPORATION UNDER A COMMUNITY RATED CONTRACT WHEN THE MUNICIPAL CORPORATION REQUESTS ITS CLAIMS EXPERIENCE FOR PURPOSES OF FORMING OR JOINING A MUNICIPAL COOPERATIVE HEALTH BENEFIT PLAN CERTIFIED PURSUANT TO ARTICLE FORTY-SEVEN OF THIS CHAPTER. NOTWITHSTANDING THE FOREGOING PROVISIONS, NO CORPORATION SHALL BE REQUIRED TO PROVIDE MORE THAN THREE YEARS' CLAIMS EXPERIENCE TO A MUNICIPAL CORPORATION MAKING THIS REQUEST.

S 3. Paragraph 2 of subsection (a) of section 4704 of the insurance law, as added by chapter 689 of the laws of 1994, is amended to read as follows:

(2) except for any plan that provided medical, surgical and hospital services on or before January first, nineteen hundred ninety-three pursuant to a municipal cooperation agreement, the number of municipal corporations participating in the municipal cooperative health benefit plan shall be at least [five] THREE;

S 4. Paragraph 1 of subsection (a) of section 4706 of the insurance law, as added by chapter 689 of the laws of 1994, is amended to read as follows:

(1) a reserve for payment of claims and expenses thereon reported but not yet paid, and claims and expenses thereon incurred but not yet reported which [shall not be less than an amount equal to twenty-five percent of expected incurred claims and expenses thereon for the current plan year, unless a qualified actuary has demonstrated to the superintendent's satisfaction that a lesser amount will be adequate] SHALL PROVIDE FOR THE PAYMENT OF ALL LOSSES OR CLAIMS AND EXPENSES INCURRED ON OR PRIOR TO THE DATE OF STATEMENT AS DETERMINED BY A QUALIFIED ACTUARY, MEETING THE REQUIREMENTS PRESCRIBED BY THE SUPERINTENDENT;

S 5. The opening paragraph of section 4714 of the insurance law, as added by chapter 689 of the laws of 1994, is amended to read as follows:

For municipal cooperative health benefit plans [that provided medical, surgical or hospital services on or before January first, nineteen hundred ninety-three pursuant to a municipal cooperation agreement authorized under article five-G of the general municipal law] CERTIFIED ON OR AFTER JULY FIRST, TWO THOUSAND NINE, the reserve and surplus requirements in section four thousand seven hundred six of this article may be phased in over a period of up to five plan years, provided that:

S 6. Paragraph 1 of subsection (a) of section 4714 of the insurance law, as added by chapter 689 of the laws of 1994, is amended to read as follows:

(1) at the end of the first plan year [on or] after [the effective date of this article] CERTIFICATION shall not be less than [twelve] FIFTY percent of [expected incurred claims and expenses thereon for such plan year] THE AMOUNT ESTABLISHED PURSUANT TO SUCH PARAGRAPH; and

S 7. The superintendent of insurance shall order a study of the impact to the community rated health insurance market of allowing a public entity, as defined in paragraph 51 of subsection (a) of section 107 of the insurance law, with fifty or fewer employees to join with public entities with more than fifty employees to purchase health insurance coverage under experience rated policies. The study shall be performed by a member of the American academy of actuaries. The study shall be completed and a report submitted by September 1, 2010 to the governor, the superintendent of insurance, the temporary president of the senate and the speaker of the assembly.

S 8. Section 180 of the agriculture and markets law, as added by chapter 874 of the laws of 1977, is amended to read as follows:

S 180. Municipal directors of weights and measures. 1. There shall be a county director of weights and measures in each county, except where A. a county is wholly embraced within a city there shall be a city director of weights and measures, OR B. WHERE TWO OR MORE COUNTIES HAVE ENTERED INTO AN INTERMUNICIPAL AGREEMENT, PURSUANT TO ARTICLE FIVE-G OF THE GENERAL MUNICIPAL LAW, TO SHARE THE FUNCTIONS, POWERS, AND DUTIES OF ONE DIRECTOR OF WEIGHTS AND MEASURES. Any county or city having a population of one million or more may elect to designate its commissioner of consumer affairs as its director of weights and measures. Subdivision four of this section shall not apply to a commissioner of consumer affairs so designated.

2. No city may institute a weights and measures program. Provided, that any city which maintained a weights and measures program on January first, nineteen hundred seventy-six may continue such program under a city director of weights and measures.

a. Any such city may contract with the legislature of the county in which it is located for the county director of weights and measures to perform the duties of and have the same powers within such city as the city director. Such contract shall fix the amount to be paid annually by the city to the county for such services. During the period such contract is in force and effect, the office of city director of weights and measures shall be abolished.

b. The county director shall not have jurisdiction in any city which has a city director of weights and measures, except in the county of Westchester the county director shall have concurrent jurisdiction with city directors of weights and measures in such county.

3. Nothing contained herein shall prohibit the governing body of any county or city from assigning to its municipal director powers and duties in addition to the powers and duties prescribed by this article provided such additional powers and duties deal primarily with services designed to aid and protect the consumer and are not inconsistent with the provisions of this article.

4. The municipal director shall be appointed by the appropriate authority of the municipality in which he resides having the general power of appointment of officers and employees. WHERE TWO OR MORE COUNTIES HAVE ENTERED INTO AN INTERMUNICIPAL AGREEMENT, PURSUANT TO ARTICLE FIVE-G OF THE GENERAL MUNICIPAL LAW, TO SHARE THE FUNCTIONS, POWERS, AND

DUTIES OF ONE DIRECTOR OF WEIGHTS AND MEASURES, SAID MUNICIPAL DIRECTOR MAY RESIDE IN ANY COUNTY THAT IS A PARTY TO THE INTERMUNICIPAL AGREEMENT. He shall be paid a salary determined by the appropriate authority and shall be provided by such authority with the working standards of weights, measures and other equipment as required by rules and regulations promulgated in accordance with this article. The position of municipal director shall be in the competitive class of the civil service with respect to all persons appointed on or after the effective date of this act.

S 9. Section 775 of the county law is amended to read as follows:

S 775. [County sealer] DIRECTOR OF WEIGHTS AND MEASURES; duties. The [county sealer] DIRECTOR OF WEIGHTS AND MEASURES shall perform the duties prescribed by law for the enforcement of honest weights and measures. He shall perform such additional and related duties as may be prescribed by law and directed by the board of supervisors.

S 10. Section 99-r of the general municipal law, as amended by chapter 165 of the laws of 2008, is amended to read as follows:

S 99-r. Contracts for services. Notwithstanding any other provisions of law to the contrary, the governing board of any municipal corporation may enter into agreements and/or contracts with any state agency including any department, board, bureau, commission, division, office, council, committee, or officer of the state, whether permanent or temporary, [or a] ANY public benefit corporation or public authority, [or a] ANY soil and water conservation district, [and] THE GOVERNING BOARD OF ANY OTHER MUNICIPAL CORPORATION AND/OR any unit of the state university of New York, pursuant to and consistent with sections three hundred fifty-five and sixty-three hundred one of the education law within or without such municipal corporation to provide OR RECEIVE fuel, equipment, maintenance and repair, supplies, water supply, street sweeping or maintenance, sidewalk maintenance, RIGHT-OF-WAY MAINTENANCE, STORM WATER AND OTHER drainage, sewage disposal, LANDSCAPING, MOWING, HIGHWAY INFRASTRUCTURE INSPECTION, REPAIR OR MAINTENANCE, INCLUDING RELATED TRAFFIC CONTROL AND ENFORCEMENT, TRAINING AND EDUCATION, ENGINEERING, or any other services of government. Such MUNICIPAL CORPORATION, state agency, soil and water conservation district, or unit of the state university of New York, within the limits of any [specific] statutory appropriation authorized and made available therefor by the legislature or by the governing body responsible for the operation of such state agency, soil and water conservation district, or unit of the state university of New York may contract with any municipal corporation for such services as [herein] provided IN THIS SECTION AND MAY PROVIDE, IN AGREEMENTS AND/OR CONTRACTS ENTERED INTO PURSUANT TO THIS SECTION, FOR THE RECIPROCAL PROVISION OF SERVICES OR OTHER CONSIDERATION OF APPROXIMATELY EQUIVALENT VALUE, INCLUDING, BUT NOT LIMITED TO, ROUTINE AND/OR EMERGENCY SERVICES, MONIES, EQUIPMENT, BUILDINGS AND FACILITIES, MATERIALS OR A COMMITMENT TO PROVIDE FUTURE ROUTINE AND/OR EMERGENCY SERVICES, MONIES, EQUIPMENT, BUILDINGS AND FACILITIES OR MATERIALS. Any such contract may be entered into by direct negotiations and shall not be subject to the provisions of section one hundred three of this chapter.

S 11. Section 10 of the highway law is amended by adding a new subdivision 46 to read as follows:

46. HAVE THE AUTHORITY TO ENTER INTO AGREEMENTS AND/OR CONTRACTS TO PROVIDE OR RECEIVE SERVICES PURSUANT TO SECTION NINETY-NINE-R OF THE GENERAL MUNICIPAL LAW UPON SUCH TERMS AND CONDITIONS AS DEEMED APPROPRIATE BY THE COMMISSIONER OR COMMISSIONER'S DESIGNEE.

S 12. Section 12 of the highway law, as amended by chapter 1110 of the laws of 1971, subdivision 2 as amended by chapter 249 of the laws of 1972, subdivision 2-a as added by chapter 568 of the laws of 1986 and subdivision 7 as added by chapter 691 of the laws of 1971, is amended to read as follows:

S 12. Commissioner of transportation to provide for maintenance, repair, and [for] control of snow and ice; roads and driveways on state lands. 1. The maintenance and repair of improved state highways in towns and incorporated villages, exclusive, however, of the cost of maintaining and repairing bridges having a span in excess of twenty feet shall be under the direct supervision and control of the commissioner of transportation and he shall be responsible therefor. The cost of such maintenance and repair shall be borne wholly by the state and be paid from moneys appropriated therefor by the legislature. Such maintenance and repair may be done in the discretion of the commissioner either directly by the department of transportation or by contract awarded to the lowest responsible bidder at a public letting after due advertisement, and under such rules and regulations as the commissioner of transportation may prescribe. The commissioner of transportation shall also have the power to adopt such system as may seem expedient so that each section of such highways shall be effectively and economically preserved, maintained and repaired.

2. The maintenance of state highways shall include the control of snow and ice AND OTHER HIGHWAY MAINTENANCE ACTIVITIES on such highways or any parts thereof, as the commissioner of transportation may deem to be necessary to provide reasonable passage and movement of vehicles over such highways. The commissioner of transportation is authorized also to erect snow fences at suitable locations. The work of such control of snow and ice AND OTHER HIGHWAY MAINTENANCE ACTIVITIES may be done by any municipality which for the purposes of this section shall include only a county, city, town or village. The governing board or body of any such municipality and the commissioner of transportation are hereby authorized to enter into an agreement for the performance of the work of such control of snow and ice AND OTHER HIGHWAY MAINTENANCE ACTIVITIES upon such terms, rules and regulations as may be deemed by the commissioner of transportation to be for the best interest of the public. Such agreement may provide for periodic payments based upon a percentage of the estimated total cost. Any agreement authorized by this subdivision shall be for a term of [three] UP TO FIVE years and at the expiration of [each] THE year PRECEDING THE LAST YEAR of the term specified in the agreement, as such term may be extended as herein provided, the municipality shall notify the commissioner either (a) that it requests, with the approval of the commissioner, that the term of the agreement be extended for [one year] A SPECIFIED TERM OF UP TO FIVE YEARS or (b) it intends not to extend the agreement and such agreement shall expire at the end of the term. If the municipality fails to notify the commissioner as herein provided, it shall be deemed that the municipality intends not to extend the agreement. SUCH AGREEMENT MAY BE TERMINATED DURING THE SPECIFIED TERM PROVIDED THE MUNICIPALITY SHALL NOTIFY THE COMMISSIONER EIGHTEEN MONTHS PRIOR TO SUCH TERMINATION OF AN AGREEMENT FOR THE CONTROL OF SNOW AND ICE. If any such agreement expires, a new agreement between the commissioner and a municipality may be entered into for a term of [three] UP TO FIVE years, with extended term or terms upon notification as above provided. Whenever the commissioner shall deem the work of control of snow and ice AND OTHER HIGHWAY MAINTENANCE ACTIVITIES by any municipality to be inadequate or unsatisfactory according to the

terms of any such agreement, he OR SHE may, by official order to be filed in [his office] THE DEPARTMENT, and by filing a certified copy thereof in the office of the department of state, cancel said agreement, and the payments thereunder provided by the state shall cease; whereupon the commissioner may carry out the work of control of snow and ice AND OTHER HIGHWAY MAINTENANCE ACTIVITIES. [The] AN official order provided in this subdivision AND RELATING TO THE CONTROL OF SNOW AND ICE shall become effective at the expiration of five days after the commissioner shall mail a certified copy thereof to the clerk or other official who performs related duties in such municipality. The governing board or body of any such municipality is authorized to appropriate such sum as it deems necessary to enable such municipality to perform the terms of such agreement. The work of such control of snow and ice AND OTHER HIGHWAY MAINTENANCE ACTIVITIES may be done by any of the methods provided in subdivision one of this section for the work of maintenance and repair, or by a combination of such methods. Any county is hereby authorized to enter into a contract with another municipality located within the same county for the performance of the work of such control of snow and ice AND OTHER HIGHWAY MAINTENANCE ACTIVITIES as a subcontractor under any agreement with the commissioner of transportation as such agreement is hereinbefore provided. Moneys received by a county under the terms of any agreement authorized by this subdivision shall be credited to the fund from which moneys were appropriated to enable the county to perform the terms of such agreement. Moneys so received by a town shall be credited to the highway fund. Moneys so received by a city or village shall be credited to the general fund.

2-a. (a) Except as provided hereafter the state shall indemnify and hold harmless such municipalities for any and all liability for damages for personal injury, injury to property or wrongful death for losses arising from or occasioned by the manner of performance of the functions under any agreement with a municipality for the control of snow and ice AND OTHER HIGHWAY MAINTENANCE ACTIVITIES pursuant to this section.

(b) In no event shall the state be obligated to defend or indemnify such municipality, in any action, proceeding, claim or demand arising out of the actual operation of an insured vehicle or vehicle subject to self-insurance while engaged in the operation of snow and ice control functions AND OTHER HIGHWAY MAINTENANCE ACTIVITIES under such agreement.

(c) The municipality shall be entitled to representation by the attorney general in any claim described in paragraph (a) of this subdivision, provided, however, that the municipality shall be entitled to itself defend any such action, proceeding, claim or demand whenever the attorney general determines, based upon his investigation and review of the facts and circumstances of the case that representation by the attorney general would be inappropriate, or whenever a court of competent jurisdiction determines that a conflict of interest exists and that the municipality is entitled to be separately represented. Whenever the municipality is entitled to defend the action itself, the state shall reimburse the municipality for any and all costs and expenses, including, but not limited to, counsel fees and disbursements.

(d) The state shall indemnify and save harmless such municipality in the amount of any judgment obtained against such municipality in any state or federal court on any claim described in paragraph (a) of this subdivision, or in the amount of any settlement of such claim, or shall pay such judgment or settlement; provided, however, that the act or omission from which such judgment or settlement arose occurred while the municipality was acting within the scope of its functions for control of

snow and ice AND OTHER HIGHWAY MAINTENANCE ACTIVITIES; provided, further, that no stipulation of settlement of any such action, proceeding, claim or demand shall be made or executed without approval of the attorney general and of the commissioner of transportation or his designee. Payment of any claim made pursuant to settlement shall not exceed the sum of fifty thousand dollars. Nothing herein shall authorize the state to indemnify or save harmless with respect to punitive or exemplary damages.

(e) The duty to defend or indemnify and save harmless prescribed by this subdivision shall be conditioned upon (i) delivery to the attorney general or an assistant attorney general at the office of the department of law located in Albany or New York city and by delivery to the commissioner of transportation or his designee a copy of any claim, summons, complaint, process, notice, demand or other pleading within ten days after such municipality is served with such document and (ii) the full cooperation of the municipality in the defense of such action, proceeding, claim or demand and in the defense of any action, proceeding, claim or demand against the state based upon the same act or omission, and in the prosecution of any appeal.

(f) The benefits of this subdivision shall inure only to such municipalities and shall not enlarge or diminish the rights of any other party nor shall any provision of this subdivision be construed to effect, alter or repeal any provision of the workers' compensation law.

(g) This subdivision shall not in any way affect the obligation of any claimant to give notice to the state under section ten of the court of claims act or any other provision of law.

(h) The provisions of this subdivision shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any insurance agreement.

(i) Except as otherwise specifically provided in this subdivision, the provisions of this subdivision shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee of the state or municipality or any other level of government, or any right to defense and indemnification provided for any governmental officer or employee by, in accordance with, or by reason of, any other provision of state or federal statutory or common law.

3. The commissioner of transportation shall have the power to purchase (a) materials for such maintenance and repair, except where such work is done by contract, and to contract for the delivery thereof at convenient intervals along such highways, and (b) equipment and appliances that he may deem necessary to carry out the provisions of this section. Any municipality, acting by and through its authorized official, is hereby empowered to rent its machinery, tools, equipment, and storage space, to the state, acting by and through the commissioner of transportation, for the purpose of such control of snow and ice AND OTHER HIGHWAY MAINTENANCE ACTIVITIES upon such terms and at such rate as may be agreed between the municipality and the commissioner of transportation. Notwithstanding the provisions of any general, special or local law or of any charter, the governing board or body of any such municipality is hereby authorized to sell such machinery, tools and equipment to the state, acting by and through the commissioner of transportation, for the purposes of this section and without competitive bidding or other limitation or restriction provided in any general, special or local law or of any charter, and the commissioner of transportation, may, upon approval by the state comptroller and the state commissioner of general

services, purchase such machinery, tools and equipment from any such municipality as herein provided.

4. Whenever funds therefor are made available, the commissioner of transportation shall have power to acquire for the state, by purchase, or by appropriation through the procedure described in section thirty of this chapter, property for the purpose of storing, maintaining or processing construction [and], maintenance supplies, material or equipment and for the purpose of providing, erecting and maintaining offices for department personnel and structures for storing, maintaining or processing construction and maintenance materials or equipment.

5. Whenever a state highway has been constructed at a greater width than that provided in the original plans, upon petition of a village, as provided in sections forty-six and forty-seven OF THIS CHAPTER, or upon petition of a town or county, as provided in sections forty-eight, forty-nine, or fifty-nine OF THIS CHAPTER, or whenever such highway has been widened by a town or county under a permit granted as provided in, or under conditions and regulations prescribed pursuant to section fifty-two OF THIS CHAPTER, the additional width of pavement shall be deemed to be a part of the highway and shall be maintained by the commissioner of transportation as provided herein, but in no case where any such highway has been widened as provided above, shall the state be responsible for the maintenance of any curb or of any paved gutter or paved shoulder, provided, however, that on any highway maintained by the state the commissioner shall have authority to clean any pavement or paved gutter or repair any unpaved shoulder or unpaved gutter outside of the pavement maintained by the state, where necessary for the protection of such pavement.

6. Whenever the head of any state department having jurisdiction or control over lands owned and occupied by the state, requests the commissioner of transportation to maintain and to repair any road and driveway which is located on, over and across such lands, the commissioner of transportation is, notwithstanding the provisions of any general, special or local law, authorized to grant such request by his official order therefor. Such official order shall contain a general description of any such road and driveway. A certified copy of such official order shall be filed by the commissioner of transportation in the office of (a) the state department having jurisdiction or control over such lands, and (b) the department of audit and control. Thereupon any such road and driveway shall be maintained and repaired under the direct supervision and control of the commissioner of transportation in the same manner as is provided in this section for the maintenance and repair of improved state highways in towns and in incorporated villages.

7. Whenever the head of any state department, agency, institution or public benefit corporation having jurisdiction or control over the lands owned and occupied by the state or such department, agency, institution or public benefit corporation requests the commissioner to construct, reconstruct, and/or maintain any loop or peripheral roadway which is or is to be located on, around, over, or across such lands, notwithstanding the provisions of any general, special or local law, the commissioner is authorized to grant such request and undertake such construction, reconstruction and/or maintenance. Before undertaking the work of construction, reconstruction and/or maintenance of such roadways, the commissioner and the head of the state department, agency, institution or public benefit corporation shall enter into a written agreement, subject to the approval of the director of the budget, providing the funds therefor, or reimbursement by such state department, agency,

institution or public benefit corporation of the funds therefor, including all costs incurred by the department in connection with such construction, reconstruction and/or maintenance. Where such loop or peripheral roadway is to be constructed, reconstructed and/or maintained on lands occupied by either the state university of New York or the state university construction fund, both the state university of New York and the state university construction fund shall be parties to such agreement. Such roadway shall be constructed, or reconstructed, to mutually agreeable standards, in the same manner as state highways are constructed or reconstructed pursuant to this chapter. The maintenance of such roadway shall be in the same manner as provided for state highways in this chapter. If such a maintenance agreement extends for a period greater than one year, the funds shall be made available for, or reimbursed, on an annual basis. The head of such state department, agency, institution or public benefit corporation may terminate such maintenance agreement upon six months written notice to the commissioner making provision for the department of transportation to be reimbursed for all costs incurred by such department up to such termination date. In connection with the maintenance of such a roadway the commissioner shall cause an official order to be issued therefor. Such official order shall contain a general description of such roadway. A certified copy of such official order shall be filed by the commissioner in the office of the head of the state department, agency, institution or public benefit corporation making such request for maintenance and with the department of audit and control.

S 13. Section 55 of the highway law, as amended by chapter 1110 of the laws of 1971, is amended to read as follows:

S 55. Emergency aid [for control of snow and ice] in municipalities. Notwithstanding any inconsistent provision of law, general, special or local, the commissioner of transportation, when authorized by the governor OR THE GOVERNOR'S DESIGNEE, is empowered to aid AND ACCEPT AID FROM any county, city, town or village of the state in [the control of snow and ice during] emergency situations, providing the governing board or body of any such municipality OR THE COMMISSIONER certifies to the governor (a) that such aid is required to promote the public welfare, (b) that such municipality OR THE DEPARTMENT does not have available and is unable to secure and provide the necessary equipment, facilities and personnel to perform the immediate work [of control of snow and ice], and (c) that adequate and appropriate provision has been made [to reimburse the state for] FOR REIMBURSEMENT OF any actual costs of labor and of maintenance and operation and for the depreciation of the necessary equipment and facilities [of the state]. The governing board or body of any such municipality and the commissioner of transportation are hereby authorized to enter into a contract for the purposes of this section upon such terms and conditions as shall be reasonable for the protection of the public.

S 14. Section 351 of the public health law, subdivision 1 as amended by chapter 83 of the laws of 1975, is amended to read as follows:

S 351. County or part-county health commissioner, PUBLIC HEALTH DIRECTOR OR COUNTY HEALTH DIRECTOR; appointment; compensation. 1. The board of health of each county and part-county health district OR OTHER BODY HAVING THE POWERS AND DUTIES OF A BOARD OF HEALTH OF A COUNTY OR PART-COUNTY HEALTH DISTRICT or the county executive in those counties where the county charter provides that said commissioner is to be appointed by the county executive shall appoint a county health commis-

sioner, COUNTY HEALTH DIRECTOR OR, WHEN AUTHORIZED UNDER THE STATE SANITARY CODE, PUBLIC HEALTH DIRECTOR; except, however,

(A) that the boards of health of not more than three county or part-county health districts OR OTHER BODIES HAVING THE POWERS AND DUTIES OF A BOARD OF HEALTH OF A COUNTY OR PART-COUNTY HEALTH DISTRICT may appoint the same person to serve as county health commissioner, COUNTY HEALTH DIRECTOR OR, WHEN AUTHORIZED BY THE STATE SANITARY CODE, PUBLIC HEALTH DIRECTOR for said health districts, if the total population of health districts is not in excess of one hundred fifty thousand according to the latest federal decennial census, provided the approval of the commissioner is obtained[. The]; OR

(B) THE board of health OR OTHER BODY HAVING THE POWERS AND DUTIES OF A BOARD OF HEALTH OF A COUNTY OR PART-COUNTY HEALTH DISTRICT of any county health district with a population of less than thirty-five thousand [population] according to the latest federal decennial census may appoint the same person employed by a contiguous county or part-county health district to serve as county health commissioner, COUNTY HEALTH DIRECTOR OR, WHEN AUTHORIZED BY THE STATE SANITARY CODE, PUBLIC HEALTH DIRECTOR without regard to the total population of both health districts, provided the approval of the commissioner is obtained.

THE COMMISSIONER SHALL PERIODICALLY REVIEW HIS OR HER DETERMINATION TO ENSURE SUCH EMPLOYMENT OF THE SAME COUNTY HEALTH DIRECTOR, DIRECTOR OF PUBLIC HEALTH OR COUNTY HEALTH COMMISSIONER CONTINUES TO SERVE THE INTEREST OF PUBLIC HEALTH AND MAY TERMINATE HIS OR HER APPROVAL AT HIS OR HER DISCRETION.

2. IF THE COMMISSIONER HAS APPROVED THE APPOINTMENT OF THE SAME PERSON TO SERVE AS THE COUNTY COMMISSIONER OF HEALTH OR PUBLIC HEALTH DIRECTOR OF MORE THAN ONE COUNTY OR PART-COUNTY HEALTH DISTRICT PURSUANT TO SUBDIVISION ONE OF THIS SECTION, THEN DURING THE CONTINUATION OF SUCH APPROVAL THE COMMISSIONER MAY ALSO AUTHORIZE THE SAME MEMBERS TO BE APPOINTED TO THE BOARD OF HEALTH OF EACH RESPECTIVE HEALTH DISTRICT, NOTWITHSTANDING THEIR RESIDENCY IN THE OTHER COUNTY.

3. ANY BOARDS OF HEALTH OR OTHER BODIES HAVING THE POWERS AND DUTIES OF A BOARD OF HEALTH OF A COUNTY OR PART-COUNTY HEALTH DISTRICT HAVING THE SAME MEMBERS SHALL ANNUALLY SUBMIT SUCH INFORMATION AND REPORTS REGARDING THE EFFECT OF SUCH EMPLOYMENT ON ADMINISTRATION OF THE RESPECTIVE HEALTH DISTRICTS AND THE PROVISION OF PUBLIC HEALTH SERVICES AS THE COMMISSIONER MAY REQUIRE. THE COMMISSIONER SHALL USE SUCH INFORMATION IN DETERMINING WHETHER SUCH COMMON MEMBERSHIP CONTINUES TO SERVE THE INTEREST OF PUBLIC HEALTH.

4. The county health commissioner OR PUBLIC HEALTH DIRECTOR shall possess such qualifications for office as are prescribed in the sanitary code.

[3.] 5. The county health commissioner OR PUBLIC HEALTH DIRECTOR shall serve for a term of six years and shall not be removed during the term for which he OR SHE shall have been appointed, except upon written charges after a hearing and upon notice.

[4.] 6. The county health commissioner OR PUBLIC HEALTH DIRECTOR shall receive such compensation as may be fixed by the board of supervisors OR, IF THE COMMISSIONER'S APPROVAL HAS BEEN OBTAINED FOR THE EMPLOYMENT OF THE SAME PERSON AS THE COUNTY HEALTH COMMISSIONER OR PUBLIC HEALTH DIRECTOR PURSUANT TO SUBDIVISION ONE OF THIS SECTION, BY THE BOARDS OF SUPERVISORS.

S 15. This act shall take effect immediately.