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

2246--A

2015-2016 Regular Sessions

I N S E N A T E

January 22, 2015

Introduced by Sens. LAVALLE, LARKIN, MARCHIONE, MURPHY, SERINO -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- recommitted to the Committee on Higher Education 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 education law, in relation to the election of regents and the creation of the commission on regents

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

Section 1. Subdivisions 1 and 2 of section 202 of the education law, subdivision 1 as amended by chapter 547 of the laws of 1993 and subdivision 2 as amended by chapter 296 of the laws of 1984 and as designated by chapter 892 of the laws of 1985, are amended to read as follows:

1. The University of the State of New York shall be governed and all its corporate powers exercised by a board of regents the number of whose members shall at all times be four more than the number of the then existing judicial districts of the state and shall not be less than fifteen. The regents in office April first, nineteen hundred seventy-four shall hold office, in the order of their election, for such times that the term of one such regent will expire in each year on the first day of April. Commencing April first, nineteen hundred seventy-four, each regent shall be elected for a term of seven years, each such term to expire on the first day of April. Commencing on April first, nineteen hundred ninety-four, each regent shall be elected for a term of five years, each such term to expire on the first day of April, TWO THOUSAND SEVENTEEN. COMMENCING ON APRIL FIRST, TWO THOUSAND SEVENTEEN, EACH REGENT SHALL BE ELECTED FOR A TERM OF FIVE YEARS, EACH SUCH TERM TO EXPIRE ON THE FIRST DAY OF APRIL. [Each regent shall be elected by the legislature by concurrent resolution in the preceding March, on or before the first Tuesday of such month. If, however, the legislature

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

LBD03377-02-6

fails to agree on such concurrent resolution by the first Tuesday of such month, then the two houses shall meet in joint session at noon on the second Tuesday of such month and proceed to elect such regent by joint ballot.]

2. All vacancies in such office, either for full or unexpired terms, shall be so filled that there shall always be in the membership of the board of regents at least one resident of each of the judicial districts. [A vacancy in the office of regent for other cause than expiration of term of service shall be filled for the unexpired term by an election at the session of the legislature immediately following such vacancy in the manner prescribed in the preceding paragraph, unless the legislature is in session when such vacancy occurs, in which case the vacancy shall be filled by such legislature in the manner prescribed in the preceding paragraph, except as hereinafter provided. However, if such vacancy occurs after the second Tuesday in March and before a resolution to adjourn sine die has been adopted by either house, then the vacancy shall be filled by concurrent resolution, unless the legislature fails to agree on such concurrent resolution within three legislative days after its passage by one house, in which case the two houses shall meet in joint session at noon on the next legislative day and proceed to elect such regent by joint ballots; provided, however, that if the vacancy occur after the adoption by either house of a resolution to adjourn sine die, then the vacancy shall be filled at the next session of the legislature in the manner prescribed in the preceding paragraph.]

S 2. The education law is amended by adding a new section 202-a to read as follows:

S 202-A. COMMISSION ON REGENTS. 1. ORGANIZATION OF THE COMMISSION. (A) A COMMISSION ON REGENTS NOMINATION IS HEREBY ESTABLISHED. THE COMMISSION SHALL CONSIST OF TEN MEMBERS OF WHOM FOUR SHALL BE APPOINTED BY THE GOVERNOR, TWO EACH BY THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY PRESIDENT OF THE SENATE, AND ONE EACH BY THE MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF THE ASSEMBLY. OF THE FOUR MEMBERS APPOINTED BY THE GOVERNOR, NO MORE THAN TWO SHALL BE ENROLLED IN THE SAME POLITICAL PARTY, TWO SHALL HAVE NO LESS THAN TEN YEARS EXPERIENCE IN THE FIELD OF EDUCATION, NO MEMBER OF THE COMMISSION SHALL HOLD OR HAVE HELD ANY JUDICIAL OFFICE OR HOLD ANY ELECTED PUBLIC OFFICE FOR WHICH HE RECEIVES COMPENSATION DURING HIS PERIOD OF SERVICE, AND NO MEMBER OF THE COMMISSION SHALL HOLD ANY OFFICE IN ANY POLITICAL PARTY. THE MEMBERS OF THE COMMISSION SHALL BE RESIDENTS OF THE STATE.

(B) THE MEMBERS FIRST SHALL SERVE FOR A TWO YEAR TERM.

(C) A VACANCY SHALL BE DEEMED TO OCCUR IMMEDIATELY UPON THE APPOINTMENT OR ELECTION OF ANY MEMBER TO AN OFFICE THAT WOULD DISQUALIFY HIM FOR APPOINTMENT TO, OR MEMBERSHIP ON, THE COMMISSION. A VACANCY OCCURRING FOR ANY REASON OTHER THAN BY EXPIRATION OF TERM SHALL BE FILLED BY THE APPOINTING OFFICER FOR THE REMAINDER OF THE UNEXPIRED TERM.

(D) THE MEMBERS SHALL DESIGNATE ONE OF THEIR NUMBER TO SERVE AS CHAIRMAN FOR A PERIOD OF TWO YEARS OR UNTIL HIS TERM OF OFFICE EXPIRES, WHICHEVER PERIOD IS SHORTER.

(E) EACH MEMBER OF THE COMMISSION SHALL BE ENTITLED TO RECEIVE HIS ACTUAL AND NECESSARY EXPENSES INCURRED IN THE DISCHARGE OF HIS DUTIES.

(F) EIGHT MEMBERS OF THE COMMISSION SHALL CONSTITUTE A QUORUM.

2. FUNCTIONS OF THE COMMISSION. (A) THE COMMISSION SHALL CONSIDER AND EVALUATE THE QUALIFICATIONS OF CANDIDATES FOR APPOINTMENT TO THE BOARD OF REGENTS AND, AS A VACANCY OCCURS IN ANY SUCH OFFICE, SHALL RECOMMEND

TO THE GOVERNOR PERSONS WHO BY THEIR CHARACTER, TEMPERAMENT, PROFESSIONAL APTITUDE AND EXPERIENCE ARE WELL QUALIFIED TO HOLD SUCH OFFICE.

(B) FOR EACH VACANCY IN THE OFFICE OF THE BOARD OF REGENTS, THE COMMISSION SHALL RECOMMEND TO THE GOVERNOR AT LEAST THREE PERSONS AND NOT MORE THAN SEVEN PERSONS. SHOULD MORE THAN ONE VACANCY EXIST AT THE SAME TIME IN THE BOARD OF REGENTS, THE NUMBER OF PERSONS RECOMMENDED BY THE COMMISSION TO THE GOVERNOR SHALL BE AT LEAST THREE BUT NO MORE THAN SEVEN PLUS ONE ADDITIONAL PERSON FOR EACH ADDITIONAL VACANCY IN SUCH OFFICE.

(C) A RECOMMENDATION TO THE GOVERNOR SHALL REQUIRE THE CONCURRENCE OF EIGHT MEMBERS OF THE COMMISSION. THE RECOMMENDATIONS TO THE GOVERNOR SHALL BE TRANSMITTED TO THE GOVERNOR IN A SINGLE WRITTEN REPORT WHICH SHALL BE RELEASED TO THE PUBLIC BY THE COMMISSION AT THE TIME IT IS SUBMITTED TO THE GOVERNOR. THE REPORT SHALL BE IN WRITING, SIGNED ONLY BY THE CHAIRMAN, AND SHALL INCLUDE THE COMMISSION'S FINDINGS RELATING TO THE CHARACTER, TEMPERAMENT, PROFESSIONAL APTITUDE, EXPERIENCE, QUALIFICATIONS AND FITNESS FOR OFFICE OF EACH CANDIDATE WHO IS RECOMMENDED TO THE GOVERNOR.

(D) NO PERSON SHALL BE RECOMMENDED TO THE GOVERNOR WHO HAS NOT CONSENTED TO BE A CANDIDATE, WHO HAS NOT BEEN PERSONALLY INTERVIEWED BY A QUORUM OF THE MEMBERSHIP OF THE COMMISSION, AND WHO HAS NOT FILED A FINANCIAL STATEMENT WITH THE COMMISSION, ON A FORM TO BE PRESCRIBED BY THE COMMISSION. THE FINANCIAL STATEMENT SHALL CONSIST OF A SWORN STATEMENT OF THE PERSON'S ASSETS, LIABILITIES AND SOURCES OF INCOME, AND ANY OTHER RELEVANT FINANCIAL INFORMATION WHICH THE COMMISSION MAY REQUIRE. THE COMMISSION SHALL TRANSMIT TO THE GOVERNOR THE FINANCIAL STATEMENT FILED BY EACH PERSON WHO IS RECOMMENDED. THE GOVERNOR SHALL MAKE AVAILABLE TO THE PUBLIC THE FINANCIAL STATEMENT FILED BY THE PERSON WHO IS APPOINTED TO FILL A VACANCY. THE FINANCIAL STATEMENTS FILED BY ALL OTHER PERSONS RECOMMENDED TO THE GOVERNOR, BUT NOT APPOINTED BY HIM, SHALL BE CONFIDENTIAL.

3. ADDITIONAL FUNCTIONS OF THE COMMISSION. THE COMMISSION SHALL HAVE THE FOLLOWING FUNCTIONS, POWERS AND DUTIES:

(A) ESTABLISH PROCEDURES TO ASSURE THAT PERSONS WHO MAY BE WELL QUALIFIED FOR APPOINTMENT TO THE BOARD OF REGENTS, OTHER THAN THOSE WHO HAVE REQUESTED CONSIDERATION OR WHO HAVE BEEN RECOMMENDED FOR CONSIDERATION BY OTHERS, ARE ENCOURAGED TO AGREE TO BE CONSIDERED BY THE COMMISSION.

(B) REQUIRE THE APPEARANCE OF ANY CANDIDATE BEFORE IT AND INTERVIEW ANY PERSON CONCERNING THE QUALIFICATIONS OF ANY CANDIDATE.

(C) COMMUNICATE WITH THE GOVERNOR CONCERNING THE QUALIFICATIONS OF ANY PERSON WHOM IT HAS RECOMMENDED TO THE GOVERNOR, AND COMMUNICATE WITH THE SENATE AND THE ASSEMBLY CONCERNING THE QUALIFICATIONS OF THE PERSON APPOINTED BY THE GOVERNOR.

4. PROCEDURES WHEN VACANCIES OCCUR. (A) WHENEVER A VACANCY WILL OCCUR IN THE BOARD OF REGENTS BY EXPIRATION OF TERM THE COMMISSION SHALL MAKE ITS RECOMMENDATIONS TO THE GOVERNOR NO LATER THAN THIRTY DAYS AFTER RECEIPT OF SUCH NOTICE. THE GOVERNOR SHALL MAKE HIS APPOINTMENT FROM AMONG THOSE PERSONS RECOMMENDED TO HIM BY THE COMMISSION NO SOONER THAN FIFTEEN DAYS NOR LATER THAN THIRTY DAYS AFTER RECEIPT OF THE COMMISSION'S RECOMMENDATIONS.

(B) WHENEVER A VACANCY OCCURS AND THE SENATE AND THE ASSEMBLY HAVE FINALLY ADJOURNED AND ARE NOT IN SESSION TO GIVE THEIR ADVICE AND CONSENT TO AN APPOINTMENT TO FILL SUCH VACANCY, THE GOVERNOR SHALL MAKE AN INTERIM APPOINTMENT FROM AMONG THOSE PERSONS RECOMMENDED TO HIM BY THE COMMISSION. AN INTERIM APPOINTMENT SHALL CONTINUE UNTIL THE SENATE AND THE ASSEMBLY SHALL PASS THE GOVERNOR'S SELECTION. IF THE SENATE AND

THE ASSEMBLY CONFIRM AN APPOINTMENT, THE REGENT SHALL SERVE A TERM PROVIDED IN SECTION TWO HUNDRED TWO OF THIS PART, COMMENCING FROM THE DATE OF HIS INTERIM APPOINTMENT. IF THE SENATE AND THE ASSEMBLY REJECT AN APPOINTMENT, A VACANCY IN THE OFFICE SHALL OCCUR SIXTY DAYS AFTER SUCH REJECTION.

(C) (I) IF THE SENATE AND THE ASSEMBLY ARE IN SESSION AT THE TIME THE GOVERNOR MAKES AN APPOINTMENT PURSUANT TO SUBDIVISION ONE OR TWO OF THIS SECTION, EACH NOMINEE SHALL BE ELECTED BY THE LEGISLATURE BY CONCURRENT RESOLUTION IN THE PRECEDING MARCH, ON OR BEFORE THE FIRST TUESDAY OF SUCH MONTH. IF, HOWEVER, THE LEGISLATURE FAILS TO AGREE ON SUCH CONCURRENT RESOLUTION BY THE FIRST TUESDAY OF SUCH MONTH, THEN THE TWO HOUSES SHALL MEET IN JOINT SESSION AT NOON ON THE SECOND TUESDAY OF SUCH MONTH AND PROCEED TO ELECT SUCH REGENT BY JOINT BALLOT.

(II) WHENEVER THE GOVERNOR HAS MADE AN INTERIM APPOINTMENT PURSUANT TO THIS SUBDIVISION, HE SHALL COMMUNICATE ON THE FIRST DAY THAT THE SENATE AND THE ASSEMBLY ARE IN SESSION FOLLOWING THE MAKING OF THE INTERIM APPOINTMENT, A WRITTEN NOMINATION TO THE SENATE AND THE ASSEMBLY IN ACCORDANCE WITH THE PROVISIONS OF SECTION SEVEN OF THE PUBLIC OFFICERS LAW. THE SENATE AND THE ASSEMBLY SHALL CONFIRM OR REJECT SUCH APPOINTMENT NO LATER THAN THIRTY DAYS AFTER RECEIPT OF THE NOMINATION FROM THE GOVERNOR.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.