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

6230

2009-2010 Regular Sessions

I N S E N A T E

October 16, 2009

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

AN ACT to amend the executive law, in relation to establishing the office of special crimes investigator

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

Section 1. The executive law is amended by adding a new section 75 to read as follows:

S 75. SPECIAL CRIMES INVESTIGATOR. 1. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING DEFINITIONS SHALL APPLY:

A. "INVESTIGATOR" MEANS THE SPECIAL CRIMES INVESTIGATOR CREATED BY THIS SECTION.

B. "OFFICE" MEANS THE OFFICE OF THE SPECIAL CRIMES INVESTIGATOR CREATED BY THIS SECTION.

2. OFFICE. A. THERE IS HEREBY CREATED IN THE DEPARTMENT OF LAW THE OFFICE OF SPECIAL CRIMES INVESTIGATOR. THE HEAD OF THE OFFICE SHALL BE THE SPECIAL CRIMES INVESTIGATOR, WHO SHALL BE APPOINTED BY THE GOVERNOR, BY AND WITH THE ADVICE AND CONSENT OF THE SENATE.

B. THE INVESTIGATOR SHALL SERVE FOR A TERM OF FIVE YEARS UNLESS REMOVED BY THE GOVERNOR FOR NEGLECT OR MALFEASANCE IN OFFICE, AND MAY ALSO BE REMOVED FOR NEGLECT OR MALFEASANCE BY THE SENATE UPON A VOTE OF TWO-THIRDS OF ITS MEMBERS. AN INVESTIGATOR REMOVED FROM OFFICE MAY NOT BE REAPPOINTED TO SUCH OFFICE.

3. FUNCTIONS, DUTIES AND RESPONSIBILITIES. THE INVESTIGATOR SHALL HAVE THE FOLLOWING FUNCTIONS, DUTIES AND RESPONSIBILITIES:

A. TO APPOINT SUCH DEPUTIES, DIRECTORS, ASSISTANTS AND OTHER OFFICERS AND EMPLOYEES AS MAY BE NEEDED FOR THE PERFORMANCE OF HIS OR HER DUTIES AND MAY PRESCRIBE THEIR POWERS AND FIX THEIR COMPENSATION WITHIN THE AMOUNTS APPROPRIATED THEREFOR;

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

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B. TO CONDUCT AND SUPERVISE INVESTIGATIONS RELATING TO THE COMMISSION OF EXTRAORDINARY CRIMES, INCLUDING, BUT NOT LIMITED TO, SHOOTINGS BY POLICE OFFICERS WHILE IN THE LINE OF DUTY;

C. TO KEEP THE GOVERNOR, ATTORNEY GENERAL, STATE COMPTROLLER, TEMPORARY PRESIDENT OF THE SENATE, MINORITY LEADER OF THE SENATE, SPEAKER OF THE ASSEMBLY AND THE MINORITY LEADER OF THE ASSEMBLY, APPRISED OF SUCH INVESTIGATIONS;

D. TO MAKE INFORMATION AND EVIDENCE RELATING TO CRIMINAL ACTS WHICH HE OR SHE MAY OBTAIN IN CARRYING OUT HIS OR HER DUTIES AVAILABLE TO APPROPRIATE LAW ENFORCEMENT OFFICIALS AND TO CONSULT WITH THE ATTORNEY GENERAL AND LOCAL DISTRICT ATTORNEYS TO COORDINATE INVESTIGATIONS AND CRIMINAL PROSECUTIONS; AND

E. TO SUBPOENA WITNESSES, ADMINISTER OATHS OR AFFIRMATIONS, TAKE TESTIMONY AND COMPEL THE PRODUCTION OF SUCH BOOKS, PAPERS, RECORDS AND DOCUMENTS AS HE OR SHE MAY DEEM TO BE RELEVANT TO AN INVESTIGATION UNDERTAKEN PURSUANT TO THIS SECTION.

4. COOPERATION OF AGENCY OFFICIALS AND EMPLOYEES. A. IN ADDITION TO THE AUTHORITY OTHERWISE PROVIDED BY THIS SECTION, THE INVESTIGATOR, IN CARRYING OUT THE PROVISIONS OF THIS SECTION, IS AUTHORIZED:

(I) TO HAVE FULL AND UNRESTRICTED ACCESS TO ALL RECORDS, REPORTS, AUDITS, REVIEWS, DOCUMENTS, PAPERS, RECOMMENDATIONS OR OTHER MATERIAL AVAILABLE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES RELATING TO EXTRAORDINARY CRIMES WITH RESPECT TO WHICH THE INVESTIGATOR HAS RESPONSIBILITIES UNDER THIS SECTION;

(II) TO MAKE SUCH INVESTIGATIONS RELATING TO EXTRAORDINARY CRIMES AS ARE, IN THE JUDGMENT OF THE INVESTIGATOR, NECESSARY OR DESIRABLE; AND

(III) TO REQUEST SUCH INFORMATION, ASSISTANCE AND COOPERATION FROM ANY FEDERAL, STATE OR LOCAL GOVERNMENTAL DEPARTMENT, BOARD, BUREAU, COMMISSION, OR OTHER AGENCY OR UNIT THEREOF AS MAY BE NECESSARY FOR CARRYING OUT THE DUTIES AND RESPONSIBILITIES ENJOINED UPON HIM OR HER BY THIS SECTION. STATE AND LOCAL AGENCIES OR UNITS THEREOF ARE HEREBY AUTHORIZED AND DIRECTED TO PROVIDE SUCH INFORMATION, ASSISTANCE AND COOPERATION.

B. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, NO PERSON SHALL PREVENT, SEEK TO PREVENT, INTERFERE WITH, OBSTRUCT OR OTHERWISE HINDER ANY INVESTIGATION BEING CONDUCTED PURSUANT TO THIS SECTION. ANY VIOLATION OF THIS PARAGRAPH SHALL CONSTITUTE CAUSE FOR SUSPENSION OR REMOVAL FROM OFFICE OR EMPLOYMENT.

5. ESTABLISHMENT PERIOD. THE GOVERNOR SHALL NOMINATE THE INITIAL INVESTIGATOR AS SOON AS IS PRACTICABLE BUT IN NO EVENT LATER THAN SIXTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.

6. REPORTS REQUIRED OF THE INVESTIGATOR. THE INVESTIGATOR SHALL, NO LATER THAN FEBRUARY FIRST OF EACH YEAR SUBMIT TO THE GOVERNOR, THE STATE COMPTROLLER, THE ATTORNEY GENERAL AND THE LEGISLATURE A REPORT SUMMARIZING THE ACTIVITIES OF THE OFFICE DURING THE PRECEDING CALENDAR YEAR.

7. DISCLOSURE OF INFORMATION. A. THE INVESTIGATOR SHALL NOT PUBLICLY DISCLOSE INFORMATION WHICH IS:

(I) A PART OF ANY ONGOING INVESTIGATION; OR

(II) SPECIFICALLY PROHIBITED FROM DISCLOSURE BY ANY OTHER PROVISION OF LAW.

B. NOTWITHSTANDING PARAGRAPH A OF THIS SUBDIVISION, ANY REPORT UNDER THIS SECTION MAY BE DISCLOSED TO THE PUBLIC IN A FORM WHICH INCLUDES INFORMATION WITH RESPECT TO A PART OF AN ONGOING CRIMINAL INVESTIGATION IF SUCH INFORMATION HAS BEEN INCLUDED IN A PUBLIC RECORD.

S 2. This act shall take effect immediately.