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

4284

2015-2016 Regular Sessions

I N A S S E M B L Y

January 30, 2015

Introduced by M. of A. MILLER -- read once and referred to the Committee on Cities

AN ACT to amend the New York city charter, in relation to establishing the civilian summons review board

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

Section 1. The New York city charter is amended by adding a new chapter 31-A to read as follows:

CHAPTER 31-A

CIVILIAN SUMMONS REVIEW BOARD

S 760. CIVILIAN SUMMONS REVIEW BOARD. A. AN INDEPENDENT CIVILIAN SUMMONS REVIEW BOARD IS HEREBY ESTABLISHED AS A BODY COMPRISED SOLELY OF MEMBERS OF THE PUBLIC WITH THE AUTHORITY TO REVIEW SUMMONSES ISSUED BY EMPLOYEES OF THE DEPARTMENT OF SANITATION AS PROVIDED IN THIS SECTION.

1. THE CIVILIAN SUMMONS REVIEW BOARD SHALL CONSIST OF ONE CHAIRPERSON AND TWELVE ADDITIONAL MEMBERS OF THE PUBLIC APPOINTED BY THE MAYOR, WHO SHALL BE RESIDENTS OF THE CITY OF NEW YORK. ALL MEMBERS OF THE BOARD SHALL BE APPOINTED AS FOLLOWS:

(I) FIVE MEMBERS, ONE FROM EACH OF THE FIVE BOROUGHS, SHALL BE DESIGNATED BY THE CITY COUNCIL;

(II) THREE MEMBERS WITH EXPERIENCE IN PUBLIC SANITATION SHALL BE DESIGNATED BY THE SANITATION DEPARTMENT; AND

(III) THE REMAINING FIVE MEMBERS, INCLUDING THE CHAIRPERSON, SHALL BE SELECTED BY THE MAYOR.

NO MEMBER OF THE BOARD SHALL HOLD ANY OTHER PUBLIC OFFICE OR EMPLOYMENT.

2. THE MEMBERS SHALL BE APPOINTED FOR TERMS OF THREE YEARS, EXCEPT THAT OF THE MEMBERS FIRST APPOINTED, FOUR SHALL BE APPOINTED FOR TERMS OF ONE YEAR, OF WHOM ONE SHALL HAVE BEEN DESIGNATED BY THE COUNCIL AND TWO SHALL HAVE BEEN DESIGNATED BY THE DEPARTMENT OF SANITATION, FOUR SHALL BE APPOINTED FOR TERMS OF TWO YEARS, OF WHOM TWO SHALL HAVE BEEN

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

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DESIGNATED BY THE COUNCIL, AND FIVE SHALL BE APPOINTED FOR TERMS OF THREE YEARS, OF WHOM TWO SHALL HAVE BEEN DESIGNATED BY THE COUNCIL AND ONE SHALL HAVE BEEN DESIGNATED BY THE DEPARTMENT OF SANITATION.

3. IN THE EVENT OF A VACANCY ON THE BOARD DURING THE TERM OF OFFICE OF A MEMBER BY REASON OF REMOVAL, DEATH, RESIGNATION, OR OTHERWISE, A SUCCESSOR SHALL BE CHOSEN IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT. A MEMBER APPOINTED TO FILL A VACANCY SHALL SERVE FOR THE BALANCE OF THE UNEXPIRED TERM.

4. THE CHAIRPERSON MAY APPOINT AN EXECUTIVE DIRECTOR WHO SHALL MANAGE DAY TO DAY OPERATIONS.

B. 1. THE BOARD SHALL HAVE THE POWER TO RECEIVE, INVESTIGATE, HEAR, MAKE FINDINGS AND RECOMMEND ACTION UPON COMPLAINTS BY MEMBERS OF THE PUBLIC AGAINST EMPLOYEES OF THE SANITATION DEPARTMENT CONCERNING THE ISSUANCE OF SUMMONSES BY SUCH EMPLOYEES. THE FINDINGS AND RECOMMENDATIONS OF THE BOARD, AND THE BASIS THEREFOR, SHALL BE SUBMITTED TO THE DEPARTMENT OF SANITATION. NO FINDING OR RECOMMENDATION SHALL BE BASED SOLELY UPON AN UNSWORN COMPLAINT OR STATEMENT, NOR SHALL PRIOR UNSUBSTANTIATED, UNFOUNDED OR WITHDRAWN COMPLAINTS BE THE BASIS FOR ANY SUCH FINDING OR RECOMMENDATION.

2. THE BOARD SHALL PROMULGATE RULES OF PROCEDURE IN ACCORDANCE WITH THE CITY ADMINISTRATIVE PROCEDURE ACT, INCLUDING RULES THAT PRESCRIBE THE MANNER IN WHICH INVESTIGATIONS ARE TO BE CONDUCTED AND RECOMMENDATIONS MADE AND THE MANNER BY WHICH A MEMBER OF THE PUBLIC IS TO BE INFORMED OF THE STATUS OF HIS OR HER COMPLAINT. SUCH RULES MAY PROVIDE FOR THE ESTABLISHMENT OF PANELS, WHICH SHALL CONSIST OF NOT LESS THAN THREE MEMBERS OF THE BOARD, WHICH SHALL BE EMPOWERED TO SUPERVISE THE INVESTIGATION OF COMPLAINTS, AND TO HEAR, MAKE FINDINGS AND RECOMMEND ACTION ON SUCH COMPLAINTS. NO SUCH PANEL SHALL CONSIST EXCLUSIVELY OF MEMBERS DESIGNATED BY THE COUNCIL, OR DESIGNATED BY THE DEPARTMENT OF SANITATION, OR SELECTED BY THE MAYOR.

3. THE BOARD, BY MAJORITY VOTE OF ITS MEMBERS, MAY COMPEL THE ATTENDANCE OF WITNESSES AND REQUIRE THE PRODUCTION OF SUCH RECORDS AND OTHER MATERIALS AS ARE NECESSARY FOR THE INVESTIGATION OF COMPLAINTS SUBMITTED PURSUANT TO THIS SECTION.

4. THE BOARD IS AUTHORIZED, WITHIN APPROPRIATIONS AVAILABLE THEREFOR, TO APPOINT SUCH EMPLOYEES AS ARE NECESSARY TO EXERCISE ITS POWERS AND FULFILL ITS DUTIES. THE BOARD SHALL EMPLOY CIVILIAN INVESTIGATORS TO INVESTIGATE ALL COMPLAINTS.

5. THE BOARD SHALL HAVE THE RESPONSIBILITY OF INFORMING THE PUBLIC ABOUT THE BOARD AND ITS DUTIES, AND SHALL DEVELOP AND ADMINISTER AN ONGOING PROGRAM FOR THE EDUCATION OF THE PUBLIC REGARDING THE PROVISIONS OF THIS CHAPTER.

C. 1. IT SHALL BE THE DUTY OF THE DEPARTMENT OF SANITATION TO PROVIDE SUCH ASSISTANCE AS THE BOARD MAY REASONABLY REQUEST, TO COOPERATE FULLY WITH INVESTIGATIONS BY THE BOARD, AND TO PROVIDE TO THE BOARD UPON REQUEST RECORDS AND OTHER MATERIALS WHICH ARE NECESSARY FOR THE INVESTIGATION OF COMPLAINTS SUBMITTED PURSUANT TO THIS SECTION.

2. THE COMMISSIONER OF SANITATION SHALL ENSURE THAT OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF SANITATION APPEAR BEFORE AND RESPOND TO INQUIRIES OF THE BOARD AND ITS CIVILIAN INVESTIGATORS IN CONNECTION WITH THE INVESTIGATION OF COMPLAINTS SUBMITTED PURSUANT TO THIS SECTION, PROVIDED THAT SUCH INQUIRIES ARE CONDUCTED IN ACCORDANCE WITH DEPARTMENT PROCEDURES FOR INTERROGATION OF MEMBERS.

3. THE COMMISSIONER OF SANITATION SHALL REPORT TO THE BOARD ON ANY ACTION TAKEN IN CASES IN WHICH THE BOARD SUBMITTED A FINDING OR RECOMMENDATION TO THE DEPARTMENT OF SANITATION WITH RESPECT TO A COMPLAINT.

D. THE PROVISIONS OF THIS SECTION SHALL NOT BE CONSTRUED TO LIMIT OR IMPAIR THE AUTHORITY OF THE DEPARTMENT OF SANITATION TO DISCIPLINE MEMBERS OF THE DEPARTMENT. NOR SHALL THE PROVISIONS OF THIS SECTION BE CONSTRUED TO LIMIT THE RIGHTS OF EMPLOYEES OF THE DEPARTMENT OF SANITATION WITH RESPECT TO DISCIPLINARY ACTION, INCLUDING BUT NOT LIMITED TO THE RIGHT TO NOTICE AND A HEARING, WHICH MAY BE ESTABLISHED BY ANY PROVISION OF LAW OR OTHERWISE.

E. THE PROVISIONS OF THIS SECTION SHALL NOT BE CONSTRUED TO PREVENT OR HINDER THE INVESTIGATION OR PROSECUTION OF EMPLOYEES OF THE DEPARTMENT OF SANITATION FOR VIOLATIONS OF LAW BY ANY COURT OF COMPETENT JURISDICTION, A GRAND JURY, DISTRICT ATTORNEY, OR OTHER AUTHORIZED OFFICER, AGENCY OR BODY.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law.