

3437--A

2013-2014 Regular Sessions

I N   S E N A T E

February 1, 2013

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Introduced by Sens. KRUEGER, BRESLIN, DIAZ, HASSELL-THOMPSON, PARKER, SERRANO, SQUADRON, STAVISKY, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- recommitted to the Committee on Finance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to the appointment and reporting duties of the superintendent of the state police and the appointment of employees of the state police

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

1     Section 1. Section 210 of the executive law, as amended by chapter 169  
2     of the laws of 1994, is amended to read as follows:  
3     S 210. Division of state police. (A) The division of state police in  
4     the executive department shall be known as the "New York State Police."  
5     (B) (1) The head of the New York state police shall be the superinten-  
6     dent of state police who shall be appointed by the governor by and with  
7     the advice and consent of the senate, and hold office during his or her  
8     pleasure. The superintendent shall be a member of the state police,  
9     shall receive as salary such sum as may be appropriated by law, and  
10    shall accrue such leave credits and be eligible for the same retirement  
11    benefits, service credits and other benefits as any other member of the  
12    state police. If, prior to appointment, the superintendent served as a  
13    member of the state police, he or she, upon appointment, shall be enti-  
14    tled to continue to accrue and receive such credits and benefits as he  
15    or she would have been entitled to accrue and receive prior to appoint-  
16    ment.  
17    (2) If, prior to his or her appointment, the superintendent shall have  
18    served as a member of the State Police for a period of ten years or  
19    more, he or she shall, provided he or she is not eligible for retire-  
20    ment, upon termination of service as superintendent, be reappointed,

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

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without examination, as a member of the state police in the grade held by him or her prior to appointment as superintendent, notwithstanding the absence of any vacancy in such grade. For the purpose of determining the annual salary to be paid upon such reappointment, the period of service as superintendent shall be counted as service in the grade to which reappointed.

(3) TRADITIONAL SERVICES MEANS AS FOLLOWS: TO PROTECT PEOPLE AND PROPERTY; TO PREVENT AND DETECT CRIME AND OTHER VIOLATIONS OF LAW AND PURSUE CRIMINAL INVESTIGATIONS AND ARREST CRIMINALS; TO MAKE ROADS SAFE FOR ALL USERS; TO REDUCE THE DEATHS, INJURIES AND PROPERTY DAMAGE CAUSED BY MOTOR VEHICLE ACCIDENTS THROUGH VEHICLE AND TRAFFIC ENFORCEMENT AND EDUCATION; TO PROVIDE DISORDER CONTROL AND SECURITY IN ALL TYPES OF NATURAL AND MAN-MADE EMERGENCIES; TO PROVIDE FOR THE SAFETY AND SECURITY OF INDIVIDUALS AND GROUPS OF CITIZENS IN FURTHERANCE OF THEIR RIGHTS, DUTIES AND RESPONSIBILITIES; AND TO SUPPORT OTHERS BY CREATING PARTNERSHIPS FOR SAFETY AND SECURITY WITH INDIVIDUALS, GROUPS AND COMMUNITIES THROUGHOUT THE STATE.

(4) EFFECTIVE WITH RESPECT TO ANY INDIVIDUAL APPOINTMENT BY THE GOVERNOR, BY AND WITH THE ADVICE AND CONSENT OF THE SENATE, AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, THE TERM OF SERVICE OF THE SUPERINTENDENT OF THE STATE POLICE SHALL BE SEVEN YEARS. A SUPERINTENDENT MAY NOT SERVE MORE THAN ONE SEVEN-YEAR TERM. THE APPOINTMENT OF THE FIRST DEPUTY SUPERINTENDENT SHALL ALSO BE SUBJECT TO SENATE CONFIRMATION.

(5) NOTWITHSTANDING SECTIONS THIRTY-THREE AND THIRTY-THREE-A OF THE PUBLIC OFFICERS LAW, A SUPERINTENDENT SHALL BE REMOVED FROM OFFICE FOR FAILURE TO FULFILL HIS OR HER DUTIES ONLY BY A MAJORITY VOTE OF EACH HOUSE OF THE LEGISLATURE OR IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISIONS E, F OR G OF SECTION THIRTY OF THE PUBLIC OFFICERS LAW.

(6) IN THE EVENT THE SUPERINTENDENT RESIGNS FROM OFFICE, IS REMOVED FROM OFFICE OR IS INCAPABLE OF CONTINUING IN OFFICE DUE TO PHYSICAL ILLNESS, MENTAL ILLNESS OR DEATH THE FIRST DEPUTY SUPERINTENDENT SHALL ASSUME THE SUPERINTENDENT POSITION. IF AFTER FORTY-FIVE DAYS THE GOVERNOR HAS NOT APPOINTED A NEW SUPERINTENDENT TO A FULL TERM, THE FIRST DEPUTY SUPERINTENDENT SHALL COMPLETE THE REMAINDER OF THE PREVIOUS SUPERINTENDENT'S TERM. UPON ASSUMPTION OF THE DUTIES OF SUPERINTENDENT, THE FIRST DEPUTY SUPERINTENDENT SHALL BE SUBJECT TO ALL REQUIREMENTS AND PROVISIONS ASSOCIATED WITH THE SUPERINTENDENT'S POSITION. IF THE FIRST DEPUTY SUPERINTENDENT COMPLETES THE TERM OF A PREVIOUSLY APPOINTED SUPERINTENDENT, THE FIRST DEPUTY IS ELIGIBLE FOR APPOINTMENT TO A FULL TERM AS SUPERINTENDENT IN HIS OR HER OWN RIGHT. ALL OTHER POTENTIAL REPLACEMENTS WITHIN THE RANKS OF THE STATE POLICE OR FROM OUTSIDE ITS RANKS FOR SUPERINTENDENT, IN THE EVENT THE FIRST DEPUTY IS UNABLE TO COMPLETE THE PREVIOUS SUPERINTENDENT'S POSITION, SHALL HAVE THE SAME RIGHTS AND ELIGIBILITIES AS THE FIRST DEPUTY SUPERINTENDENT AND SHALL BE SUBJECT TO ALL THE REQUIREMENTS AND PROVISIONS ASSOCIATED WITH THE SUPERINTENDENT.

S 2. The executive law is amended by adding a new section 210-a to read as follows:

S 210-A. SUPERINTENDENT'S ANNUAL REPORTS AND BIENNIAL TESTIMONY. (A) THE SUPERINTENDENT SHALL SUBMIT AN ANNUAL REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF THE ASSEMBLY NO LATER THAN SEPTEMBER FIRST OF EACH YEAR.

(1) SUCH REPORT SHALL CONTAIN THE FOLLOWING INFORMATION:

(A) A DETAILED DESCRIPTION OF ANY SPECIAL REQUESTS MADE BY OR ON BEHALF OF THE GOVERNOR OR ANY MEMBER OF THE LEGISLATURE FOR SERVICES OF

1 THE STATE POLICE BEYOND TRADITIONAL SERVICES PROVIDED BY THE STATE  
2 POLICE;

3 (B) A DETAILED DESCRIPTION OF ANY INFORMATION, UNLESS IT IS PRIVILEGED  
4 OR REQUIRES CONFIDENTIALITY, PROVIDED BY THE STATE POLICE TO THE GOVER-  
5 NOR, AND/OR HIS OR HER STAFF, AND/OR TO ANY MEMBER OF THE LEGISLATURE,  
6 AND/OR HIS OR HER STAFF, BEYOND THE GENERAL PROGRAMMATIC AND BUDGETARY  
7 REPORTING REQUIREMENTS OF THE STATE POLICE AND A DESCRIPTION OF THE  
8 PURPOSE FOR WHICH SUCH INFORMATION WAS PROVIDED;

9 (C) A DESCRIPTION OF ANY SPECIAL DISCIPLINARY ACTIONS TAKEN BY THE  
10 SUPERINTENDENT REGARDING INTER- OR INTRA-GOVERNMENTAL AFFAIRS INVOLVING  
11 STATE POLICE PERSONNEL, BASED UPON SPECIAL REQUESTS MADE TO THE STATE  
12 POLICE BY OR ON BEHALF OF THE GOVERNOR, ANY MEMBER OF THE LEGISLATURE  
13 AND/OR ANY OTHER PUBLIC OR QUASI-PUBLIC ENTITY; AND

14 (D) A DESCRIPTION OF EACH REQUEST MADE BY OR ON BEHALF OF THE GOVERNOR  
15 AND/OR ANY MEMBER OF THE LEGISLATURE FOR INFORMATION OF ANY KIND OTHER  
16 THAN THE GENERAL INFORMATION PROVIDED BY THE STATE POLICE TO THE EXECU-  
17 TIVE BRANCH, THE LEGISLATIVE BRANCH, PUBLIC AUTHORITIES OR LOCAL GOVERN-  
18 MENT ENTITIES.

19 (2) THE SUPERINTENDENT SHALL INCLUDE A SIGNED CERTIFICATION WITH THE  
20 REPORT THAT THE INFORMATION PROVIDED IS TRUE TO THE BEST OF HIS OR HER  
21 KNOWLEDGE. IF SUCH CERTIFICATION IS FOUND TO BE FALSE, THE SUPERINTEN-  
22 DENT MAY BE SUBJECT TO REMOVAL BY THE LEGISLATURE.

23 (B) EVERY TWO YEARS, COMMENCING IN TWO THOUSAND FIFTEEN, THE SUPER-  
24 INTENDENT SHALL ATTEND A PROCEEDING TO TESTIFY BEFORE THE SENATE FINANCE  
25 COMMITTEE, THE ASSEMBLY WAYS AND MEANS COMMITTEE, THE SENATE INVESTI-  
26 GATIONS AND GOVERNMENT OPERATIONS COMMITTEE AND THE ASSEMBLY OVERSIGHT,  
27 ANALYSIS AND INVESTIGATION COMMITTEE TO REVIEW THE PERSONNEL AND ADMIN-  
28 ISTRACTIVE ACTIVITIES OF THE STATE POLICE AND THE FUTURE PLANS AND INITI-  
29 ATIVE OF THE STATE POLICE. SUCH PROCEEDING SHALL BE CONDUCTED JOINTLY AT  
30 THE DIRECTION OF THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER  
31 OF THE ASSEMBLY AND SHALL TAKE PLACE NO LATER THAN NOVEMBER FIRST OF  
32 EVERY OTHER YEAR DURING WHICH THE PROCEEDING IS CONDUCTED.

33 (C) THE REPORTING REQUIREMENTS DESCRIBED IN THIS SECTION SHALL BE IN  
34 ADDITION TO, AND NOT IN LIEU OF, ANY OTHER REPORTING REQUIREMENTS  
35 PROVIDED BY LAW.

36 S 3. Section 211 of the executive law, as amended by chapter 331 of  
37 the laws of 1993, is amended to read as follows:

38 S 211. Employees. (A) The superintendent may appoint such employees as  
39 may be necessary and fix their compensation within such sum as may be  
40 appropriated by law. Persons appointed to competitive positions within  
41 the division who meet the definition of veteran or disabled veteran as  
42 defined in section eighty-five of the civil service law shall be enti-  
43 tled to additional credit and preference as conferred by that law and in  
44 the same manner, except that, notwithstanding any law to the contrary,  
45 with respect to any candidate applying for credit in a competitive exam-  
46 ination for original appointment as a disabled or non-disabled veteran,  
47 such candidate may apply provisionally for such credit while still an  
48 active member of the armed forces. The application for provisional cred-  
49 it may be made at any time between the date of his or her application  
50 for the competitive examination and the date the eligible list is estab-  
51 lished. In cases where there has been a provisional application, the  
52 superintendent shall grant final credit only if the candidate renews his  
53 or her application within ninety days following termination of the  
54 candidate's military duty, and the candidate satisfies the appropriate  
55 statutory requirements for eligibility. Pending the granting of final  
56

1 credit, the candidate's ranking on any eligible list shall reflect the  
2 provisional credit.

3 (B) ANY EMPLOYEE APPOINTED TO THE EXECUTIVE SERVICES UNIT OR ANY OTHER  
4 UNIT ASSOCIATED WITH SECURITY AND/OR PROTECTING OTHER ELECTED AND/OR  
5 PUBLIC OFFICIALS SHALL HOLD SUCH APPOINTMENT FOR NO MORE THAN TWO YEARS  
6 AFTER WHICH PERIOD, THE EMPLOYEE SHALL BE REAPPOINTED TO THE POSITION HE  
7 OR SHE HELD PRIOR TO THE APPOINTMENT TO THE EXECUTIVE SERVICES UNIT OR  
8 ANY OTHER UNIT ASSOCIATED WITH SECURITY AND/OR PROTECTING OTHER ELECTED  
9 AND/OR PUBLIC OFFICIALS OR TO SUCH OTHER POSITION AND DUTIES AS ARE  
10 DETERMINED BY THE SUPERINTENDENT.

11 S 4. This act shall take effect January 1, 2015.