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

1400

2011-2012 Regular Sessions

I N  A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. JEFFRIES -- read once and referred to the Committee on Governmental Operations

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:

Section 1. Section 210 of the executive law, as amended by chapter 169 of the laws of 1994, is amended to read as follows:

S 210. Division of state police. (A) The division of state police in the executive department shall be known as the "New York State Police."

(B) (1) The head of the New York state police shall be the superintendent of state police who shall be appointed by the governor by and with the advice and consent of the senate, and hold office during his or her pleasure. The superintendent shall be a member of the state police, shall receive as salary such sum as may be appropriated by law, and shall accrue such leave credits and be eligible for the same retirement benefits, service credits and other benefits as any other member of the state police. If, prior to appointment, the superintendent served as a member of the state police, he or she, upon appointment, shall be entitled to continue to accrue and receive such credits and benefits as he or she would have been entitled to accrue and receive prior to appointment.

(2) If, prior to his or her appointment, the superintendent shall have served as a member of the State Police for a period of ten years or more, he or she shall, provided he or she is not eligible for retirement, upon termination of service as superintendent, be reappointed, without examination, as a member of the state police in the grade held by him or her prior to appointment as superintendent, notwithstanding the absence of any vacancy in such grade. For the purpose of determin-

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

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ing the annual salary to be paid upon such reappointment, the period of service as superintendent shall be counted as service in the grade to which reappointed.

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

(4) EFFECTIVE WITH RESPECT TO ANY INDIVIDUAL APPOINTMENT BY THE GOVERNOR, BY AND WITH THE ADVICE AND CONSENT OF THE SENATE, AFTER JANUARY FIRST, TWO THOUSAND ELEVEN, THE TERM OF SERVICE OF THE SUPERINTENDENT OF THE STATE POLICE SHALL BE SEVEN YEARS. A SUPERINTENDENT MAY NOT SERVE MORE THAN ONE SEVEN-YEAR TERM. THE APPOINTMENT OF THE FIRST DEPUTY SUPERINTENDENT SHALL ALSO BE SUBJECT TO SENATE CONFIRMATION.

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

(6) IN THE EVENT THE SUPERINTENDENT RESIGNS FROM OFFICE, IS REMOVED FROM OFFICE OR IS INCAPABLE OF CONTINUING IN OFFICE DUE TO PHYSICAL ILLNESS, MENTAL ILLNESS OR DEATH THE FIRST DEPUTY SUPERINTENDENT SHALL ASSUME THE SUPERINTENDENT POSITION. IF AFTER FORTY-FIVE DAYS THE GOVERNOR HAS NOT APPOINTED A NEW SUPERINTENDENT TO A FULL TERM, THE FIRST DEPUTY SUPERINTENDENT SHALL COMPLETE THE REMAINDER OF THE PREVIOUS SUPERINTENDENT'S TERM. UPON ASSUMPTION OF THE DUTIES OF SUPERINTENDENT, THE FIRST DEPUTY SUPERINTENDENT SHALL BE SUBJECT TO ALL REQUIREMENTS AND PROVISIONS ASSOCIATED WITH THE SUPERINTENDENT'S POSITION. IF THE FIRST DEPUTY SUPERINTENDENT COMPLETES THE TERM OF A PREVIOUSLY APPOINTED SUPERINTENDENT, THE FIRST DEPUTY IS ELIGIBLE FOR APPOINTMENT TO A FULL TERM AS SUPERINTENDENT IN HIS OR HER OWN RIGHT. ALL OTHER POTENTIAL REPLACEMENTS WITHIN THE RANKS OF THE STATE POLICE OR FROM OUTSIDE ITS RANKS FOR SUPERINTENDENT, IN THE EVENT THE FIRST DEPUTY IS UNABLE TO COMPLETE THE PREVIOUS SUPERINTENDENT'S POSITION, SHALL HAVE THE SAME RIGHTS AND ELIGIBILITIES AS THE FIRST DEPUTY SUPERINTENDENT AND SHALL BE SUBJECT TO ALL THE REQUIREMENTS AND PROVISIONS ASSOCIATED WITH THE SUPERINTENDENT.

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

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

(1) SUCH REPORT SHALL CONTAIN THE FOLLOWING INFORMATION:

(A) A DETAILED DESCRIPTION OF ANY SPECIAL REQUESTS MADE BY OR ON BEHALF OF THE GOVERNOR OR ANY MEMBER OF THE LEGISLATURE FOR SERVICES OF THE STATE POLICE BEYOND TRADITIONAL SERVICES PROVIDED BY THE STATE POLICE;

(B) A DETAILED DESCRIPTION OF ANY INFORMATION, UNLESS IT IS PRIVILEGED OR REQUIRES CONFIDENTIALITY, PROVIDED BY THE STATE POLICE TO THE GOVERNOR, AND/OR HIS OR HER STAFF, AND/OR TO ANY MEMBER OF THE LEGISLATURE, AND/OR HIS OR HER STAFF, BEYOND THE GENERAL PROGRAMMATIC AND BUDGETARY REPORTING REQUIREMENTS OF THE STATE POLICE AND A DESCRIPTION OF THE PURPOSE FOR WHICH SUCH INFORMATION WAS PROVIDED;

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

(D) A DESCRIPTION OF EACH REQUEST MADE BY OR ON BEHALF OF THE GOVERNOR AND/OR ANY MEMBER OF THE LEGISLATURE FOR INFORMATION OF ANY KIND OTHER THAN THE GENERAL INFORMATION PROVIDED BY THE STATE POLICE TO THE EXECUTIVE BRANCH, THE LEGISLATIVE BRANCH, PUBLIC AUTHORITIES OR LOCAL GOVERNMENT ENTITIES.

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

(B) EVERY TWO YEARS, COMMENCING IN TWO THOUSAND TWELVE, THE SUPERINTENDENT SHALL ATTEND A PROCEEDING TO TESTIFY BEFORE THE SENATE FINANCE COMMITTEE, THE ASSEMBLY WAYS AND MEANS COMMITTEE, THE SENATE INVESTIGATIONS AND GOVERNMENT OPERATIONS COMMITTEE AND THE ASSEMBLY OVERSIGHT, ANALYSIS AND INVESTIGATION COMMITTEE TO REVIEW THE PERSONNEL AND ADMINISTRATIVE ACTIVITIES OF THE STATE POLICE AND THE FUTURE PLANS AND INITIATIVE OF THE STATE POLICE. SUCH PROCEEDING SHALL BE CONDUCTED JOINTLY AT THE DIRECTION OF THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY AND SHALL TAKE PLACE NO LATER THAN NOVEMBER FIRST OF EVERY OTHER YEAR DURING WHICH THE PROCEEDING IS CONDUCTED.

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

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

S 211. Employees. (A) The superintendent may appoint such employees as may be necessary and fix their compensation within such sum as may be appropriated by law. Persons appointed to competitive positions within the division who meet the definition of veteran or disabled veteran as defined in section eighty-five of the civil service law shall be entitled to additional credit and preference as conferred by that law and in the same manner, except that, notwithstanding any law to the contrary, with respect to any candidate applying for credit in a competitive examination for original appointment as a disabled or non-disabled veteran, such candidate may apply provisionally for such credit while still an active member of the armed forces. The application for provisional credit may be made at any time between the date of his or her application for the competitive examination and the date the eligible list is established. In cases where there has been a provisional application, the superintendent shall grant final credit only if the candidate renews his or her application within ninety days following termination of the candidate's military duty, and the candidate's period of eligibility on the list has not expired, and the candidate satisfies the appropriate statutory requirements for eligibility. Pending the granting of final credit, the candidate's ranking on any eligible list shall reflect the provisional credit.

(B) ANY EMPLOYEE APPOINTED TO THE EXECUTIVE SERVICES UNIT OR ANY OTHER UNIT ASSOCIATED WITH SECURITY AND/OR PROTECTING OTHER ELECTED AND/OR PUBLIC OFFICIALS SHALL HOLD SUCH APPOINTMENT FOR NO MORE THAN TWO YEARS AFTER WHICH PERIOD, THE EMPLOYEE SHALL BE REAPPOINTED TO THE POSITION HE OR SHE HELD PRIOR TO THE APPOINTMENT TO THE EXECUTIVE SERVICES UNIT OR ANY OTHER UNIT ASSOCIATED WITH SECURITY AND/OR PROTECTING OTHER ELECTED AND/OR PUBLIC OFFICIALS OR TO SUCH OTHER POSITION AND DUTIES AS ARE DETERMINED BY THE SUPERINTENDENT.

S 4. This act shall take effect January 1, 2012.