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

(PREFILED)

January 9, 2013

Introduced by M. of A. KOLB, McDONOUGH, OAKS, WALTER, BLANKENBUSH, BUTLER, CORWIN, CROUCH, DiPIETRO, DUPREY, FINCH, HAWLEY, JOHNS, KEARNS, LALOR, P. LOPEZ, McLAUGHLIN, MONTESANO, PALMESANO, SKARTADOS, TEDISCO, TENNEY, STEC, NOJAY -- Multi-Sponsored by -- M. of A. BARCLAY, SALADINO -- read once and referred to the Committee on Corporations, Authorities and Commissions -- recommitted to the Committee on Corporations, Authorities and Commissions in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public authorities law and the transportation law, in relation to enacting the New York state thruway authority accountability act

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

Section 1. This act shall be known and be may cited as the "New York state thruway authority accountability act".

S 2. Section 351 of the public authorities law is amended by adding a new subdivision 4-a to read as follows:

4-A. THE TERM "DEPARTMENT" SHALL MEAN THE DEPARTMENT OF TRANSPORTATION.

S 3. Subdivision 1 of section 352 of the public authorities law, as amended by chapter 766 of the laws of 2005, is amended to read as follows:

1. (A) A board to be known as "New York state thruway authority" is hereby created. Such board shall be a body corporate and politic constituting a public corporation. It shall consist of seven members appointed by the governor by and with the advice and consent of the senate. [The members first appointed shall serve for terms ending three, six and nine years, respectively from January first next succeeding their appointment. Provided, however, that two board members first appointed on or

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

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after the effective date of the chapter of the laws of two thousand five which amended this subdivision shall serve an initial term of two years; provided further that two other board members first appointed on or after the effective date of the chapter of the laws of two thousand five which amended this subdivision shall serve an initial term of three years. Their successors shall be appointed for terms of nine years each. A member to be designated as chairman in his or her appointment as a member shall be chairman of such board until his or her term as member expires.] THE COMMISSIONER OF TRANSPORTATION SHALL BE DESIGNATED AND SERVE EX-OFFICIO AS THE CHAIR OF THE BOARD UNTIL THE END OF THE TERM OF THE GOVERNOR BY WHOM HE OR SHE WAS APPOINTED AND UNTIL HIS OR HER SUCCESSOR IS APPOINTED AND HAS QUALIFIED. The chairman and the other members shall serve without ADDITIONAL salary or other compensation, but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR THE PROVISIONS OF ANY APPOINTMENT BY THE GOVERNOR, THE TERMS OF ALL MEMBERS SERVING AS SUCH AS OF MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN, OR ON THE EFFECTIVE DATE OF THIS PARAGRAPH, WHICHEVER DATE IS LATER, SHALL IMMEDIATELY TERMINATE, EXCEPT THAT SUCH MEMBERS SHALL CONTINUE TO SERVE UNTIL THEIR SUCCESSORS ARE APPOINTED AND HAVE QUALIFIED.

(C) ANY MEMBER APPOINTED SHALL HAVE EXPERIENCE IN ONE OR MORE OF THE FOLLOWING AREAS: TRANSPORTATION, BUSINESS MANAGEMENT, FINANCE, ACCOUNTING OR MANAGEMENT OF LARGE CAPITAL PROJECTS.

(D) TWO MEMBERS OF THE BOARD APPOINTED ON OR AFTER APRIL FIRST, TWO THOUSAND FOURTEEN, SHALL BE APPOINTED TO TERMS OF THREE YEARS; TWO OTHER MEMBERS OF THE BOARD SHALL BE APPOINTED TO TERMS OF FOUR YEARS; AND TWO MEMBERS OF THE BOARD SHALL BE APPOINTED TO TERMS OF FIVE YEARS, PROVIDED, HOWEVER, THAT SUCH MEMBERS SHALL CONTINUE TO SERVE AFTER THE END OF THEIR TERMS UNTIL THEIR SUCCESSORS ARE APPOINTED AND HAVE QUALIFIED, AND PROVIDED FURTHER THAT NOTWITHSTANDING THE TERM TO WHICH ANY SUCH MEMBER SHALL HAVE BEEN APPOINTED SUCH A CONTINUATION OF THE TERM OF A MEMBER SHALL NOT REQUIRE CONFIRMATION BY THE SENATE.

S 4. Section 11 of the transportation law, as amended by chapter 460 of the laws of 1971, is amended to read as follows:

S 11. Department of transportation; commissioner. There shall be in the state government a department of transportation. The head of the department shall be the commissioner of transportation, who shall be appointed by the governor, by and with the advice and consent of the senate, and hold office until the end of the term of the governor by whom he was appointed and until his successor is appointed and has qualified.

The commissioner of transportation shall have sole charge of the administration of the department AND THE NEW YORK STATE THRUWAY AUTHORITY ESTABLISHED PURSUANT TO TITLE NINE OF ARTICLE TWO OF THE PUBLIC AUTHORITIES LAW. THE COMMISSIONER OF TRANSPORTATION SHALL SERVE AS A MEMBER AND CHAIR OF THE THRUWAY AUTHORITY BOARD ESTABLISHED PURSUANT TO SECTION THREE HUNDRED FIFTY-TWO OF THE PUBLIC AUTHORITIES LAW.

S 5. The transportation law is amended by adding a new section 23 to read as follows:

S 23. NEW YORK STATE THRUWAY AUTHORITY ADMINISTRATION AND OVERSIGHT. 1. THE COMMISSIONER SHALL ESTABLISH A PLAN TO MERGE THE OPERATIONS OF THE THRUWAY AUTHORITY WITH THAT OF THE DEPARTMENT AND CONSOLIDATE SERVICES WHERE APPROPRIATE, PROVIDED THAT NO EMPLOYEE OF THE AUTHORITY OR THE DEPARTMENT SHALL BE TERMINATED AS A CONSEQUENCE OF THE MERGER. THE COMMISSIONER SHALL SUBMIT A REPORT TO THE GOVERNOR AND LEGISLATURE

WITHIN ONE HUNDRED TWENTY DAYS OF THE EFFECTIVE DATE OF THIS SECTION. THE REPORT SHALL BE SUBMITTED TO THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE, THE MINORITY LEADER OF THE ASSEMBLY, THE CHAIR AND RANKING MINORITY MEMBER OF THE SENATE FINANCE COMMITTEE, THE CHAIR AND RANKING MINORITY MEMBER OF THE ASSEMBLY WAYS AND MEANS COMMITTEE, THE CHAIRS AND RANKING MINORITY MEMBERS OF THE SENATE AND ASSEMBLY CORPORATIONS, AUTHORITIES AND COMMISSIONS COMMITTEES, AND THE CHAIRS AND RANKING MINORITY MEMBERS OF THE SENATE AND ASSEMBLY TRANSPORTATION COMMITTEES.

2. (A) THE COMMISSIONER SHALL, WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, AND EVERY THREE YEARS THEREAFTER, CONTRACT WITH A CERTIFIED PUBLIC ACCOUNTING FIRM FOR THE PROVISION OF AN INDEPENDENT, COMPREHENSIVE, FORENSIC AUDIT OF THE THRUWAY AUTHORITY. SUCH AUDIT SHALL BE PERFORMED IN ACCORDANCE WITH GENERALLY ACCEPTED GOVERNMENT AUDITING STANDARDS.

(B) THE CERTIFIED INDEPENDENT PUBLIC ACCOUNTING FIRM PROVIDING THE INDEPENDENT, COMPREHENSIVE, FORENSIC AUDIT OF THE THRUWAY AUTHORITY SHALL BE PROHIBITED FROM PROVIDING AUDIT SERVICES IF THE LEAD OR COORDINATING AUDIT PARTNER, HAVING PRIMARY RESPONSIBILITY FOR THE AUDIT, OR THE AUDIT PARTNER RESPONSIBLE FOR REVIEWING THE AUDIT, HAS PERFORMED AUDIT SERVICES FOR THE AUTHORITY WITHIN ANY OF THE TEN PREVIOUS FISCAL YEARS OF THE AUTHORITY.

(C) THE CERTIFIED INDEPENDENT ACCOUNTING FIRM PERFORMING THE AUDIT PURSUANT TO THIS SECTION SHALL BE PROHIBITED FROM PERFORMING ANY NON-AUDIT SERVICES FOR THE AUTHORITY CONTEMPORANEOUSLY WITH THE AUDIT.

(D) IT SHALL BE PROHIBITED FOR THE CERTIFIED INDEPENDENT PUBLIC ACCOUNTING FIRM TO PERFORM ANY AUDIT SERVICE IF THE CHIEF EXECUTIVE OFFICER, COMPTROLLER, CHIEF FINANCIAL OFFICER, CHIEF ACCOUNTING OFFICER OR ANY OTHER PERSON SERVING IN AN EQUIVALENT POSITION IN THE AUTHORITY WAS AN EMPLOYEE, CONSULTANT OR INDEPENDENT CONTRACTOR OF THAT CERTIFIED INDEPENDENT PUBLIC ACCOUNTING FIRM AND PARTICIPATED IN ANY CAPACITY IN THE AUDIT OF THE AUTHORITY AT ANY TIME IN THE PAST.

(E) THE CERTIFIED INDEPENDENT PUBLIC ACCOUNTING FIRM CONTRACTED TO PERFORM THE INDEPENDENT, COMPREHENSIVE, FORENSIC AUDIT OF THE THRUWAY AUTHORITY SHALL, WITHIN ONE YEAR OF THE INITIATION OF THE CONTRACT, REPORT ITS FINDINGS, CONCLUSIONS AND RECOMMENDATIONS TO THE GOVERNOR, THE STATE COMPTROLLER, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE, THE MINORITY LEADER OF THE ASSEMBLY, THE CHAIR AND RANKING MINORITY MEMBER OF THE SENATE FINANCE COMMITTEE, THE CHAIR AND RANKING MINORITY MEMBER OF THE ASSEMBLY WAYS AND MEANS COMMITTEE, THE CHAIRS AND RANKING MINORITY MEMBERS OF THE SENATE AND THE ASSEMBLY CORPORATIONS, AUTHORITIES AND COMMISSIONS COMMITTEES, AND THE CHAIRS AND RANKING MINORITY MEMBERS OF THE SENATE AND THE ASSEMBLY TRANSPORTATION COMMITTEES.

S 6. Section 360 of the public authorities law, as amended by chapter 766 of the laws of 1992, is amended to read as follows:

S 360. Operation and maintenance. Operation and maintenance by the authority of any thruway section or connection or any part thereof or of a highway connection, the New York state canal system of which it has assumed jurisdiction shall be performed (a) by the use of authority forces and equipment at the expense of the authority or by agreement at the expense of the state or other parties; (b) by contract with municipalities or independent contractors; (c) at the request of the [authority] COMMISSIONER, by the [commissioner and his subordinates in the department of transportation as agents for,] AUTHORITY and at the expense of the authority, or (d) by a combination of such methods.

S 7. Section 363 of the public authorities law, as amended by chapter 766 of the laws of 1992, is amended to read as follows:

S 363. Annual report. The authority shall submit to the governor, to the [legislature, to] SPEAKER OF THE ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE SENATE, THE MINORITY LEADER OF THE ASSEMBLY, THE SENATE FINANCE COMMITTEE, THE ASSEMBLY WAYS AND MEANS COMMITTEE, the comptroller and to the director of the budget on or before the first day of February of each year a detailed report setting forth its [operations and] fiscal transactions during the preceding calendar year with a statement of its financial condition as of the end of such year and a statement of all receipts and expenditures during such year. Such report shall include detailed information relating to additional expenditures incurred by the authority as a result of the amendments made to subdivision four of section three hundred fifty-nine of this [chapter] TITLE pursuant to the chapter of the laws of nineteen hundred ninety-two which enacted this sentence.

S 8. Section 14 of the transportation law is amended by adding a new subdivision 13-a to read as follows:

13-A. AS PART OF THE DEPARTMENT'S ANNUAL BUDGET REQUEST, TO INCLUDE ANY REQUESTS FOR THRUWAY AUTHORITY TOLL INCREASES AND JUSTIFICATION FOR SUCH INCREASES.

S 9. This act shall take effect immediately.