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

2820

2013-2014 Regular Sessions

I N A S S E M B L Y

January 18, 2013

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

AN ACT to amend the education law, in relation to protecting constitutional or civil rights of non-degree granting proprietary schools and their owners

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

Section 1. Legislative intent. The legislature declares that it is the policy of the state of New York to assure that each non-degree granting proprietary school, hereinafter "proprietary school," and the owners thereof are afforded due process before the revocation of such school's license to operate as a proprietary school or the denial of an application for renewal of such license. Any application for renewal of such license or appeal of revocation or registration or regulation of any proprietary school by the bureau of proprietary school supervision, hereinafter "the bureau," should be made in an environment free of fear of discrimination based upon race, religion, creed, color, sex, sexual orientation, age, disability, ethnicity or national origin. The state has the responsibility to act to ensure that all proprietary schools have the ability to operate, and to not be closed or prevented from obtaining a renewal of their license, or have their license revoked, barring presumed evidence of fraud, so as to afford an opportunity for such proprietary school to take corrective action to remedy any apparent or alleged deficiency or deficiencies in their operation and without imposing penalties that are not commensurate with the violations established. Any such action by the bureau, against a proprietary school in any case that appears based on any violation of any protection of the constitutionally guaranteed rights of due process shall immediately be forestalled or tabled and referred to a hearing to be conducted by the "legislative advisory committee for proprietary schools education" to be known as the "proprietary school disciplinary committee" which shall act

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

LBD00663-01-3

and function separately and distinctly from the advisory council estab-lished pursuant to section five thousand ten of the education law.

The legislature finds that enactment of this legislation will promote the fair regulation of the proprietary school system and will serve the short-term and long-term best interests of those people of the state who depend on the proprietary schools to provide them with opportunities for education.

S 2. The education law is amended by adding a new section 5003-a to read as follows:

S 5003-A. VIOLATIONS OF CONSTITUTIONAL OR CIVIL RIGHTS; CIVIL ACTIONS; AND CRIMINAL SANCTIONS. 1. A. A "LEGISLATIVE ADVISORY COMMITTEE FOR PROPRIETARY SCHOOLS EDUCATION" HEREINAFTER KNOWN AS THE "PROPRIETARY SCHOOL DISCIPLINARY COMMITTEE" OR "PSDC" IS HEREBY CREATED AS PROVIDED IN THIS SECTION.

B. THE PSDC SHALL BE COMPOSED OF NINE MEMBERS APPOINTED AS FOLLOWS:

(1) TWO MEMBERS SHALL BE APPOINTED UPON THE RECOMMENDATION OF THE TEMPORARY PRESIDENT OF THE SENATE WITH ONE REPRESENTING A REGISTERED TRADE SCHOOL AND ONE REPRESENTING A LICENSED BUSINESS SCHOOL;

(2) TWO MEMBERS SHALL BE APPOINTED UPON THE RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY WITH ONE REPRESENTING A REGISTERED TRADE SCHOOL AND ONE REPRESENTING A LICENSED BUSINESS SCHOOL;

(3) ONE MEMBER SHALL BE APPOINTED UPON THE RECOMMENDATION OF THE CHAIRPERSON OF THE SENATE BLACK, PUERTO RICAN, HISPANIC & ASIAN LEGISLA-TIVE CAUCUS;

(4) ONE MEMBER SHALL BE APPOINTED UPON THE RECOMMENDATION OF THE CHAIRPERSON OF THE SENATE CONSUMER PROTECTION COMMITTEE;

(5) ONE MEMBER SHALL BE AN OWNER OR DIRECTOR OF A SCHOOL REGULATED PURSUANT TO THIS ARTICLE;

(6) ONE MEMBER SHALL BE A STUDENT CURRENTLY ENROLLED IN A SCHOOL REGU-LATED PURSUANT TO THIS ARTICLE AT THE TIME OF APPOINTMENT OR A GRADUATE OF SUCH A SCHOOL WHO GRADUATED NO MORE THAN THREE YEARS BEFORE APPOINT-MENT; AND

(7) ONE MEMBER SHALL BE A STUDENT ADVOCATE.

C. THE GOVERNOR SHALL DESIGNATE A CHAIRPERSON FROM SUCH MEMBERS. THE SECRETARY OF EDUCATION, THE PRESIDENT OF THE HIGHER EDUCATION SERVICES CORPORATION, THE STATE COMPTROLLER, THE DIRECTOR OF THE DIVISION OF THE BUDGET, AND THE EXECUTIVE DIRECTOR OF THE JOB TRAINING PARTNERSHIP COMMITTEE, OR THEIR DESIGNEES, SHALL SERVE AS EX-OFFICIO, NON-VOTING MEMBERS OF THE COMMITTEE.

D. THE PSDC SHALL MEET NO LESS THAN FOUR TIMES A YEAR. AFTER EACH MEETING A REPORT OF ALL FINDINGS SHALL BE SUBMITTED TO THE GOVERNOR. MEMBERS OF THE PSDC SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES BUT SHALL BE REIMBURSED FOR REASONABLE EXPENSES ACTUALLY AND NECESSARILY INCURRED BY THEM IN THE PERFORMANCE OF THEIR DUTIES.

2. A. THE BUREAU OF PROPRIETARY SCHOOL SUPERVISION, HEREINAFTER "THE BUREAU," UPON RECEIVING A COMPLAINT FROM A STUDENT OR STUDENTS AGAINST A PROPRIETARY SCHOOL OR UPON A COMPLAINT GENERATED FROM ITS OWN INVESTI-GATION, SHALL NOTIFY SUCH SCHOOL WITHIN TEN BUSINESS DAYS ADVISING THE SCHOOL THAT IT HAS SIXTY DAYS TO DEVISE A CORRECTIVE ACTION PLAN TO ADDRESS THE ALLEGED VIOLATIONS. SUCH PROPRIETARY SCHOOL WITHIN THE SIXTY DAY PERIOD SHALL FORWARD ITS CORRECTIVE ACTION PLAN TO THE BUREAU AND TO THE DESIGNATED MEMBER OF THE PSDC. THE PSDC SHALL THEN HAVE TEN BUSI-NESS DAYS TO ACCEPT, REJECT OR AMEND THE CORRECTIVE ACTION PLAN, AND SUCH CORRECTIVE ACTION PLAN SHALL BE DEEMED ACCEPTABLE UNLESS THE PSDC VOTES UNANIMOUSLY TO REJECT SUCH PLAN. THE PROPRIETARY SCHOOL SHALL BE NOTIFIED VIA CERTIFIED MAIL WITHIN FIVE BUSINESS DAYS OF THE PSDC DECI-

SION. FOR THE PURPOSES OF REVIEW A MINIMUM OF FIVE PSDC MEMBERS, NONE OF WHICH ARE EX-OFFICIO, MUST VOTE ON THE PROPRIETARY SCHOOL'S CORRECTIVE ACTION PLAN. THE ADOPTION OF THE PLAN AS SUBMITTED MUST BE APPROVED BY A MAJORITY OF THE MEMBERS VOTING.

B. THE PROPOSED CORRECTIVE ACTION PLAN SHALL ADDRESS EVERY ALLEGATION IN THE COMPLAINT, INCLUDING THE REMEDIAL ACTION TO BE TAKEN. SUCH REMEDIAL ACTION MAY INCLUDE BUT IS NOT LIMITED TO REFUNDS TO STUDENTS, CHANGES IN STAFF PERSONNEL, DISCONTINUANCE OF CLASSES, MODIFICATION TO CURRICULUM, MODIFICATIONS TO ENROLLMENT DOCUMENTS, INCLUDING BUT NOT LIMITED TO THE ENROLLMENT AGREEMENT, AND CATALOGS, CHANGES IN ADVERTISING AND MARKETING, LICENSES, CREDENTIALS OR CERTIFICATES TO BE OBTAINED TO BRING THE PROPRIETARY SCHOOL INTO COMPLIANCE WITH THIS CHAPTER AND OTHER APPLICABLE LAWS, AND ANY OTHER MATTER IN RECTIFICATION TO BE COMPLIANT WITH THIS CHAPTER.

C. IF THE PSDC REJECTS THE CORRECTIVE ACTION PLAN IT MUST NOTIFY THE PROPRIETARY SCHOOL OF ITS POSITION AND SUBMIT AN ITEMIZED RECOMMENDED MODIFICATION TO SUCH PLAN. SUCH ITEMIZED RECOMMENDATION CAN INCLUDE ANY COMMENSURATE FINE THE PSDC DEEMS APPROPRIATE GIVEN THE VIOLATIONS ESTABLISHED. ANY FINE FOR A VIOLATION OF THIS SUBDIVISION SHALL NOT EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS AND SHALL NOT BE AGGREGATED BASED UPON THE NUMBER OF STUDENTS AFFECTED BY THE VIOLATION OR THE NUMBER OF REPEAT INSTANCES OF THE SAME VIOLATION. IN ANY EVENT THE TOTAL FINE SHALL NOT EXCEED TWENTY-FIVE THOUSAND DOLLARS. THE FINE LIMITATION SHALL IN NO WAY LIMIT THE FINES, COSTS, FEES, RESTITUTION AND OTHER ASSESSMENTS DULY IMPOSABLE UPON THE SCHOOL AS A RESULT OF OTHER LAW ENFORCEMENT OR CIVIL PROCEEDINGS BROUGHT AGAINST THE SCHOOL.

D. NOTWITHSTANDING ANY RECOMMENDATIONS IT SUBMITS TO THE PROPRIETARY SCHOOL, THE PSDC MAY MAKE APPROPRIATE REFERRALS TO APPROPRIATE AGENCIES AS IT DEEMS FIT BASED UPON THE ALLEGATIONS IN THE COMPLAINT AND THE PROPRIETARY SCHOOL'S CORRECTIVE ACTION PLAN. THE PROPRIETARY SCHOOL SHALL BE GIVEN THIRTY DAYS TO NOTIFY THE PSDC AND THE BUREAU OF ITS ACCEPTANCE OF THE MODIFICATIONS AND ITS INTENT TO ADOPT AND IMPLEMENT SUCH MODIFICATIONS. THE PSDC CAN DIRECT THE PROPRIETARY SCHOOL TO SUSPEND ENROLLING STUDENTS UPON NOTICE TO THE PROPRIETARY SCHOOL SUBJECT TO SUBDIVISIONS THREE AND FOUR OF THIS SECTION.

E. IF THE PROPRIETARY SCHOOL DOES NOT AGREE WITH THE PROPOSED MODIFICATIONS TO THE CORRECTIVE ACTION PLAN MADE BY THE PSDC, SUCH SCHOOL MAY PETITION TO THE SUPREME COURT IN THE COUNTY OF THE PRINCIPAL PLACE OF BUSINESS OF THE PROPRIETARY SCHOOL FOR REVIEW OF THE RECOMMENDATIONS BY PSDC WITHIN THE SAME THIRTY DAY ALLOTMENT.

F. THE COURT, IN THE EVENT OF SUCH A HEARING, SHALL, UPON A SHOWING OF CLEAR AND CONVINCING EVIDENCE THAT THE ORIGINALLY SUBMITTED CORRECTIVE ACTION PLAN DOES NOT ADEQUATELY ADDRESS OR RESOLVE THE ISSUES RAISED BY THE COMPLAINT, AFFORD THE PROPRIETARY SCHOOL AN OPPORTUNITY TO MODIFY ITS PLAN BASED UPON THE FINDINGS OF THE COURT.

G. THE PROPRIETARY SCHOOL SHALL HAVE SIX MONTHS IN WHICH TO IMPLEMENT THE ACCEPTED CORRECTIVE ACTION PLAN AGREED UPON BY PSDC OR THE SUPREME COURT. THE BUREAU SHALL THEN NOTIFY THE PROPRIETARY SCHOOL, BY CERTIFIED MAIL, OF ITS INTENDED DATE OF INSPECTION TO INSURE THE PROPRIETARY SCHOOL IS IN COMPLIANCE WITH THE IMPLEMENTATION OF PSDC'S ACCEPTED CORRECTIVE ACTION PLAN.

3. ANY NOTICE TO THE PROPRIETARY SCHOOL TO SUSPEND ENROLLING STUDENTS SHALL NOT TAKE EFFECT IF AT ALL UNTIL AFTER A HEARING FIVE BUSINESS DAYS AFTER THE PSDC HAS SERVED A NOTICE OF VIOLATION WHICH ALLEGES SPECIFIC VIOLATIONS OF THIS CHAPTER, REGULATIONS PROMULGATED HEREUNDER OR ANY OTHER VIOLATION OR OFFENSE AS PRESCRIBED BY LAW ON THE SUBJECT PROPRIE-

TARY SCHOOL AND FILED A COPY WITH THE PSDC. A HEARING AFFORDING THE SUBJECT PROPRIETARY SCHOOL AN OPPORTUNITY TO PROVIDE REASONABLE ASSURANCES THAT THE ALLEGED VIOLATIONS SHALL NOT POSE AN IMMINENT THREAT TO THE PROPER ADMINISTRATIVE AND EDUCATIONAL FUNCTIONS OF THE SCHOOL SHALL BE CONDUCTED WITHIN FIVE BUSINESS DAYS AFTER THE SERVICE. AT LEAST THREE PSDC MEMBERS SHALL PRESIDE OVER THE HEARING IN A PREDESIGNATED VENUE IN THE COUNTY IN WHICH SUCH SCHOOL IS LOCATED. THE CHAIRPERSON OF THE PSDC AND THE SCHOOL SHALL BE AFFORDED AN OPPORTUNITY TO PRESENT ARGUMENTS AND EXHIBITS IN SUPPORT AND IN OPPOSITION OF THE PROPOSED SUSPENSION, CLOSURE AND/OR OTHER DISCIPLINARY ACTION CONSISTENT WITH SUBDIVISION TWO OF THIS SECTION. THE PRESIDING MEMBERS OF THE HEARING SHALL REPORT TO THE NON-PRESIDING PSDC MEMBERS THEIR FINDINGS WITHIN SEVEN BUSINESS DAYS AFTER PRESENTATIONS BY THE CHAIRPERSON OF THE PSDC AND THE SUBJECT SCHOOL AND A FINAL DETERMINATION REGARDING DISCIPLINARY ACTION SHALL BE AGREED UPON BY AT LEAST FIVE OF THE PSDC MEMBERS WITHIN TEN BUSINESS DAYS FROM THE PRESENTATION OF THE FINDINGS OF THE PRESIDING COMMITTEE MEMBERS.

4. PARAGRAPH D OF SUBDIVISION TWO OF THIS SECTION NOTWITHSTANDING, THE PROPRIETARY SCHOOL MAY CONTINUE TO ENROLL STUDENTS AFTER THE NOTICE TO SUSPEND ENROLLING STUDENTS UNTIL A FINAL DETERMINATION FROM THE PSDC PURSUANT TO SUBDIVISION THREE OF THIS SECTION, PROVIDED THAT THE PROPRIETARY SCHOOL SHALL ESCROW ANY REGISTRATION FEES AND TUITION PAYMENTS FROM STUDENTS PRIOR TO THE FINAL DETERMINATION. REQUISITIONS FOR THE PAYMENT OF APPROPRIATE EXPENSES NECESSARY TO THE OPERATION AND ADMINISTRATION OF THE PROPRIETARY SCHOOL SHALL BE REVIEWED BY THE PSDC AND AUTHORIZED FOR PAYMENT UNTIL FINAL DETERMINATION.

5. A. WITHIN THIRTY DAYS AFTER A DETERMINATION BY THE PSDC AS TO THE DISCIPLINARY ACTION TO BE TAKEN AGAINST THE SUBJECT SCHOOL, IF ANY, THE SUBJECT SCHOOL MAY COMMENCE AN ACTION IN THE SUPREME COURT IN THE COUNTY IN WHICH THAT SCHOOL HAS ITS PRINCIPAL PLACE OF BUSINESS TO APPEAL THE FINAL DISCIPLINARY ACTION.

B. THE ACTION MAY BE BROUGHT AS A PLENARY ACTION UNDER THIS SECTION ALLEGING THAT THE CIVIL RIGHTS OF THE SCHOOL, SCHOOL OWNER AND/OR ITS DIRECTORS, AGENTS OR EMPLOYEES HAVE BEEN VIOLATED.

6. A. WHENEVER ANY PERSON OR PERSONS, OR AGENTS OF THE BUREAU AND ITS ADVISORY COUNCIL AS ESTABLISHED BY SECTION FIVE THOUSAND TEN OF THIS ARTICLE, WHETHER OR NOT ACTING UNDER THE COLOR OF LAW, INTERFERES BY USING INTIMIDATION, SUCH AS HEAVY-HANDED THREATS, OR INAPPROPRIATE INVESTIGATIONAL PROCEDURES, ENTRAPMENT, FEDERAL RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT (18 U.S.C. S 1961-1968) CHARGES OR COERCION, IMPLEMENTATION OR ADOPTION OF INAPPROPRIATE, BIASED OR PARTISAN POLICIES, OR DENIES THE EXERCISE OR ENJOYMENT BY ANY PROPRIETARY SCHOOL AND ITS OWNER, PERSON OR PERSONS, OF RIGHTS SECURED BY THE CONSTITUTION OR LAWS OF THE UNITED STATES, OR OF RIGHTS SECURED BY THE CONSTITUTION OR BY THE LAWS OF THIS STATE, THE ATTORNEY GENERAL OR AN APPOINTED SPECIAL PROSECUTOR APPOINTED PURSUANT TO STATE LAW SHALL BRING A CIVIL OR CRIMINAL ACTION TO OBTAIN INJUNCTIVE OR OTHER APPROPRIATE LEGAL OR EQUITABLE RELIEF, IN ORDER TO PROTECT THE PEACEABLE EXERCISE OR ENJOYMENT OF THE RIGHT OR RIGHTS SECURED.

B. THE PSDC, THE ATTORNEY GENERAL OR AN APPOINTED SPECIAL PROSECUTOR SHALL MAKE APPROPRIATE REFERRALS TO FEDERAL AGENCIES AND LAW ENFORCEMENT AGENCIES FOR FURTHER REVIEW OF ALLEGED ACTS OF SUCH PERSON OR PERSONS, OR AGENTS OF THE BUREAU AND ITS ADVISORY COUNCIL. IF A SPECIAL PROSECUTOR IS REQUIRED THEN SAME SHALL BE SELECTED BY THE NORMAL PROCEDURES UNDER STATE LAW.

7. A. IF A CASE OF ABUSE OR CIVIL RIGHTS VIOLATION IS REPORTED OR ALLEGED TO THE BUREAU BY ANY PROPRIETARY SCHOOL, OR BY A BUREAU EMPLOYEE, THE BUREAU DIRECTOR MUST NOTIFY THE COMMISSIONER FOR FURTHER INVESTIGATION. FURTHER, IN THE EVENT OF HAVING RECEIVED SUCH NOTIFICATION THE COMMISSIONER MUST NOTIFY THE ATTORNEY GENERAL OF SUCH COMPLAINT SO THAT THEY CAN INVESTIGATE THE MATTER JOINTLY.

B. AT THE CONCLUSION OF SUCH INVESTIGATION, THE ATTORNEY GENERAL OR APPOINTED SPECIAL PROSECUTOR SHALL TAKE THE APPROPRIATE MEASURE TO RESOLVE THE MATTER. CIVIL OR CRIMINAL ACTION SHALL BE BROUGHT IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK AND SHALL BE INSTITUTED IN THE SUPREME COURT FOR THE COUNTY IN WHICH THE CONDUCT COMPLAINED OF OCCURRED OR IN THE SUPREME COURT FOR THE COUNTY IN WHICH THE PERSON OR PERSONS WHOSE CIVIL RIGHTS ARE ALLEGED TO BE VIOLATED RESIDE OR HAVE THEIR PRINCIPAL PLACE OF BUSINESS OR IN THE SUPREME COURT FOR THE COUNTY IN WHICH THE AGGRIEVED PERSON OR PERSONS RESIDE.

8. A. ANY PROPRIETARY SCHOOL WHOSE EXERCISE OR ENJOYMENT OF RIGHTS SECURED BY THE CONSTITUTION OR LAWS OF THE UNITED STATES, OR OF RIGHTS SECURED BY THE CONSTITUTION OR LAWS OF THIS STATE, HAS BEEN INTERFERED WITH, OR ATTEMPTED TO BE INTERFERED WITH, AS DESCRIBED IN SUBDIVISION SIX OF THIS SECTION, MAY INSTITUTE AND PROSECUTE IN HIS OR HER OWN NAME AND ON HIS OR HER OWN BEHALF A CIVIL ACTION FOR INJUNCTIVE OR OTHER APPROPRIATE LEGAL OR EQUITABLE RELIEF, INCLUDING THE AWARD OF COMPENSATORY AND PUNITIVE MONEY DAMAGES.

B. ANY STUDENTS AGGRIEVED BY ANY MISCONDUCT OR ALLEGED VIOLATIONS OF THE SCHOOL SHALL ENJOY A PRIVATE RIGHT OF ACTION SUBJECT TO THE STATUTE OF LIMITATIONS OF THE CAUSE OF ACTION UNDER WHICH THE STUDENTS PURSUE REDRESS.

C. ANY SUCH AGGRIEVED PERSON, PERSONS OR PROPRIETARY SCHOOL, WHO PREVAILS IN ANY ACTION AUTHORIZED BY THIS SECTION, SHALL BE ENTITLED TO AN AWARD OF THE COSTS OF THE LITIGATION, REASONABLE ATTORNEYS' FEES, MONIES LOST FOR SAID PERIOD OF CESSATION OF OPERATION, IN AN AMOUNT TO BE DETERMINED BY THE COURT. AT THE DISCRETION OF THE RULING COURT SUCH AWARDS MAY BE SUBJECT TO TREBLE DAMAGES.

9. IN THE EVENT THAT THE SUBJECT PROPRIETARY SCHOOL BELIEVES IT HAS BEEN VICTIMIZED BY WAY OF AN ONGOING CONSPIRACY, THE SCHOOL MAY MAKE A REQUEST THAT ITS CASE BE INVESTIGATED BY A SPECIAL MASTER FROM THE ATTORNEY GENERAL'S OFFICE OR A SPECIAL PROSECUTOR HAVING EXPERIENCE WITH FEDERAL RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT (18 U.S.C. S 1961-1968) INVESTIGATIONS.

10. A. ANY PERSON OR AGENCY CONVICTED OF VIOLATING THE PROVISIONS OF THIS SECTION SHALL BE FINED NOT MORE THAN ONE THOUSAND DOLLARS OR IMPRISONED NOT MORE THAN ONE YEAR OR BOTH; IF PERSONAL INJURY RESULTS FROM SUCH VIOLATION, SUCH PERSON SHALL BE PUNISHED AS PROVIDED SUBJECT TO THE RELEVANT PENALTIES PROVIDED FOR IN THE PENAL LAW.

B. PERSONS EMPLOYED BY THE BUREAU AND/OR THE OFFICE OF THE COMMISSIONER WHO HAVE BEEN FOUND TO HAVE ACTED WILLFULLY AND WITH RECKLESS ABANDONMENT AND/OR MALEVOLENT INTENT MAY BE SUBJECTED TO PERSONAL LIABILITY FOR THE DAMAGES INCURRED BY THEIR ACTIONS AND ANY CLAIM THAT THEY WERE ACTING AT THE DIRECTION OF A SUPERIOR OR SUPERVISORY PERSON SHALL NOT BE A DEFENSE.

S 3. Subdivision 2 of section 5010 of the education law, as amended by chapter 381 of the laws of 2012, is amended and a new subdivision 4 is added to read as follows:

2. (A) The council shall meet no less than four times a year. Members of the council shall receive no compensation for their services but shall be reimbursed for reasonable expenses actually and necessarily

incurred by them in the performance of their duties. Council member terms of office shall be limited to [three] TWO years, provided that members may be reappointed. All appointments to the council to fill vacancies in existence on the effective date of [the] chapter THREE HUNDRED EIGHTY-ONE of the laws of two thousand twelve [which amended this subdivision] shall be made within ninety days of such effective date.

(B) THE ADVISORY COUNCIL SHALL ABIDE STRICTLY TO A TWO YEAR TERM LIMIT OF ITS MEMBERS AND ANY VACANCIES THEREON SHALL BE FILLED WITHIN FIFTEEN DAYS AFTER ANY VACANCY OCCURS.

(C) ANY CURRENT MEMBER WHO HAS SERVED OVER TWO YEARS SHALL WITHIN FIFTEEN DAYS OF THE EFFECTIVE DATE OF THIS PARAGRAPH, RESIGN HIS OR HER POSITION.

4. (A) THE ADVISORY COUNCIL SHALL NOT CONVENE AS A LEGISLATION ADVOCATE OR OPPONENT ON ANY EXISTING OR PROPOSED LEGISLATION NOT DIRECTLY AMENDING, REPEALING OR OTHERWISE MODIFYING THIS CHAPTER.

(B) TO THE EXTENT THAT ANY PROPOSED AMENDMENT OR REPEAL OF ANY SECTION OF THIS CHAPTER IS INTRODUCED WITHIN THE STATE LEGISLATURE, THE ADVISORY COUNCIL SHALL, BEFORE TAKING ANY POSITION ON THE BILL, INVITE PROPONENTS AND OPPONENTS TO PRESENT THEIR RESPECTIVE POSITIONS TO SUCH ADVISORY COUNCIL MEMBERS BEFORE THE COUNCIL MAY TAKE ANY AFFIRMATIVE POSITION ON THE LEGISLATION ONE WAY OR THE OTHER.

S 4. This act shall take effect immediately; provided, however, that section three of this act shall take effect on the same date and in the same manner as section 11 of chapter 381 of the laws of 2012, takes effect.