

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:

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

3 ARTICLE 49-C

4 BROOKLYN HEALTH CARE COMMISSION

5 SECTION 996. BROOKLYN HEALTH CARE COMMISSION.

6 996-A. KINGS COUNTY HEALTH CARE STAKEHOLDERS COUNCIL.

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

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

LBD11603-02-4

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

11 3. THE MEMBERS OF THE COMMISSION SHALL RECEIVE NO COMPENSATION FOR  
12 THEIR SERVICE AS MEMBERS, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECES-  
13 SARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

14 4. THE COMMISSION SHALL BEGIN TO ACT FORTY-FIVE DAYS AFTER THIS ARTI-  
15 CLE SHALL HAVE BECOME A LAW.

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

19 6. THE COMMISSIONER OF HEALTH SHALL APPOINT: (A) ONE OR MORE REPRESen-  
20 TATIVES OF THE DEPARTMENT TO SERVE AS A LIAISON BETWEEN THE DEPARTMENT  
21 AND THE COMMISSION; (B) ONE OR MORE REPRESENTATIVES OF THE DEPARTMENT TO  
22 SERVE AS A LIAISON BETWEEN THE KINGS COUNTY HEALTH CARE STAKEHOLDERS  
23 COUNCIL AND THE COMMISSION.

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

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

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

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

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

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

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

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

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

54 (G) STUDY THE AVAILABILITY OF ALTERNATIVE SOURCES OF FUNDING WITH  
55 REGARD TO THE CAPITAL DEBT OF ALL HEALTH CARE FACILITIES IN KINGS COUN-  
56 TY;

(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.

1 S 996-A. KINGS COUNTY HEALTH CARE STAKEHOLDERS COUNCIL. 1. THERE IS  
2 HEREBY CREATED AS PART OF THE COMMISSION A COUNCIL TO BE KNOWN AS THE  
3 "KINGS COUNTY HEALTH CARE STAKEHOLDERS COUNCIL" HEREAFTER REFERRED TO AS  
4 THE "COUNCIL", WHICH SHALL CONSIST OF THE FOLLOWING NINE MEMBERS: (A)  
5 THREE MEMBERS APPOINTED BY THE KINGS COUNTY BOROUGH PRESIDENT, ONE  
6 MEMBER FROM EACH OF THE FOLLOWING THREE REGIONS; (I) NORTH OF ATLANTIC  
7 AVENUE; (II) SOUTH AND WEST OF FLATBUSH AVENUE; AND (III) SOUTH OF  
8 ATLANTIC AVENUE AND EAST OF FLATBUSH AVENUE; (B) THREE MEMBERS APPOINTED  
9 BY THE GOVERNOR, ONE MEMBER FROM EACH OF THE FOLLOWING THREE REGIONS:  
10 (I) NORTH OF ATLANTIC AVENUE; (II) SOUTH AND WEST OF FLATBUSH AVENUE;  
11 AND (III) SOUTH OF ATLANTIC AVENUE AND EAST OF FLATBUSH AVENUE; AND (C)  
12 THREE MEMBERS APPOINTED BY THE MAYOR, ONE MEMBER FROM EACH OF THE  
13 FOLLOWING THREE REGIONS: (I) NORTH OF ATLANTIC AVENUE; (II) SOUTH AND  
14 WEST OF FLATBUSH AVENUE; AND (III) SOUTH OF ATLANTIC AVENUE AND EAST OF  
15 FLATBUSH AVENUE.  
16 2. THE MEMBERS OF THE COUNCIL SHALL RECEIVE NO COMPENSATION FOR THEIR  
17 SERVICE AS MEMBERS.  
18 3. THE COUNCIL SHALL BEGIN TO ACT FORTY-FIVE DAYS AFTER THIS ARTICLE  
19 SHALL HAVE BECOME A LAW.  
20 4. THE COUNCIL SHALL HAVE AT LEAST THREE PUBLIC MEETINGS DURING THE  
21 EXISTENCE OF THE COMMISSION. EACH MEETING SHALL BE HELD IN A DIFFERENT  
22 REGION OF KINGS COUNTY.  
23 5. THE COUNCIL SHALL DEVELOP RECOMMENDATIONS FOR THE COMMISSION WITH  
24 REGARD TO RECONFIGURING KINGS COUNTY'S SYSTEM OF GENERAL HOSPITALS,  
25 NURSING HOMES, AMBULATORY AND PRIMARY CARE FACILITIES, AND MEDICAL  
26 SCHOOL FACILITIES.  
27 6. IN DEVELOPING RECOMMENDATIONS FOR THE COMMISSION, THE COUNCIL SHALL  
28 FOSTER DISCUSSIONS AMONG, AND CONDUCT FORMAL PUBLIC HEARINGS WITH REQUI-  
29 SITE PUBLIC NOTICE TO SOLICIT INPUT FROM, LOCAL STAKEHOLDER INTERESTS,  
30 INCLUDING BUT NOT LIMITED TO COMMUNITY-BASED ORGANIZATIONS, HEALTH CARE  
31 PROVIDERS, LABOR UNIONS, PAYERS, BUSINESSES AND CONSUMERS.  
32 S 2. This act shall take effect immediately.