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

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2015-2016 Regular Sessions

I N A S S E M B L Y

May 26, 2015

Introduced by M. of A. BRENNAN, BUCHWALD, LINARES, SIMON, OTIS, FAHY, HOOPER, ABINANTI, GALEF -- Multi-Sponsored by -- M. of A. ABBATE, COOK, GOTTFRIED, MARKEY, MONTESANO -- read once and referred to the Committee on Corporations, Authorities and Commissions -- recommitted to the Committee on Corporations, Authorities and Commissions in accordance with Assembly Rule 3, sec. 2 -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public authorities law, in relation to authorizing the authorities budget office to suspend local authority board members and executive staff

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

Section 1. The public authorities law is amended by adding a new section 6-a to read as follows:

S 6-A. POWER TO SUSPEND LOCAL AUTHORITY BOARD MEMBERS AND EXECUTIVE STAFF. 1. THE AUTHORITIES BUDGET OFFICE SHALL HAVE THE AUTHORITY, SUBJECT TO SUBDIVISION TWO OF THIS SECTION, TO SUSPEND ONE OR MORE MEMBERS OF A LOCAL AUTHORITY BOARD OF DIRECTORS, OR THE CHIEF EXECUTIVE OFFICER OR EQUIVALENT POSITION OF A LOCAL AUTHORITY FOR A PERIOD NOT TO EXCEED NINETY DAYS WHEN SUCH INDIVIDUAL OR INDIVIDUALS KNOWINGLY FAILS OR NEGLECTS TO COMPLY WITH ANY PROVISION OF THIS CHAPTER. THE AUTHORITIES BUDGET OFFICE IS AUTHORIZED TO TERMINATE SUCH A SUSPENSION IF THE BOARD MEMBER OR CHIEF EXECUTIVE OFFICER DEMONSTRATES THAT HE OR SHE HAS REMEDIED THEIR NON-COMPLIANCE. FOR THE PURPOSES OF THIS SECTION, THE "SUSPENSION" OF AN INDIVIDUAL SHALL MEAN THE TEMPORARY REMOVAL OF THE RIGHTS, RESPONSIBILITIES, POWERS AND DUTIES OF A PERSON WHO IS AN APPOINTED BOARD MEMBER OF A LOCAL AUTHORITY OR THE INDIVIDUAL WHO SERVES AS CHIEF EXECUTIVE OFFICER THROUGH APPOINTMENT OR CONTRACT. SHOULD THE AUTHORITIES BUDGET OFFICE SUSPEND THE FULL BOARD OF DIRECTORS OR A MAJORITY OF CURRENT BOARD MEMBERS THE TERM "SUSPENSION" SHALL MEAN THE

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

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BOARD OF DIRECTORS IS PROHIBITED FROM TAKING ACTIONS, VOTES, OR ADOPTING RESOLUTIONS, THAT BIND THE BOARD TO FUTURE AGREEMENTS, CONTRACTS, FINANCIAL COMMITMENTS, INDEBTEDNESS, OR OTHER ACTIONS, OTHER THAN ACTIONS NECESSARY TO RESOLVE THE NONCOMPLIANCE OR SATISFY EXISTING LEGAL OR ADMINISTRATIVE OBLIGATIONS.

2. (A) PURSUANT TO POLICIES AND PROCEDURES DEVELOPED BY THE AUTHORITIES BUDGET OFFICE AND MADE AVAILABLE ON ITS WEB SITE, WHEN THE AUTHORITIES BUDGET OFFICE HAS REASON TO BELIEVE THAT ONE OR MORE BOARD MEMBERS OF A LOCAL AUTHORITY HAS KNOWINGLY FAILED OR NEGLECTED TO COMPLY WITH ANY PROVISION OF THIS CHAPTER, THE AUTHORITIES BUDGET OFFICE SHALL PROVIDE AT LEAST THIRTY DAYS' NOTICE OF ITS INTENT TO INITIATE SUSPENSION PROCEEDINGS TO THE CHAIRPERSON OF THE LOCAL AUTHORITY, TO THE INDIVIDUAL OR INDIVIDUALS RESPONSIBLE FOR APPOINTING SUCH BOARD MEMBERS, AND TO EACH SUCH BOARD MEMBER. IF THE AUTHORITIES BUDGET OFFICE HAS REASON TO BELIEVE THAT THE CHIEF EXECUTIVE OFFICER OF A LOCAL AUTHORITY HAS KNOWINGLY FAILED OR NEGLECTED TO COMPLY WITH ANY PROVISION OF THIS CHAPTER, THE AUTHORITIES BUDGET OFFICE SHALL PROVIDE AT LEAST THIRTY DAYS' NOTICE OF ITS INTENT TO INITIATE SUSPENSION PROCEEDINGS TO THE CHAIRPERSON OF THE LOCAL AUTHORITY AND TO THE CHIEF EXECUTIVE OFFICER. SUCH NOTICE SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO (I) THE DATE AND A BRIEF DESCRIPTION OF THE FACTS AND NATURE OF EACH NON-COMPLIANCE FOR WHICH SUCH SUSPENSION IS PROPOSED; (II) THE NUMBER OF DAYS THAT THE AUTHORITIES BUDGET OFFICE PROPOSES TO SUSPEND SUCH BOARD MEMBER OR CHIEF EXECUTIVE OFFICER; (III) THE OPTION TO SUBMIT A FORMAL RESPONSE TO THE AUTHORITIES BUDGET OFFICE WHICH DEMONSTRATES WHY SUCH BOARD MEMBER OR CHIEF EXECUTIVE OFFICER SHOULD NOT BE SUSPENDED; AND (IV) IF APPLICABLE, A PERIOD OF TIME IN WHICH SUCH LOCAL AUTHORITY OR BOARD MEMBER OR CHIEF EXECUTIVE OFFICER MAY REMEDY THE NON-COMPLIANCE.

(B) IF, AFTER THE EXPIRATION OF THE DEADLINE SET FORTH IN THE NOTICE OF INTENT PURSUANT TO SUBPARAGRAPH (IV) OF PARAGRAPH (A) OF THIS SUBDIVISION, THE BOARD MEMBER OR MEMBERS OR CHIEF EXECUTIVE OFFICER, WHICHEVER IS APPLICABLE, HAS NOT RESPONDED TO THE NOTICE OR HAS NOT REMEDIED THE NON-COMPLIANCE TO THE SATISFACTION OF THE AUTHORITIES BUDGET OFFICE, THE AUTHORITIES BUDGET OFFICE SHALL ISSUE TO THE NON-COMPLIANT BOARD MEMBER OR MEMBERS OR CHIEF EXECUTIVE OFFICER A NOTICE OF SUSPENSION WHICH SHALL INCLUDE: (I) THE NUMBER OF DAYS OF SUSPENSION; AND (II) THE DATE THAT SUCH SUSPENSION SHALL COMMENCE, WHICH DATE SHALL BE AT LEAST ONE HUNDRED EIGHTY DAYS FROM THE DATE OF THE ISSUANCE OF THE NOTICE OF SUSPENSION.

3.(A) WHENEVER THE AUTHORITIES BUDGET OFFICE HAS SUSPENDED ONE OR MORE BOARD MEMBERS OF A LOCAL AUTHORITY, THE INDIVIDUAL OR INDIVIDUALS WHO APPOINTED THOSE BOARD MEMBERS MAY ACT TO REINSTATE A SUSPENDED BOARD MEMBER. IF THE APPOINTING AUTHORITY IS A LEGISLATIVE BODY OR A MEMBER OF THE LEGISLATIVE BODY, ANY ACTION TO REINSTATE A SUSPENDED BOARD MEMBER SHALL OCCUR IN A PUBLIC MEETING OF SUCH BODY AND FOLLOWING AN OPPORTUNITY FOR THE PUBLIC TO COMMENT. SUCH ACTION SHALL BE DEEMED VALID UPON PASSAGE OF A WRITTEN RESOLUTION OF REINSTATEMENT BY A MAJORITY AND RECORDED VOTE OF THE LEGISLATIVE BODY. SUCH RESOLUTION SHALL DESCRIBE THE FACTS AND CIRCUMSTANCES BY HOW THE LEGISLATIVE BODY HAS REACHED THIS DETERMINATION. IF THE APPOINTING AUTHORITY IS THE CHIEF EXECUTIVE OFFICIAL OF THE MUNICIPALITY FOR WHOSE BENEFIT THE LOCAL AUTHORITY WAS CREATED, ANY ACTION TO REINSTATE A SUSPENDED BOARD MEMBER SHALL BE THROUGH AN OFFICIAL ACT OF THE CHIEF EXECUTIVE OFFICIAL. SUCH ACT SHALL BE RECORDED IN WRITING AND SHALL DESCRIBE THE FACTS AND CIRCUMSTANCES BY WHICH THE CHIEF EXECUTIVE OFFICIAL REACHED THIS DETERMINATION.

(B) WHENEVER THE AUTHORITIES BUDGET OFFICE HAS SUSPENDED THE CHIEF EXECUTIVE OFFICER OF A LOCAL AUTHORITY, THE CHAIRPERSON OF SUCH LOCAL AUTHORITY MAY INITIATE ACTION TO REINSTATE THE SUSPENDED CHIEF EXECUTIVE OFFICER. ANY ACTION TO REINSTATE A SUSPENDED CHIEF EXECUTIVE OFFICER SHALL OCCUR IN A PUBLIC MEETING OF THE BOARD OF DIRECTORS AND FOLLOWING AN OPPORTUNITY FOR THE PUBLIC TO COMMENT. SUCH ACTION SHALL BE DEEMED VALID UPON PASSAGE OF A WRITTEN RESOLUTION OF REINSTATEMENT BY A MAJORITY AND RECORDED VOTE OF THE CURRENT BOARD OF DIRECTORS. SUCH RESOLUTION SHALL DESCRIBE THE FACTS AND CIRCUMSTANCES BY HOW THE BOARD OF DIRECTORS REACHED THIS DETERMINATION.

(C) FOR THE PURPOSES OF THIS SECTION, "REINSTATEMENT" SHALL MEAN THE RESTORATION OF THE RIGHTS, RESPONSIBILITIES, POWERS AND DUTIES OF A BOARD MEMBER OR CHIEF EXECUTIVE OFFICER OF A LOCAL AUTHORITY.

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