

2296

2011-2012 Regular Sessions

I N S E N A T E

January 18, 2011

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:

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

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

21 2. The special prosecutor may appoint such other deputies, directors,
22 assistants, and other employees to serve at the special prosecutor's
23 pleasure and discretion as may be needed for the performance of duties
24 and may prescribe their powers and fix their compensation within the
25 amounts appropriated therefor.

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

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

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

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

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

13 (d) To receive, investigate and prosecute complaints of alleged fail-
14 ures of local officials and employees and private individuals to comply
15 with state laws and rules and regulations regarding workplace or
16 construction site safety;

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

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

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

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