

5109--A

2013-2014 Regular Sessions

I N   A S S E M B L Y

February 20, 2013

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Introduced by M. of A. BRENNAN, JACOBS, ROSENTHAL, CUSICK, TITONE, MAISEL, LAVINE, MILLER, COOK, SCARBOROUGH, V. LOPEZ, JAFFEE -- Multi-Sponsored by -- M. of A. FARRELL, GIBSON, GLICK, GOTTFRIED, HIKIND, LENTOL, MOSLEY, MOYA, NOLAN, QUART, SOLAGES, STEVENSON, WEISENBERG -- read once and referred to the Committee on Corporations, Authorities and Commissions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public authorities law, in relation to establishing an office of the ombudsperson for the purpose of receiving and resolving complaints affecting mass transit users of the facilities of the metropolitan transportation authority

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

1     Section 1. The public authorities law is amended by adding a new  
2     section 1279-d to read as follows:

3     S 1279-D. OFFICE OF THE OMBUDSPERSON. 1. DEFINITIONS. FOR THE PURPOSES  
4     OF THIS SECTION, THE TERM "EXECUTIVE DIRECTOR" SHALL MEAN THE INDIVIDUAL  
5     APPOINTED TO SERVE AS THE CHIEF EXECUTIVE OFFICER OF THE AUTHORITY  
6     PURSUANT TO SUBDIVISION FOUR OF SECTION TWELVE HUNDRED SIXTY-THREE OF  
7     THIS TITLE.

8     2. OFFICE ESTABLISHED. THERE IS HEREBY ESTABLISHED WITHIN THE AUTHORI-  
9     TY AN OFFICE OF THE OMBUDSPERSON FOR THE PURPOSE OF RECEIVING AND  
10    RESOLVING COMPLAINTS AFFECTING MASS TRANSIT USERS OF THE FACILITIES OF  
11    THE AUTHORITY AND, WHERE APPROPRIATE, REFERRING COMPLAINTS TO APPROPRI-  
12    ATE INVESTIGATORY AGENCIES AND ACTING IN CONCERT WITH SUCH AGENCIES.

13    3. DIRECTOR. (A) THE EXECUTIVE DIRECTOR SHALL APPOINT A FULL-TIME  
14    DIRECTOR TO ADMINISTER AND SUPERVISE THE OFFICE FROM A LIST OF CANDI-  
15    DATES SUBMITTED BY THE PERMANENT CITIZENS ADVISORY COMMITTEE. THE DIREC-  
16    TOR SHALL REPORT DIRECTLY TO THE EXECUTIVE DIRECTOR.

17    (B) THE DIRECTOR SHALL BE SELECTED FROM AMONG INDIVIDUALS WITH EXPER-  
18    TISE AND EXPERIENCE IN THE FIELD OF ADVOCACY, AND WITH OTHER QUALIFICA-

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

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1 TIONS DETERMINED BY THE PERMANENT CITIZENS ADVISORY COMMITTEE TO BE  
2 APPROPRIATE FOR THE POSITION.

3 (C) THE DIRECTOR SHALL BE AUTHORIZED TO EMPLOY QUALIFIED STAFF AND  
4 OTHER EMPLOYEES AS MAY BE REQUIRED TO PERFORM THE DUTIES AND RESPONSI-  
5 BILITIES OF THE OFFICE.

6 (D) THE DIRECTOR SHALL:

7 (I) IDENTIFY, INVESTIGATE AND RESOLVE COMPLAINTS THAT ARE MADE BY, OR  
8 ON BEHALF OF, MASS TRANSIT AND PARATRANSIT USERS OF THE FACILITIES OF  
9 THE AUTHORITY AND THAT RELATE TO ACTIONS, INACTIONS OR DECISIONS THAT  
10 MAY ADVERSELY AFFECT THE HEALTH, SAFETY AND WELFARE OR RIGHTS OF SUCH  
11 USERS; AND

12 (II) PROVIDE INFORMATION AND SERVICES TO ASSIST MASS TRANSIT AND PARA-  
13 TRANSIT USERS IN PROTECTING THEIR HEALTH, SAFETY, WELFARE AND RIGHTS,  
14 INCLUDING BUT NOT LIMITED TO REPRESENTING THE INTERESTS OF SUCH USERS  
15 BEFORE GOVERNMENTAL AGENCIES AND SEEKING APPROPRIATE ADMINISTRATIVE,  
16 LEGAL AND OTHER REMEDIES TO PROTECT THEIR WELFARE, SAFETY, HEALTH AND  
17 RIGHTS.

18 (E) THE BOARD, IN CONSULTATION WITH THE DIRECTOR, SHALL ESTABLISH IN  
19 REGULATIONS STANDARDS FOR THE OPERATION OF THE OFFICE.

20 4. REVIEW OF COMPLAINT. (A) UPON RECEIPT OF A COMPLAINT, THE DIRECTOR  
21 SHALL DETERMINE IMMEDIATELY WHETHER THERE ARE REASONABLE GROUNDS FOR AN  
22 INVESTIGATION. TO THE MAXIMUM EXTENT POSSIBLE, ALL COMPLAINTS SHALL BE  
23 RESOLVED WITHIN SIXTY DAYS OF THE RECEIPT OF THE COMPLAINT. SUCH INVES-  
24 TIGATION SHALL BE CONDUCTED IN A MANNER PRESCRIBED IN REGULATIONS.

25 (B) THE DIRECTOR SHALL NOT DISCLOSE THE IDENTITY OF THE COMPLAINANT  
26 THAT MADE A COMPLAINT TO THE OMBUDSPERSON UNLESS:

27 (I) THE COMPLAINANT OR HIS OR HER LEGAL REPRESENTATIVE GIVES WRITTEN  
28 CONSENT TO THE OMBUDSPERSON; OR

29 (II) PURSUANT TO A COURT ORDER.

30 5. REPORTING REQUIREMENTS. (A) THE DIRECTOR SHALL ANNUALLY SUBMIT TO  
31 THE BOARD A REPORT AND MAKE SUCH REPORT AVAILABLE TO THE PUBLIC:

32 (I) DESCRIBING THE ACTIVITIES CARRIED OUT BY THE OFFICE DURING THE  
33 PRIOR CALENDAR YEAR;

34 (II) CONTAINING AND ANALYZING DATA RELATING TO COMPLAINTS FOR THE  
35 PURPOSE OF IDENTIFYING AND RESOLVING SIGNIFICANT PROBLEMS. THE REPORT  
36 SHALL REPORT SEPARATELY ON DATA RELATING TO COMPLAINTS MADE BY RIDERS  
37 AND USERS OF THE AUTHORITY'S PARATRANSIT SERVICES;

38 (III) EVALUATING THE PROBLEMS EXPERIENCED BY, AND THE COMPLAINTS MADE  
39 BY OR ON BEHALF OF, MASS TRANSIT AND PARATRANSIT USERS;

40 (IV) CONTAINING RECOMMENDATIONS, AFTER CONSULTATION WITH THE PERMANENT  
41 CITIZENS ADVISORY COMMITTEE, FOR:

42 (A) PROTECTING THE HEALTH, SAFETY AND WELFARE AND RIGHTS OF THE MASS  
43 TRANSIT AND PARATRANSIT USERS; AND

44 (B) APPROPRIATE STATE LEGISLATION, RULES AND REGULATIONS AND OTHER  
45 ACTION TO IMPROVE THE QUALITY OF SERVICES TO THE MASS TRANSIT AND PARA-  
46 TRANSIT USERS; AND

47 (V) ANY OTHER MATTERS AS THE DIRECTOR DETERMINES TO BE APPROPRIATE.

48 (B) THE INFORMATION CONTAINED IN SUCH REPORT SHALL BE INCLUDED IN THE  
49 ANNUAL REPORT REQUIRED PURSUANT TO SECTION TWENTY-EIGHT HUNDRED OF THIS  
50 CHAPTER.

51 6. PUBLIC OUTREACH. (A) THE AUTHORITY SHALL ENSURE THAT THE MASS TRAN-  
52 SIT USERS OF THE FACILITIES OF THE AUTHORITY AND THE GENERAL PUBLIC ARE  
53 FULLY INFORMED AND MADE AWARE OF THE OFFICE OF THE OMBUDSPERSON AND THE  
54 COMPLAINT PROCESS, INCLUDING BUT NOT LIMITED TO:

55 (I) ESTABLISHING AN EASILY IDENTIFIABLE AND PROMINENTLY DISPLAYED LINK  
56 ON THE AUTHORITY'S WEBSITE;

1 (II) ESTABLISHING A TOLL-FREE NUMBER FOR COMPLAINTS; AND

2 (III) DISPLAYING PROMINENTLY THE EXISTENCE OF THE OFFICE AND THE  
3 TOLL-FREE NUMBER ON BUSES, TRAINS, SUBWAYS AND STATIONS OPERATED BY THE  
4 AUTHORITY.

5 (B) SUCH INFORMATION SHALL BE SET FORTH IN ENGLISH AND SUCH OTHER  
6 LANGUAGES AS THE AUTHORITY DEEMS NECESSARY AND APPROPRIATE.

7 S 2. The metropolitan transportation authority shall, to the maximum  
8 extent possible, resolve all complaints described in subdivision 2 of  
9 section 1279-d of the public authorities law received by it prior to the  
10 effective date of this act within 60 days after the effective date of  
11 this act. Any unresolved complaints remaining with such authority on  
12 such date shall be transferred, along with any documents and records  
13 related thereto, to the office of the ombudsperson established by  
14 section 1279-d of the public authorities law for resolution.

15 S 3. The appointment of the director authorized by paragraph (a) of  
16 subdivision 3 of section 1279-d of the public authorities law shall be  
17 made on or before the effective date of this act.

18 S 4. This act shall take effect six months after it shall have become  
19 a law.