

7015--A

I N   S E N A T E

April 14, 2014

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Introduced by Sen. AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Cities -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend chapter 164 of the laws of 1907 relating to the incorporation of the Queens Borough Public Library, in relation to the membership and duties of the board of trustees and the oversight of the executive director and key library executive personnel; to amend the New York City Charter, in relation to public libraries; and to amend the public officers law, in relation to the definition of agency

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

1     Section 1. Section 1 of chapter 164 of the laws of 1907 relating to  
2     the incorporation of the Queens Borough Public Library, as amended by  
3     chapter 495 of the laws of 1980, is amended to read as follows:  
4     Section 1. A. The following persons, to wit: The mayor, comptroller  
5     and president of the city council of the city of New York and the presi-  
6     dent of the borough of Queens, by virtue of their offices, and fifteen  
7     additional persons who, at the date of the passage of this act, shall  
8     constitute the board of trustees of the "Queens Borough Library," a  
9     corporation incorporated by the regents of the university of the state  
10    of New York on March nineteen, eighteen hundred [and] ninety-six, as  
11    amended December twenty-one, eighteen hundred [and] ninety-nine, under  
12    the provisions of the laws of eighteen hundred [and] ninety-two, chapter  
13    three hundred [and] seventy-eight, as amended by the laws of eighteen  
14    hundred [and] ninety-five, chapter eight hundred [and] fifty-nine, are  
15    hereby constituted a body politic and corporate under and by the name of  
16    "The Queens Borough Public Library," for the purpose of constructing and  
17    maintaining libraries and a free public library system in the borough of  
18    Queens in the city of New York.  
19    B. ON JANUARY FIRST, TWO THOUSAND FIFTEEN, A NEW BOARD OF TRUSTEES  
20    SHALL BE NAMED, PROVIDED THAT ON OR AFTER SUCH DATE, THE NUMBER OF TRUS-  
21    TEES SHALL BE REDUCED TO ELEVEN.

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

LBD14637-06-4

1 S 2. Section 3 of chapter 164 of the laws of 1907 relating to the  
2 incorporation of the Queens Borough Public Library, as amended by chap-  
3 ter 561 of the laws of 2002, is amended to read as follows:

4 S 3. The corporation shall organize by the adoption of by-laws and the  
5 election of officers. The by-laws shall provide for the terms of office  
6 of the trustees of the corporation, not to exceed the period of five  
7 years, PROVIDED, THAT TRUSTEES APPOINTED ON OR AFTER JANUARY FIRST, TWO  
8 THOUSAND FIFTEEN SHALL BE APPOINTED FOR A PERIOD OF TWO YEARS, excepting  
9 that the mayor, comptroller, public advocate, ONE EMPLOYEE FROM THE  
10 QUEENS BOROUGH PUBLIC LIBRARY SYSTEM, and speaker of the city council of  
11 the city of New York and the president of the borough of Queens, shall  
12 at all times be members of the board ex-officio AND SUCH EX-OFFICIO  
13 MEMBERS MAY DESIGNATE A REPRESENTATIVE TO SERVE EX-OFFICIO IN HIS OR HER  
14 PLACE. The trustees shall hereafter be chosen and vacancies occurring  
15 in such office filled by an appointment which shall alternate between  
16 the mayor of the city of New York and the president of the [Borough]  
17 BOROUGH of Queens SUCH THAT THE PRESIDENT OF THE BOROUGH OF QUEENS SHALL  
18 APPOINT SIX TRUSTEES AND THE MAYOR OF THE CITY OF NEW YORK SHALL APPOINT  
19 FIVE TRUSTEES; PROVIDED, HOWEVER, THAT TRUSTEES MUST BE EITHER A RESI-  
20 DENT OF QUEENS OR OWN OR OPERATE A BUSINESS IN QUEENS; AND PROVIDED  
21 FURTHER THAT AT LEAST ONE TRUSTEE MUST BE A CERTIFIED PUBLIC ACCOUNTANT,  
22 ONE TRUSTEE MUST BE A DISTRICT MANAGER OF ONE OF THE COMMUNITY BOARDS IN  
23 THE BOROUGH OF QUEENS, ONE TRUSTEE MUST BE A CHAIR OF ONE OF THE COMMU-  
24 NITY BOARDS IN THE BOROUGH OF QUEENS, AND TWO TRUSTEES MUST BE PERSONS  
25 WHO HOLD A MASTER'S DEGREE IN LIBRARY SCIENCE OR LIBRARY AND INFORMATION  
26 STUDIES FROM AN ACCREDITED COLLEGE OR UNIVERSITY PROGRAM; AND PROVIDED  
27 FURTHER THAT THE APPOINTING PARTIES SHALL NOTIFY THE OTHER APPOINTING  
28 PARTY OF WHO WAS APPOINTED. THE APPOINTING PARTIES SHALL BE AUTHORIZED  
29 TO RECOMMEND TO THE BOARD OF TRUSTEES REMOVAL OF A TRUSTEE WHOM SUCH  
30 PARTY APPOINTED IF, IN ACCORDANCE WITH THE BY-LAWS ADOPTED BY THE CORPO-  
31 RATION, THERE IS REASONABLE CAUSE FOR SUCH REMOVAL. HOWEVER, SUCH  
32 RECOMMENDATION MUST BE AGREED UPON BY THE OTHER APPOINTING PARTY PRIOR  
33 TO ANY ACTION BEING TAKEN BY THE BOARD OF TRUSTEES. THE BOARD OF TRUS-  
34 TEES MAY RECOMMEND REMOVAL OF A TRUSTEE, IF IN ACCORDANCE WITH THE  
35 BY-LAWS ADOPTED BY THE CORPORATION, THERE IS REASONABLE CAUSE FOR SUCH  
36 REMOVAL. WITHIN TEN DAYS AFTER A RECOMMENDATION FOR REMOVAL OF A TRUS-  
37 TEE IS MADE BY THE BOARD OR AN AGREED UPON RECOMMENDATION FOR REMOVAL BY  
38 THE APPOINTING PARTIES IS RECEIVED BY THE BOARD, THE TRUSTEE SUBJECT TO  
39 A RECOMMENDATION OF REMOVAL SHALL BE GIVEN NOTICE AND AN OPPORTUNITY TO  
40 APPEAL THE RECOMMENDATION FOR REMOVAL IN WRITING TO THE BOARD OF TRUS-  
41 TEES WITHIN FIVE DAYS OF RECEIPT OF SUCH NOTICE. THE BOARD SHALL CONSID-  
42 ER THE WRITTEN APPEAL AND MAKE A FINAL DECISION WITHIN FIVE DAYS OF  
43 RECEIPT OF SUCH APPEAL AND PRIOR TO ANY FINAL ACTION BY THE BOARD ON ITS  
44 OWN RECOMMENDATION FOR REMOVAL OR THE AGREED UPON RECOMMENDATION FOR  
45 REMOVAL BY THE APPOINTING PARTIES. The corporation shall have power  
46 from time to time to make such rules and regulations as the trustees  
47 thereof shall judge proper for the accomplishment of the objects of the  
48 corporation, for the election of officers, for prescribing their respec-  
49 tive functions and the mode of discharging the same, for imposing and  
50 collecting dues, fines and contributions, for regulating the times and  
51 places of meetings, and generally for the management and direction of  
52 the affairs and concerns of the said corporation. The trustees shall  
53 have absolute control of the expenditure of all moneys appropriated by  
54 the city of New York for the maintenance of libraries conducted, or to  
55 be conducted by the corporation in the borough of Queens, and shall have  
56 the power to appoint and fix the salaries of such officers and employees

1 as they shall deem necessary, who, unless employed under special  
2 contract, shall hold their offices during the pleasure of the trustees,  
3 but no trustee shall receive compensation as such, and the authority of  
4 the trustees to so make and regulate expenditures for maintenance, and  
5 their right to select, employ, fix salaries and discharge employees,  
6 shall be absolute under this act, any acts of the legislature of the  
7 state of New York to the contrary notwithstanding.

8 S 3. Chapter 164 of the laws of 1907 relating to the incorporation of  
9 the Queens Borough Public Library is amended by adding four new sections  
10 3-a, 4-a, 9-b, and 9-c to read as follows:

11 S 3-A. A. THE TRUSTEES SHALL HOLD ANNUAL PUBLIC BUDGET HEARINGS,  
12 PROVIDE A THIRTY DAY PUBLIC COMMENT PERIOD PRIOR TO ADOPTION OF THE  
13 BUDGET AND SHALL REPORT ALL REVENUE SOURCES OF FUNDING FOR THE BUDGET,  
14 BOTH PUBLIC AND PRIVATE.

15 B. THE TESTIMONY PRESENTED AT SUCH PUBLIC BUDGET HEARING MAY BE  
16 PRESENTED IN WRITING OR ORALLY, PROVIDED THAT THE TRUSTEES MAY MAKE  
17 RULES DESIGNED TO EXCLUDE REPETITIVE, REDUNDANT OR IRRELEVANT TESTIMONY.  
18 THE TRUSTEES SHALL MAKE A RECORD OF ALL TESTIMONY AT THE PUBLIC BUDGET  
19 HEARINGS. FOR PURPOSES OF THIS SECTION "PUBLIC BUDGET HEARING" MEANS A  
20 PUBLIC FORUM AT A PHYSICAL LOCATION, ATTENDED BY TRUSTEES AND THE  
21 LIBRARY'S EXECUTIVE DIRECTOR OR THEIR DESIGNEES, WHERE ORAL TESTIMONY IS  
22 ACCEPTED AND WRITTEN TESTIMONY MAY BE SUBMITTED FOR INCLUSION IN THE  
23 RECORD. SUCH FORUM SHALL BE OPEN TO THE GENERAL PUBLIC FOR THE PRESENTA-  
24 TION OF COMMENTS. SUCH HEARING SHALL BE COMMENCED UPON PROPER NOTICE TO  
25 THE PUBLIC AT LEAST THIRTY DAYS PRIOR TO THE SCHEDULED HEARING DATE.  
26 NOTICE OF THE PUBLIC BUDGET HEARING SHALL BE PROVIDED ON THE LIBRARY'S  
27 WEBSITE, ON FLIERS POSTED INSIDE THE LIBRARY'S MAIN LOCATION AND IN EACH  
28 OF ITS BRANCH LOCATIONS, AND IN ANY OTHER ALTERNATIVE MANNER CHOSEN BY  
29 THE TRUSTEES.

30 S 4-A. A. THE EXECUTIVE DIRECTOR AND KEY LIBRARY EXECUTIVE PERSONNEL  
31 SHALL COMPLY WITH FINANCIAL DISCLOSURE REQUIREMENTS WHEN PUBLIC MONEY IS  
32 USED TO FUND STAFF SALARIES. FOR THE PURPOSES OF THIS SECTION, "PUBLIC  
33 MONEY" SHALL MEAN MONEY FROM THE FEDERAL GOVERNMENT OR STATE OR COUNTY  
34 OR A TOWN, VILLAGE, OR CITY. THE BOARD OF TRUSTEES SHALL ADOPT BY-LAWS  
35 REQUIRING MANDATORY ANNUAL FINANCIAL DISCLOSURES FROM THE EXECUTIVE  
36 DIRECTOR AND OTHER KEY LIBRARY EXECUTIVE PERSONNEL THAT SHALL BE  
37 REPORTED TO THE NEW YORK CITY CONFLICT OF INTEREST BOARD AS SET FORTH IN  
38 CLAUSE 7 OF SUBPARAGRAPH A OF PARAGRAPH 3 OF SUBDIVISION B OF SECTION  
39 12-110 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK.

40 B. THE BOARD OF TRUSTEES SHALL ADOPT BY-LAWS LIMITING THE TYPE AND  
41 EXTENT OF EMPLOYMENT THE EXECUTIVE DIRECTOR AND ANY KEY LIBRARY EXECU-  
42 TIVE PERSONNEL MAY ENGAGE IN OTHER THAN HIS OR HER EMPLOYMENT WITH THE  
43 LIBRARY AND SHALL PROHIBIT OUTSIDE EMPLOYMENT FOR ANY EXECUTIVE DIRECTOR  
44 AND ANY KEY LIBRARY EXECUTIVE PERSONNEL WHO RECEIVES A STAFF SALARY IN  
45 EXCESS OF ONE HUNDRED FIFTY THOUSAND DOLLARS. SUCH BY-LAWS SHALL REQUIRE  
46 THE EXECUTIVE DIRECTOR AND THE KEY LIBRARY EXECUTIVE PERSONNEL TO REPORT  
47 ANY EMPLOYMENT OTHER THAN HIS OR HER EMPLOYMENT WITH THE LIBRARY TO THE  
48 BOARD OF TRUSTEES AND SHALL REQUIRE THE BOARD TO APPROVE SUCH EMPLOY-  
49 MENT.

50 C. THE BOARD OF TRUSTEES SHALL ADOPT BY-LAWS REGARDING THE APPROVAL  
51 FOR HIRING AND ESTABLISHING POLICIES FOR THE COMPENSATION OF KEY LIBRARY  
52 EXECUTIVE PERSONNEL.

53 S 9-B. THE BOARD OF TRUSTEES SHALL APPOINT:

54 A. AN AUDIT COMMITTEE WHICH SHALL OVERSEE THE LIBRARY'S ACCOUNTING AND  
55 FINANCIAL REPORTING PROCESSES AND ANNUAL AUDITS. THE AUDIT COMMITTEE  
56 SHALL RETAIN AN AUDITOR, REVIEW THE SCOPE AND PLANNING OF ALL AUDITS

1 WITH THE AUDITOR AND REVIEW AND DISCUSS THE RESULTS. THE AUDIT COMMITTEE  
2 SHALL CONSIDER THE AUDITOR'S PERFORMANCE AND INDEPENDENCE AND REPORT  
3 ANNUALLY ON THE AUDITOR'S ACTIVITIES TO THE BOARD OF TRUSTEES; ALL ANNU-  
4 AL AUDITS SHALL BE PUBLISHED IN A REPORT AND MADE AVAILABLE ON THE  
5 LIBRARY WEBSITE;

6 B. AN EXECUTIVE COMMITTEE WHICH SHALL BE COMPRISED OF A REPRESENTATIVE  
7 CROSS-SECTION OF THE BOARD OF TRUSTEES. THE BOARD OF TRUSTEES SHALL  
8 ABOLISH THE ADMINISTRATIVE COMMITTEE AND ANY ESSENTIAL FUNCTIONS OR  
9 DUTIES OF SUCH COMMITTEE SHALL BE TRANSFERRED TO THE EXECUTIVE COMMIT-  
10 TEE; AND

11 C. A LABOR RELATIONS COMMITTEE TO ADDRESS LABOR ISSUES AND OVERSEE THE  
12 CONTRACTING OUT OF SERVICES.

13 S 9-C. THE BOARD OF TRUSTEES SHALL ESTABLISH BY-LAWS PROHIBITING A  
14 PERSON WITH A CONFLICT OF INTEREST FROM PARTICIPATING IN ANY DELIBER-  
15 ATIONS OR VOTING ON THE MATTER GIVING RISE TO THE CONFLICT. THE BY-LAWS  
16 SHALL ALSO PROHIBIT THE PERSON WITH THE CONFLICT FROM IMPROPERLY INFLU-  
17 ENCING THE DELIBERATION OR VOTING ON SUCH MATTER. ANY CONFLICTS OF  
18 INTEREST BROUGHT TO THE ATTENTION OF THE BOARD OF TRUSTEES OR THE AUDIT  
19 COMMITTEE AND SHALL BE DOCUMENTED IN THE MINUTES OF ANY MEETING AT WHICH  
20 SUCH CONFLICT WAS DISCUSSED.

21 S 4. The board of trustees of the Queens Borough Public Library shall  
22 engage an outside consultant with the requisite expertise to conduct and  
23 complete a comprehensive executive compensation study within ninety days  
24 of the date this act shall have become a law. Such study shall include,  
25 but not be limited to, a review of acceptable fringe benefits, including  
26 car allowances and tuition reimbursements.

27 S 5. Subdivision 2 of section 2601 of the New York City Charter, as  
28 added by a vote of the people of the city of New York at the general  
29 election held in November of 1988, is amended to read as follows:

30 2. "Agency" means a city, county, borough or other office, position,  
31 administration, department, division, bureau, board, commission, author-  
32 ity, corporation, advisory committee or other agency of government, the  
33 expenses of which are paid in whole or in part from the city treasury,  
34 and shall include but not be limited to, the council, the offices of  
35 each elected official, the board of education, community school boards,  
36 community boards, the financial services corporation, the health and  
37 hospitals corporation, the public development corporation, and the New  
38 York city housing authority, but shall not include any court or any  
39 corporation or institution maintaining or operating a [public library,]  
40 museum, botanical garden, arboretum, tomb, memorial building, aquarium,  
41 zoological garden or similar facility.

42 S 6. Subdivision 19 of section 2601 of the New York City Charter, as  
43 added by a vote of the people of the city of New York at the general  
44 election held in November of 1988, is amended to read as follows:

45 19. "Public servant" means all officials, officers and employees of  
46 the city, including members of community boards [and], members of advi-  
47 sory committees, except unpaid members of advisory committees [shall not  
48 be public servants], AND ALL EXECUTIVE DIRECTORS AND KEY LIBRARY EXECU-  
49 TIVE PERSONNEL FROM THE QUEENS BOROUGH PUBLIC LIBRARY, THE BROOKLYN  
50 PUBLIC LIBRARY AND THE NEW YORK PUBLIC LIBRARY.

51 S 7. Subdivision 3 of section 86 of the public officers law, as added  
52 by chapter 933 of the laws of 1977, is amended to read as follows:

53 3. "Agency" means:

54 A. any state or municipal department, board, bureau, division, commis-  
55 sion, committee, public authority, public corporation, council, office  
56 or other governmental entity performing a governmental or proprietary

1 function for the state or any one or more municipalities thereof, except  
2 the judiciary or the state legislature[.]; AND  
3 B. THE QUEENS BOROUGH PUBLIC LIBRARY, THE BROOKLYN PUBLIC LIBRARY AND  
4 THE NEW YORK PUBLIC LIBRARY.  
5 S 8. This act shall take effect immediately.