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

S. 5916--A A. 8119--A

2013-2014 Regular Sessions

S E N A T E - A S S E M B L Y

July 12, 2013

IN SENATE -- Introduced by Sens. PARKER, DILAN, MONTGOMERY, SAMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. CAMARA -- Multi-Sponsored by -- M. of A. BRENNAN, BROOK-KRASNY, CYMBROWITZ, JACOBS, LENTOL, MILLMAN, MOSLEY, PERRY -- read once and referred to the Committee on Health -- recommitted to the Committee on Health 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 executive law, in relation to creating the Brooklyn health care commission

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

Section 1. The executive law is amended by adding a new article 49-C to read as follows:

ARTICLE 49-C

BROOKLYN HEALTH CARE COMMISSION

SECTION 996. BROOKLYN HEALTH CARE COMMISSION.

996-A. KINGS COUNTY HEALTH CARE STAKEHOLDERS COUNCIL.

S 996. BROOKLYN HEALTH CARE COMMISSION. 1. THERE IS HEREBY CREATED IN THE EXECUTIVE DEPARTMENT, A COMMISSION TO BE KNOWN AS THE "BROOKLYN HEALTH CARE COMMISSION," HEREAFTER REFERRED TO AS THE "COMMISSION", WHICH SHALL BE CHARGED WITH EXAMINING THE SYSTEM OF GENERAL HOSPITALS, NURSING HOMES, AMBULATORY AND PRIMARY CARE FACILITIES, AND MEDICAL SCHOOL FACILITIES IN KINGS COUNTY AND RECOMMENDING CHANGES TO THAT SYSTEM.

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

LBD11603-02-4

2. THE COMMISSION SHALL CONSIST OF THE FOLLOWING ELEVEN MEMBERS: (A) ONE MEMBER APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE; (B) ONE MEMBER APPOINTED BY THE SPEAKER OF THE ASSEMBLY; (C) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE SENATE; (D) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY; (E) THREE MEMBERS APPOINTED BY THE KINGS COUNTY BOROUGH PRESIDENT, ONE MEMBER FROM EACH OF THE FOLLOWING THREE REGIONS: (I) NORTH OF ATLANTIC AVENUE; (II) SOUTH AND WEST OF FLATBUSH AVENUE; AND (III) SOUTH OF ATLANTIC AVENUE AND EAST OF FLATBUSH AVENUE; (F) TWO MEMBERS APPOINTED BY THE MAYOR OF NEW YORK CITY; AND (G) TWO MEMBERS APPOINTED BY THE GOVERNOR.

3. THE MEMBERS OF THE COMMISSION SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICE AS MEMBERS, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

4. THE COMMISSION SHALL BEGIN TO ACT FORTY-FIVE DAYS AFTER THIS ARTICLE SHALL HAVE BECOME A LAW.

5. THE COMMISSIONER OF HEALTH SHALL DESIGNATE SUCH EMPLOYEES OF THE DEPARTMENT OF HEALTH AS ARE REASONABLY NECESSARY TO PROVIDE SUPPORT SERVICES TO THE COMMISSION.

6. THE COMMISSIONER OF HEALTH SHALL APPOINT: (A) ONE OR MORE REPRESENTATIVES OF THE DEPARTMENT TO SERVE AS A LIAISON BETWEEN THE DEPARTMENT AND THE COMMISSION; (B) ONE OR MORE REPRESENTATIVES OF THE DEPARTMENT TO SERVE AS A LIAISON BETWEEN THE KINGS COUNTY HEALTH CARE STAKEHOLDERS COUNCIL AND THE COMMISSION.

7. THE DIRECTOR OF THE DORMITORY AUTHORITY OF THE STATE OF NEW YORK SHALL APPOINT ONE OR MORE REPRESENTATIVES TO BE A LIAISON BETWEEN THE COMMISSION AND THE AUTHORITY.

8. ALL DEPARTMENTS, COMMISSIONS AND PUBLIC AUTHORITIES OF THE STATE SHALL BE REQUIRED TO PROVIDE SUCH ASSISTANCE AS MAY BE REASONABLY REQUESTED BY THE CHAIR OF THE COMMISSION.

9. IN CARRYING OUT ITS TASK, THE COMMISSION SHALL:

(A) CONDUCT A COMPLETE AND COMPREHENSIVE EPIDEMIOLOGICAL STUDY OF KINGS COUNTY'S HEALTH CARE CHALLENGES AND NEEDS;

(B) CONDUCT A COMPLETE AND COMPREHENSIVE USABILITY STUDY OF WHAT TYPE AND HOW MUCH HEALTH CARE SERVICES ARE USED BY KINGS COUNTY'S RESIDENTS, AND IN WHICH HOSPITALS, PRIMARY CARE OR URGENT CARE FACILITIES;

(C) STUDY THE NEED FOR CAPACITY IN THE GENERAL HOSPITAL, NURSING HOME, MEDICAL SCHOOL, AMBULATORY CARE FACILITIES AND SERVICES, PRIMARY CARE FACILITIES AND SERVICES, URGENT CARE FACILITIES AND SERVICES, PUBLIC HEALTH CLINICS, AND HOME/COMMUNITY-BASED HEALTH CARE SERVICES IN EACH REGION OF KINGS COUNTY;

(D) STUDY THE CAPACITY CURRENTLY EXISTING IN SUCH SYSTEMS IN EACH REGION OF KINGS COUNTY;

(E) STUDY THE ECONOMIC IMPACT OF THE ECONOMIC FAILURE OF KINGS COUNTY'S HOSPITALS, MEDICAL SCHOOL AND OTHER HEALTH CARE FACILITIES ON THE STATE, CITY AND KINGS COUNTY ECONOMIES, INCLUDING THE CAPACITY OF THE HEALTH CARE SYSTEM TO PROVIDE EMPLOYMENT OR TRAINING TO HEALTH CARE WORKERS AFFECTED BY SUCH EVENTUALITIES;

(F) STUDY THE AMOUNT OF CAPITAL DEBT BEING CARRIED BY GENERAL HOSPITALS AND NURSING HOMES, AND SUCH OTHER ENTITIES PROVIDING HEALTH CARE SERVICES IN KINGS COUNTY, AND THE NATURE OF THE BONDING AND CREDIT ENHANCEMENT, IF ANY, SUPPORTING SUCH DEBT, AND THE FINANCIAL STATUS OF GENERAL HOSPITALS AND NURSING HOMES, INCLUDING REVENUES FROM MEDICARE, MEDICAID, OTHER GOVERNMENT FUNDS, AND PRIVATE THIRD-PARTY PAYORS;

(G) STUDY THE AVAILABILITY OF ALTERNATIVE SOURCES OF FUNDING WITH REGARD TO THE CAPITAL DEBT OF ALL HEALTH CARE FACILITIES IN KINGS COUNTY;

(H) STUDY THE EXISTENCE OF OTHER HEALTH CARE SERVICES IN THE AFFECTED REGION, INCLUDING THE AVAILABILITY OF SERVICES FOR THE UNINSURED AND UNDERINSURED, AND INCLUDING SERVICES PROVIDED OTHER THAN BY GENERAL HOSPITALS AND NURSING HOMES;

(I) STUDY THE POTENTIAL CONVERSION OF FACILITIES OR CURRENT FACILITY CAPACITY FOR USES OTHER THAN AS INPATIENT OR RESIDENTIAL HEALTH CARE FACILITIES;

(J) STUDY THE EXTENT TO WHICH A FACILITY SERVES THE HEALTH CARE NEEDS OF THE REGION, INCLUDING SERVING MEDICAID RECIPIENTS, THE UNINSURED, AND UNDERSERVED COMMUNITIES; AND

(K) STUDY THE POTENTIAL FOR IMPROVED QUALITY OF CARE AND THE REDIRECTION OF RESOURCES FROM SUPPORTING EXCESS CAPACITY WITHIN KINGS COUNTY TOWARD REINVESTMENT INTO PRODUCTIVE HEALTH CARE PURPOSES IN KINGS COUNTY, AND THE EXTENT TO WHICH THE ACTIONS RECOMMENDED BY THE COMMISSION WOULD RESULT IN GREATER STABILITY AND EFFICIENCY IN THE DELIVERY OF NEEDED HEALTH CARE SERVICES FOR A COMMUNITY.

10. THE COMMISSIONER OF HEALTH AND THE DIRECTOR OF THE DORMITORY AUTHORITY OF THE STATE OF NEW YORK MAY SUBMIT ADDITIONAL RELEVANT FACTORS TO BE CONSIDERED IN THE DELIBERATIONS OF THE COMMISSION. THE COMMISSION SHALL ALSO ADOPT ADDITIONAL FACTORS TO BE CONSIDERED IN ITS DELIBERATIONS, FROM AMONG A LIST OF SUCH FACTORS SUBMITTED BY THE KINGS COUNTY HEALTH CARE STAKEHOLDER'S COUNCIL.

11. THE COMMISSIONER SHALL ALSO SUBMIT TO THE COMMISSION SUCH INFORMATION AS MAY BE AVAILABLE FROM THE DEPARTMENT OF HEALTH ON GENERAL HOSPITAL AND NURSING HOME CAPACITY, SERVICES AND BEDS, AVAILABILITY OF PRIMARY AND AMBULATORY CARE SERVICES, AND CURRENT NUMBER OF BEDS IN SUCH FACILITIES, INCLUDING, BUT NOT LIMITED TO, INFORMATION FROM:

(A) OPERATING CERTIFICATE FILES;

(B) INSTITUTIONAL COST REPORTS;

(C) FACILITY OCCUPANCY REPORTS;

(D) ANNUAL REPORTS OF THE CERTIFICATE OF NEED PROGRAM; AND

(E) THE STATEWIDE PLANNING AND RESEARCH COOPERATIVE SYSTEM.

12. RECORDS SUBMITTED TO THE COMMISSION OR ANY COMMITTEE THEREOF SHALL NOT BE SUBJECT TO DISCLOSURE PURSUANT TO ARTICLE SIX OF THE PUBLIC OFFICERS LAW, UNLESS THE RECORD WOULD BE A PUBLIC RECORD BEFORE BEING SUBMITTED TO THE COMMISSION.

13. IN CARRYING OUT ITS TASK, THE COMMISSION SHALL ALSO FORMALLY SOLICIT RECOMMENDATIONS FROM HEALTH CARE EXPERTS, COUNTY HEALTH DEPARTMENTS, COMMUNITY-BASED ORGANIZATIONS, STATE AND REGIONAL HEALTH CARE INDUSTRY ASSOCIATIONS, LABOR UNIONS AND OTHER INTERESTED PARTIES AS BROADLY AS IT CONSIDERS IT NECESSARY AND PROPER, AND IT SHALL TAKE INTO ACCOUNT SUCH RECOMMENDATIONS AND THE RECOMMENDATIONS OF THE KINGS COUNTY HEALTH CARE STAKEHOLDERS COUNCIL DURING ITS DELIBERATIONS. IN DEVELOPING ITS RECOMMENDATIONS, THE COMMISSION SHALL AS FAR AS PRACTICABLE ESTIMATE THE IMPROVEMENT IN QUALITY OF CARE, FINANCIAL STATUS OF THE HOSPITALS, AND ALL OTHER EFFICIENCIES THAT MAY BE DERIVED FROM RECONFIGURATION OF THE KINGS COUNTY HEALTH CARE SYSTEM.

14. THE COMMISSION SHALL BE FINISHED WITH ITS STUDY AND ANALYSIS AND PROVIDE ITS RECOMMENDATIONS, ALONG WITH SUGGESTED LEGISLATIVE AND EXECUTIVE ACTION, INCLUDING BUT NOT LIMITED TO INFRASTRUCTURE INVESTMENTS, AND REFINANCING OF EXISTING DEBT OF GENERAL HOSPITALS IN KINGS COUNTY, BY DECEMBER FIRST, TWO THOUSAND FOURTEEN.

15. THE COMMISSION AND ITS DELIBERATIONS SHALL BE SUBJECT TO ARTICLE SEVEN OF THE PUBLIC OFFICERS LAW. THE COMMISSIONERS SHALL BE CONSIDERED PUBLIC OFFICERS.

16. THE COMMISSION SHALL ADOPT ITS BYLAWS ON OR BY ITS SECOND MEETING.

S 996-A. KINGS COUNTY HEALTH CARE STAKEHOLDERS COUNCIL. 1. THERE IS HEREBY CREATED AS PART OF THE COMMISSION A COUNCIL TO BE KNOWN AS THE "KINGS COUNTY HEALTH CARE STAKEHOLDERS COUNCIL" HEREAFTER REFERRED TO AS THE "COUNCIL", WHICH SHALL CONSIST OF THE FOLLOWING NINE MEMBERS: (A) THREE MEMBERS APPOINTED BY THE KINGS COUNTY BOROUGH PRESIDENT, ONE MEMBER FROM EACH OF THE FOLLOWING THREE REGIONS; (I) NORTH OF ATLANTIC AVENUE; (II) SOUTH AND WEST OF FLATBUSH AVENUE; AND (III) SOUTH OF ATLANTIC AVENUE AND EAST OF FLATBUSH AVENUE; (B) THREE MEMBERS APPOINTED BY THE GOVERNOR, ONE MEMBER FROM EACH OF THE FOLLOWING THREE REGIONS: (I) NORTH OF ATLANTIC AVENUE; (II) SOUTH AND WEST OF FLATBUSH AVENUE; AND (III) SOUTH OF ATLANTIC AVENUE AND EAST OF FLATBUSH AVENUE; AND (C) THREE MEMBERS APPOINTED BY THE MAYOR, ONE MEMBER FROM EACH OF THE FOLLOWING THREE REGIONS: (I) NORTH OF ATLANTIC AVENUE; (II) SOUTH AND WEST OF FLATBUSH AVENUE; AND (III) SOUTH OF ATLANTIC AVENUE AND EAST OF FLATBUSH AVENUE.

2. THE MEMBERS OF THE COUNCIL SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICE AS MEMBERS.

3. THE COUNCIL SHALL BEGIN TO ACT FORTY-FIVE DAYS AFTER THIS ARTICLE SHALL HAVE BECOME A LAW.

4. THE COUNCIL SHALL HAVE AT LEAST THREE PUBLIC MEETINGS DURING THE EXISTENCE OF THE COMMISSION. EACH MEETING SHALL BE HELD IN A DIFFERENT REGION OF KINGS COUNTY.

5. THE COUNCIL SHALL DEVELOP RECOMMENDATIONS FOR THE COMMISSION WITH REGARD TO RECONFIGURING KINGS COUNTY'S SYSTEM OF GENERAL HOSPITALS, NURSING HOMES, AMBULATORY AND PRIMARY CARE FACILITIES, AND MEDICAL SCHOOL FACILITIES.

6. IN DEVELOPING RECOMMENDATIONS FOR THE COMMISSION, THE COUNCIL SHALL FOSTER DISCUSSIONS AMONG, AND CONDUCT FORMAL PUBLIC HEARINGS WITH REQUISITE PUBLIC NOTICE TO SOLICIT INPUT FROM, LOCAL STAKEHOLDER INTERESTS, INCLUDING BUT NOT LIMITED TO COMMUNITY-BASED ORGANIZATIONS, HEALTH CARE PROVIDERS, LABOR UNIONS, PAYERS, BUSINESSES AND CONSUMERS.

S 2. This act shall take effect immediately.