

6149

I N S E N A T E

(PREFILED)

January 8, 2014

Introduced by Sen. AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT in relation to appointing a special prosecutor to investigate and prosecute acts of fraud, waste and corruption by the New York city department of buildings and the New York city board of standards and appeals

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

1 Section 1. 1. The governor, by and with the advice and consent of the
2 senate, shall within 30 days of the effective date of this act appoint a
3 special prosecutor to investigate and prosecute acts of fraud, waste and
4 corruption by the New York city department of buildings and New York
5 city board of standards and appeals. The special prosecutor shall serve
6 for a term of 3 years unless removed by the governor, after notice and
7 an opportunity for a hearing, and then only for one or more of the
8 following reasons: permanent disability which renders the special prose-
9 cutor incapable of performing the duties of his or her office; gross
10 inefficiency, typified by a lack of ability to properly conduct investi-
11 gations and prosecutions; neglect of duty, including an unwillingness to
12 pursue claims of criminal fraud, abuse or corruption; malfeasance;
13 conviction of a felony; or conduct involving moral turpitude.

14 2. Such special prosecutor shall receive an annual salary to be fixed
15 by law from within the amounts appropriated therefor. Such special
16 prosecutor shall possess all of the powers of an assistant attorney
17 general otherwise authorized by this act provided, however that such
18 special prosecutor shall devote his or her full time and effort exclu-
19 sively to investigations and prosecutions of actions and proceedings
20 relating to claims of malfeasance, conflicts of interest and acts of
21 fraud, waste and corruption against the New York city department of
22 buildings and New York city board of standards and appeals.

23 3. The special prosecutor may appoint such other deputies, directors,
24 assistants, and other employees to serve at the special prosecutor's
25 pleasure and discretion as may be needed for the performance of duties

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

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1 and may prescribe their powers and fix their compensation within the
2 amounts appropriated therefor.

3 4. The special prosecutor shall have the following special functions,
4 powers and duties:

5 (a) To receive, investigate and prosecute complaints as more partic-
6 ularly enumerated in paragraphs (b) through (g) of this subdivision
7 whenever such special prosecutor reasonably concludes that the activity
8 alleged may constitute a crime;

9 (b) To receive, investigate and prosecute complaints from the public
10 or any other source concerning alleged malfeasance, conflicts of inter-
11 est and acts of fraud, waste and corruption by anyone within the depart-
12 ment of buildings and the board of standards and appeals or anyone doing
13 business with those agencies;

14 (c) To receive, investigate and prosecute complaints of alleged fail-
15 ure of the agencies to enforce and comply with the agencies' procedures,
16 building code, zoning resolution, and other pertinent laws, rules and
17 regulations;

18 (d) To receive, investigate and prosecute complaints of alleged fail-
19 ures of local officials and employees and private individuals to comply
20 with the agencies' procedures, building code, zoning resolution, and
21 other pertinent laws, rules and regulations;

22 (e) To receive, investigate and prosecute complaints from the public
23 or any other source concerning alleged solicitation for remuneration
24 directly or indirectly, overtly or covertly, in cash or in kind, in
25 return for doing their jobs, overlooking violations, approving contracts
26 and applications, misrepresenting or falsifying information on documents
27 filed with the city, and engaging in any other illegal activities;

28 (f) To conduct any inquiry pertinent or material to the discharge of
29 the functions, powers and duties imposed by law; and through designated
30 members of the staff, to subpoena and enforce the attendance of
31 witnesses, administer oaths, take testimony and compel the production of
32 such books, papers, records and documents as may be relevant to any such
33 inquiry and investigation;

34 (g) To request from any department, board, bureau, commission or other
35 agency of New York city and state and its political subdivisions, and
36 the same are authorized and directed to provide, such cooperation and
37 assistance, services and data as will enable him or her properly to
38 carry out his or her functions, powers and duties;

39 (h) To make an annual report to the governor, the attorney general and
40 the legislature concerning such work during the preceding year, and to
41 make such further interim reports to them as they or any of them shall
42 deem advisable or require;

43 (i) To develop and implement guidelines and procedures for the conduct
44 of investigations and to develop training programs for investigators and
45 other members of the staff; and

46 (j) To do all things necessary or convenient to carry out the func-
47 tions, powers and duties set forth in this act.

48 5. Any organization, institution, or other person who reports or
49 provides information to the special prosecutor in good faith, and with-
50 out malice, shall not be subject to an action for civil damages or other
51 relief as the result of such communication. Any such communication shall
52 remain confidential and shall not be disclosed unless consented to or
53 unless ordered by the court.

54 S 2. This act shall take effect on the sixtieth day after it shall
55 have become a law.