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

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I N A S S E M B L Y

(PREFILED)

January 4, 2012

Introduced by M. of A. KOLB -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to the election of regents

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

Section 1. Subdivisions 1 and 2 of section 202 of the education law, subdivision 1 as amended by chapter 547 of the laws of 1993 and subdivision 2 as amended by chapter 296 of the laws of 1984 and as designated by chapter 892 of the laws of 1985, are amended to read as follows:

1. (A) The University of the State of New York shall be governed and all its corporate powers exercised by a board of regents the number of whose members shall at all times be four more than the number of the then existing judicial districts of the state and shall not be less than fifteen. The regents in office April first, nineteen hundred seventy-four shall hold office, in the order of their election, for such times that the term of one such regent will expire in each year on the first day of April. Commencing April first, nineteen hundred seventy-four, each regent shall be elected for a term of seven years, each such term to expire on the first day of April. Commencing on April first, nineteen hundred ninety-four, each regent shall be elected OR APPOINTED for a term of five years, each such term to expire on the first day of April. [Each] COMMENCING JANUARY FIRST, TWO THOUSAND TWELVE, EACH regent REPRESENTING AN EXISTING JUDICIAL DISTRICT shall be elected by the legislature by concurrent resolution in the preceding March, on or before the first Tuesday of such month. If, however, the legislature fails to agree on such concurrent resolution by the first Tuesday of such month, then the two houses shall meet in joint session at noon on the second Tuesday of such month and proceed to elect such regent REPRESENTING AN EXISTING JUDICIAL DISTRICT BY A TWO-THIRDS SUPERMAJORITY VOTE by joint ballot. ALL REGENTS CANDIDATES MUST BE ANNOUNCED PUBLICLY AT LEAST TWENTY-ONE DAYS PRIOR TO THE ELECTION BY JOINT BALLOT.

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

LBD11740-01-1

(B) COMMENCING JANUARY FIRST, TWO THOUSAND TWELVE, UPON EXPIRATION OF A FULL TERM OR A VACANCY IN SUCH OFFICE, THE FOUR REGENTS NOT REPRESENTING AN EXISTING JUDICIAL DISTRICT SHALL BE APPOINTED IN SUCH ORDER UNTIL ALL FOUR OFFICES ARE FILLED:

(I) ONE REGENT SHALL BE APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE;

(II) ONE REGENT SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY;

(III) ONE REGENT SHALL BE APPOINTED BY THE MINORITY LEADER OF THE SENATE;

(IV) ONE REGENT SHALL BE APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY.

(C) VACANCIES IN THE OFFICE OF ONE OF THE FOUR REGENTS APPOINTED UNDER THIS SUBDIVISION SHALL BE FILLED IN THE MANNER PROVIDED FOR ORIGINAL APPOINTMENT. ALL VACANCIES IN SUCH OFFICE AFTER ORIGINAL APPOINTMENT SHALL BE FILLED SO THAT THERE SHALL ALWAYS BE IN THE MEMBERSHIP OF THE BOARD OF REGENTS AT LEAST ONE APPOINTEE BY EACH OF THE FOUR LEGISLATIVE LEADERS.

2. All vacancies in such office, either for full or unexpired terms, shall be so filled that there shall always be in the membership of the board of regents at least one resident of each of the judicial districts. A vacancy in the office of regent REPRESENTING AN EXISTING JUDICIAL DISTRICT for other cause than expiration of term of service shall be filled for the unexpired term by an election at the session of the legislature immediately following such vacancy in the manner prescribed in the preceding paragraph, unless the legislature is in session when such vacancy occurs, in which case the vacancy shall be filled by such legislature in the manner prescribed in the preceding paragraph, except as hereinafter provided. However, if such vacancy occurs after the second Tuesday in March and before a resolution to adjourn sine die has been adopted by either house, then the vacancy shall be filled by concurrent resolution, unless the legislature fails to agree on such concurrent resolution within three legislative days after its passage by one house, in which case the two houses shall meet in joint session at noon on the next legislative day and proceed to elect such regent by joint ballots; provided, however, that if the vacancy occur after the adoption by either house of a resolution to adjourn sine die, then the vacancy shall be filled at the next session of the legislature in the manner prescribed in the preceding paragraph.

S 2. The education law is amended by adding a new section 207-b to read as follows:

S 207-B. LEGISLATIVE APPROVAL FOR UNFUNDED MANDATES. 1. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "NET ADDITIONAL COST" MEANS THE COST OR COSTS INCURRED OR ANTICIPATED TO BE INCURRED WITHIN A ONE YEAR PERIOD BY A SCHOOL DISTRICT IN PERFORMING OR ADMINISTERING ANY PROGRAM, PROJECT, OR ACTIVITY AFTER SUBTRACTING THEREFROM ANY REVENUES RECEIVED OR RECEIVABLE BY SUCH SCHOOL DISTRICT IN RELATION TO SUCH PROGRAM, PROJECT, OR ACTIVITY, INCLUDING BUT NOT LIMITED TO:

(I) FEES CHARGED TO THE RECIPIENTS OF SUCH PROGRAM, PROJECT, OR ACTIVITY;

(II) STATE OR FEDERAL FUNDS RECEIVED FOR SUCH PROGRAM, PROJECT, OR ACTIVITY; AND

(III) AN OFFSETTING SAVINGS RESULTING FROM THE DIMINUTION OR ELIMINATION OF ANY OTHER PROGRAM, PROJECT, OR ACTIVITY THAT STATE LAW REQUIRES SUCH SCHOOL DISTRICT TO PROVIDE OR UNDERTAKE.

(B) "UNFUNDED MANDATE" MEANS:

(I) ANY RULE OR REGULATION THAT REQUIRES A SCHOOL DISTRICT TO PROVIDE OR UNDERTAKE ANY NEW PROGRAM, PROJECT OR ACTIVITY THAT RESULTS IN AN ANNUAL NET ADDITIONAL COST TO ANY SCHOOL DISTRICT IN EXCESS OF TEN THOUSAND DOLLARS OR AN AGGREGATE ANNUAL NET ADDITIONAL COST TO ALL SCHOOL DISTRICTS WITHIN THE STATE IN EXCESS OF ONE MILLION DOLLARS; OR

(II) ANY RULE OR REGULATION THAT REQUIRES A SCHOOL DISTRICT TO PROVIDE A HIGHER LEVEL OF SERVICE OR FUNDING FOR AN EXISTING PROGRAM, PROJECT OR ACTIVITY THAT RESULTS IN AN ANNUAL NET ADDITIONAL COST TO ANY SCHOOL DISTRICT IN EXCESS OF TEN THOUSAND DOLLARS OR AN AGGREGATE ANNUAL NET ADDITIONAL COST TO ALL SCHOOL DISTRICTS WITHIN THE STATE IN EXCESS OF ONE MILLION DOLLARS; OR

(III) ANY RULE OR REGULATION WITH A LEGAL REQUIREMENT THAT WOULD OTHERWISE LIKELY HAVE THE EFFECT OF RAISING PROPERTY TAXES IN EXCESS OF TEN THOUSAND DOLLARS IN ANY SCHOOL DISTRICT OR IN EXCESS OF ONE MILLION DOLLARS STATEWIDE.

2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO RULE OR REGULATION CONTAINING AN UNFUNDED MANDATE SHALL BE ADOPTED BY THE COMMISSIONER OR THE BOARD OF REGENTS, EXCEPT BY A MAJORITY VOTE OF THE LEGISLATURE.

S 3. This act shall take effect immediately.