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

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2013-2014 Regular Sessions

I N A S S E M B L Y

May 29, 2013

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

AN ACT to direct the office of general services to conduct a study to examine, evaluate and make recommendations relating to the feasibility and advisability of establishing an office of risk assessment and management

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

Section 1. The office of general services, in consultation with the department of law, the department of audit and control, the state insurance fund, the office of employee relations and the division of the budget, shall conduct a study to examine, evaluate and make recommendations concerning the feasibility and advisability of establishing, within the office of general services, an office of risk assessment and management. The office of general services, in conducting such study, should direct its attention to at least the following:

(a) the suggested proposed powers of such office of risk assessment and management, which may include, but not be limited to, the power to:

(1) analyze the potential exposure of the state to liability and financial loss arising from its acts and omissions, from the ownership, control or use of its real and personal property, or the conduct or actions of its employees or agents;

(2) establish and coordinate business continuity programs for essential state functions and services;

(3) implement risk management programs to manage the state's exposure to risk in the most cost effective manner including, but not limited to, programs to reduce the likelihood and potential cost of loss events, and the purchase of insurance or other risk sharing arrangements where appropriate; and

(4) coordinate and support the risk management programs of all state agencies; and

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

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(b) the appointment of a risk manager, who shall be appointed and empowered to administer the proposed office of risk assessment and management. With regard to such risk manager, the office of general services should consider:

(1) the process for the appointment of the risk manager;

(2) the compensation to be paid to the risk manager;

(3) the qualifications of the risk manager, which may include, but not be limited to:

(A) an understanding of and the ability to apply the generally accepted principles, standards and techniques utilized for the identification, assessment and management of enterprise risk;

(B) possessing sufficient experience in identifying, assessing and managing enterprise risk exposures that present the breadth and level of complexity of issues that can reasonably be expected to be raised during the course of state operations; and

(C) having acquired his or her qualifications, through appropriate education and relevant risk management experience on behalf of a commercial or governmental organization; and

(c) the fulfillment of the functions of the proposed office of risk assessment and management by conducting a preliminary examination and evaluation, in consultation with the comptroller, the attorney general, the temporary president of the senate and the speaker of the assembly, of the kinds and scope of risk exposures faced by the state. Such examination and evaluation may include, but not be limited to:

(1) the practices and procedures of all state agencies, as they pertain to, impact upon, cause or deter damage or loss to: physical property owned or controlled by the state, or physical injuries sustained by state employees, persons receiving services from the state or members of the general public;

(2) the actions, claim settlements, and claim settlement processes related to actions in the court of claims, and in federal and state courts of competent jurisdiction as they relate to the disposition of matters against the state;

(3) the essential operations and service functions of the state, and the kinds of procedures that may be necessary to maintain or restore such operations and functions to the required level following an emergency event;

(4) the potential future liabilities arising from existing or proposed state operations or functions;

(5) a description on how to prepare an inventory of all real property owned or leased, for a period of time of more than ten years, by all state agencies, and to begin to ascertain how to assess past, present and potential future liability exposures and the nature of those exposures; and

(6) a description of the kinds of appropriate cost effective techniques and programs needed to reduce the cost of the state's exposure to liability and financial loss arising from its operations or the ownership, control or use of real and personal property; and

(d) allowing any public benefit corporation, public authority or local government to contract for the services of the proposed risk manager and the office of risk assessment and management in the event that such public benefit corporation, public authority or local government is without internal risk assessment and enterprise risk management services, or wishes to supplement such internal services with the services provided by the risk manager and the office.

S 2. In addition to the requirements of section one of this act, the office of general services shall, with particular care, begin to examine, analyze and determine:

(a) an estimate of the financial benefits that could be realized by establishing an office of risk assessment and management and the potential reduction in the state's liability exposure;

(b) the financial costs and an estimate of the size of the workforce necessary to establish the office of risk assessment and management;

(c) the method or process by which the proposed office of risk assessment and management could be established and the manner in which such office's operations could be phased in over 5 years; and

(d) the method of financing the establishment and operations of the office of risk assessment and management, in as much as the initial costs of such office may not be offset by cost savings and reduction in liability exposure until such office has been in existence for an extended period of time.

S 3. Within eighteen months of the effective date of this act, the office of general services shall submit to the governor, the attorney general, the state comptroller, the temporary president of the senate and the speaker of the assembly, a report of its findings, conclusions and recommendations, and shall submit with its report such legislative proposals as it deems necessary to implement its recommendations.

S 4. This act shall take effect immediately.