

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. KRUEGER, ADAMS, BRESLIN, DILAN, HASSELL-THOMPSON, KLEIN, PARKER, SERRANO, SQUADRON, STAVISKY, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law, in relation to the appointment and reporting duties of the superintendent of the state police and the appointment of employees of the state police

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

1 Section 1. Section 210 of the executive law, as amended by chapter 169
2 of the laws of 1994, is amended to read as follows:
3 S 210. Division of state police. (A) The division of state police in
4 the executive department shall be known as the "New York State Police."
5 (B) (1) The head of the New York state police shall be the superinten-
6 dent of state police who shall be appointed by the governor by and with
7 the advice and consent of the senate, and hold office during his or her
8 pleasure. The superintendent shall be a member of the state police,
9 shall receive as salary such sum as may be appropriated by law, and
10 shall accrue such leave credits and be eligible for the same retirement
11 benefits, service credits and other benefits as any other member of the
12 state police. If, prior to appointment, the superintendent served as a
13 member of the state police, he or she, upon appointment, shall be enti-
14 tled to continue to accrue and receive such credits and benefits as he
15 or she would have been entitled to accrue and receive prior to appoint-
16 ment.
17 (2) If, prior to his or her appointment, the superintendent shall have
18 served as a member of the State Police for a period of ten years or
19 more, he or she shall, provided he or she is not eligible for retire-
20 ment, upon termination of service as superintendent, be reappointed,
21 without examination, as a member of the state police in the grade held

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

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1 by him or her prior to appointment as superintendent, notwithstanding
2 the absence of any vacancy in such grade. For the purpose of determin-
3 ing the annual salary to be paid upon such reappointment, the period of
4 service as superintendent shall be counted as service in the grade to
5 which reappointed.

6 (3) TRADITIONAL SERVICES MEANS AS FOLLOWS: TO PROTECT PEOPLE AND PROP-
7 ERTY; TO PREVENT AND DETECT CRIME AND OTHER VIOLATIONS OF LAW AND PURSUE
8 CRIMINAL INVESTIGATIONS AND ARREST CRIMINALS; TO MAKE ROADS SAFE FOR ALL
9 USERS; TO REDUCE THE DEATHS, INJURIES AND PROPERTY DAMAGE CAUSED BY
10 MOTOR VEHICLE ACCIDENTS THROUGH VEHICLE AND TRAFFIC ENFORCEMENT AND
11 EDUCATION; TO PROVIDE DISORDER CONTROL AND SECURITY IN ALL TYPES OF
12 NATURAL AND MAN-MADE EMERGENCIES; TO PROVIDE FOR THE SAFETY AND SECURITY
13 OF INDIVIDUALS AND GROUPS OF CITIZENS IN FURTHERANCE OF THEIR RIGHTS,
14 DUTIES AND RESPONSIBILITIES; AND TO SUPPORT OTHERS BY CREATING PARTNER-
15 SHIPS FOR SAFETY AND SECURITY WITH INDIVIDUALS, GROUPS AND COMMUNITIES
16 THROUGHOUT THE STATE.

17 (4) EFFECTIVE WITH RESPECT TO ANY INDIVIDUAL APPOINTMENT BY THE GOVER-
18 NOR, BY AND WITH THE ADVICE AND CONSENT OF THE SENATE, AFTER JANUARY
19 FIRST, TWO THOUSAND ELEVEN, THE TERM OF SERVICE OF THE SUPERINTENDENT OF
20 THE STATE POLICE SHALL BE SEVEN YEARS. A SUPERINTENDENT MAY NOT SERVE
21 MORE THAN ONE SEVEN-YEAR TERM. THE APPOINTMENT OF THE FIRST DEPUTY
22 SUPERINTENDENT SHALL ALSO BE SUBJECT TO SENATE CONFIRMATION.

23 (5) NOTWITHSTANDING SECTIONS THIRTY-THREE AND THIRTY-THREE-A OF THE
24 PUBLIC OFFICERS LAW, A SUPERINTENDENT SHALL BE REMOVED FROM OFFICE FOR
25 FAILURE TO FULFILL HIS OR HER DUTIES ONLY BY A MAJORITY VOTE OF EACH
26 HOUSE OF THE LEGISLATURE OR IN ACCORDANCE WITH THE PROVISIONS OF SUBDI-
27 VISIONS E, F OR G OF SECTION THIRTY OF THE PUBLIC OFFICERS LAW.

28 (6) IN THE EVENT THE SUPERINTENDENT RESIGNS FROM OFFICE, IS REMOVED
29 FROM OFFICE OR IS INCAPABLE OF CONTINUING IN OFFICE DUE TO PHYSICAL
30 ILLNESS, MENTAL ILLNESS OR DEATH THE FIRST DEPUTY SUPERINTENDENT SHALL
31 ASSUME THE SUPERINTENDENT POSITION. IF AFTER FORTY-FIVE DAYS THE GOVER-
32 NOR HAS NOT APPOINTED A NEW SUPERINTENDENT TO A FULL TERM, THE FIRST
33 DEPUTY SUPERINTENDENT SHALL COMPLETE THE REMAINDER OF THE PREVIOUS
34 SUPERINTENDENT'S TERM. UPON ASSUMPTION OF THE DUTIES OF SUPERINTENDENT,
35 THE FIRST DEPUTY SUPERINTENDENT SHALL BE SUBJECT TO ALL REQUIREMENTS AND
36 PROVISIONS ASSOCIATED WITH THE SUPERINTENDENT'S POSITION. IF THE FIRST
37 DEPUTY SUPERINTENDENT COMPLETES THE TERM OF A PREVIOUSLY APPOINTED
38 SUPERINTENDENT, THE FIRST DEPUTY IS ELIGIBLE FOR APPOINTMENT TO A FULL
39 TERM AS SUPERINTENDENT IN HIS OR HER OWN RIGHT. ALL OTHER POTENTIAL
40 REPLACEMENTS WITHIN THE RANKS OF THE STATE POLICE OR FROM OUTSIDE ITS
41 RANKS FOR SUPERINTENDENT, IN THE EVENT THE FIRST DEPUTY IS UNABLE TO
42 COMPLETE THE PREVIOUS SUPERINTENDENT'S POSITION, SHALL HAVE THE SAME
43 RIGHTS AND ELIGIBILITIES AS THE FIRST DEPUTY SUPERINTENDENT AND SHALL BE
44 SUBJECT TO ALL THE REQUIREMENTS AND PROVISIONS ASSOCIATED WITH THE
45 SUPERINTENDENT.

46 S 2. The executive law is amended by adding a new section 210-a to
47 read as follows:

48 S 210-A. SUPERINTENDENT'S ANNUAL REPORTS AND BIENNIAL TESTIMONY. (A)
49 THE SUPERINTENDENT SHALL SUBMIT AN ANNUAL REPORT TO THE GOVERNOR, THE
50 TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE
51 MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF THE ASSEMBLY NO
52 LATER THAN SEPTEMBER FIRST OF EACH YEAR.

53 (1) SUCH REPORT SHALL CONTAIN THE FOLLOWING INFORMATION:

54 (A) A DETAILED DESCRIPTION OF ANY SPECIAL REQUESTS MADE BY OR ON
55 BEHALF OF THE GOVERNOR OR ANY MEMBER OF THE LEGISLATURE FOR SERVICES OF

1 THE STATE POLICE BEYOND TRADITIONAL SERVICES PROVIDED BY THE STATE
2 POLICE;

3 (B) A DETAILED DESCRIPTION OF ANY INFORMATION, UNLESS IT IS PRIVILEGED
4 OR REQUIRES CONFIDENTIALITY, PROVIDED BY THE STATE POLICE TO THE GOVER-
5 NOR, AND/OR HIS OR HER STAFF, AND/OR TO ANY MEMBER OF THE LEGISLATURE,
6 AND/OR HIS OR HER STAFF, BEYOND THE GENERAL PROGRAMMATIC AND BUDGETARY
7 REPORTING REQUIREMENTS OF THE STATE POLICE AND A DESCRIPTION OF THE
8 PURPOSE FOR WHICH SUCH INFORMATION WAS PROVIDED;

9 (C) A DESCRIPTION OF ANY SPECIAL DISCIPLINARY ACTIONS TAKEN BY THE
10 SUPERINTENDENT REGARDING INTER- OR INTRA-GOVERNMENTAL AFFAIRS INVOLVING
11 STATE POLICE PERSONNEL, BASED UPON SPECIAL REQUESTS MADE TO THE STATE
12 POLICE BY OR ON BEHALF OF THE GOVERNOR, ANY MEMBER OF THE LEGISLATURE
13 AND/OR ANY OTHER PUBLIC OR QUASI-PUBLIC ENTITY; AND

14 (D) A DESCRIPTION OF EACH REQUEST MADE BY OR ON BEHALF OF THE GOVERNOR
15 AND/OR ANY MEMBER OF THE LEGISLATURE FOR INFORMATION OF ANY KIND OTHER
16 THAN THE GENERAL INFORMATION PROVIDED BY THE STATE POLICE TO THE EXECU-
17 TIVE BRANCH, THE LEGISLATIVE BRANCH, PUBLIC AUTHORITIES OR LOCAL GOVERN-
18 MENT ENTITIES.

19 (2) THE SUPERINTENDENT SHALL INCLUDE A SIGNED CERTIFICATION WITH THE
20 REPORT THAT THE INFORMATION PROVIDED IS TRUE TO THE BEST OF HIS OR HER
21 KNOWLEDGE. IF SUCH CERTIFICATION IS FOUND TO BE FALSE, THE SUPERINTEN-
22 DENT MAY BE SUBJECT TO REMOVAL BY THE LEGISLATURE.

23 (B) EVERY TWO YEARS, COMMENCING IN TWO THOUSAND TWELVE, THE SUPER-
24 INTENDENT SHALL ATTEND A PROCEEDING TO TESTIFY BEFORE THE SENATE FINANCE
25 COMMITTEE, THE ASSEMBLY WAYS AND MEANS COMMITTEE, THE SENATE INVESTI-
26 GATIONS AND GOVERNMENT OPERATIONS COMMITTEE AND THE ASSEMBLY OVERSIGHT,
27 ANALYSIS AND INVESTIGATION COMMITTEE TO REVIEW THE PERSONNEL AND ADMIN-
28 ISTRACTIVE ACTIVITIES OF THE STATE POLICE AND THE FUTURE PLANS AND INITI-
29 ATIVE OF THE STATE POLICE. SUCH PROCEEDING SHALL BE CONDUCTED JOINTLY AT
30 THE DIRECTION OF THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER
31 OF THE ASSEMBLY AND SHALL TAKE PLACE NO LATER THAN NOVEMBER FIRST OF
32 EVERY OTHER YEAR DURING WHICH THE PROCEEDING IS CONDUCTED.

33 (C) THE REPORTING REQUIREMENTS DESCRIBED IN THIS SECTION SHALL BE IN
34 ADDITION TO, AND NOT IN LIEU OF, ANY OTHER REPORTING REQUIREMENTS
35 PROVIDED BY LAW.

36 S 3. Section 211 of the executive law, as amended by chapter 331 of
37 the laws of 1993, is amended to read as follows:

38 S 211. Employees. (A) The superintendent may appoint such employees as
39 may be necessary and fix their compensation within such sum as may be
40 appropriated by law. Persons appointed to competitive positions within
41 the division who meet the definition of veteran or disabled veteran as
42 defined in section eighty-five of the civil service law shall be enti-
43 tled to additional credit and preference as conferred by that law and in
44 the same manner, except that, notwithstanding any law to the contrary,
45 with respect to any candidate applying for credit in a competitive exam-
46 ination for original appointment as a disabled or non-disabled veteran,
47 such candidate may apply provisionally for such credit while still an
48 active member of the armed forces. The application for provisional cred-
49 it may be made at any time between the date of his or her application
50 for the competitive examination and the date the eligible list is estab-
51 lished. In cases where there has been a provisional application, the
52 superintendent shall grant final credit only if the candidate renews his
53 or her application within ninety days following termination of the
54 candidate's military duty, and the candidate's period of eligibility on
55 the list has not expired, and the candidate satisfies the appropriate
56 statutory requirements for eligibility. Pending the granting of final

1 credit, the candidate's ranking on any eligible list shall reflect the
2 provisional credit.
3 (B) ANY EMPLOYEE APPOINTED TO THE EXECUTIVE SERVICES UNIT OR ANY OTHER
4 UNIT ASSOCIATED WITH SECURITY AND/OR PROTECTING OTHER ELECTED AND/OR
5 PUBLIC OFFICIALS SHALL HOLD SUCH APPOINTMENT FOR NO MORE THAN TWO YEARS
6 AFTER WHICH PERIOD, THE EMPLOYEE SHALL BE REAPPOINTED TO THE POSITION HE
7 OR SHE HELD PRIOR TO THE APPOINTMENT TO THE EXECUTIVE SERVICES UNIT OR
8 ANY OTHER UNIT ASSOCIATED WITH SECURITY AND/OR PROTECTING OTHER ELECTED
9 AND/OR PUBLIC OFFICIALS OR TO SUCH OTHER POSITION AND DUTIES AS ARE
10 DETERMINED BY THE SUPERINTENDENT.
11 S 4. This act shall take effect January 1, 2012.