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

5253--A

2015-2016 Regular Sessions

I N S E N A T E

May 11, 2015

Introduced by Sen. MONTGOMERY -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- recommitted to the Committee on Local Government 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 chapter 606 of the laws of 1902 relating to the incorporation of the Brooklyn public library and limiting and defining the powers thereof, in relation to membership and duties of the board of trustees and oversight of certain executive personnel

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

Section 1. Section 2 of chapter 606 of the laws of 1902, relating to the incorporation of the Brooklyn public library and limiting and defining the powers thereof, as amended by chapter 569 of the laws of 2007, is amended to read as follows:

S 2. Upon the designation and appointment of members of the said corporation by the mayor of the city of New York and the president of the borough of Brooklyn, and the election of the elected members of the said corporation, as above provided, the said corporation shall organize by the adoption of by-laws and the election of officers. The membership thereof, other than the public officers who are members ex officio, shall be divided by lot into three classes as nearly equal as may be, so that the term of office of one of said classes shall expire upon the first day of February in each of the next succeeding three years. After the expiration of each such term, the term of office for which a member of the corporation shall be appointed or elected shall be three years, except that in case of a vacancy occurring otherwise than by the expiration of a term, such vacancy shall be filled for the unexpired term only. Any member shall, however, be eligible for reappointment or reelection. In the case of any vacancy occurring among those members originally appointed pursuant to [a] chapter 569 of the laws of 2007

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

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[which amends section one of this act,] by the mayor of the city of New York and in cases of their successors to be appointed upon the expiration of their term, such vacancy shall be filled by appointment by the mayor of the city of New York, and, in the case of any vacancy occurring among those members originally appointed pursuant to [such] chapter 569 of the laws of 2007 by the president of the borough of Brooklyn and in cases of their successors to be appointed upon the expiration of their term, such vacancy shall be filled by appointment by the president of the borough of Brooklyn, on the first day of February in each year or within thirty days thereafter, or in cases of a vacancy existing otherwise than by expiration of a term, shall be filled by appointment by the ex officio member (or by his or her successor in office) who had last appointed the non-ex officio member whose office has been vacated and is to be filled, within thirty days after its occurrence. In the case of any vacancy occurring among the elected members originally elected pursuant to [such] chapter 569 of the laws of 2007, from the board of trustees of the Brooklyn public library foundation, and in cases of their successors to be elected upon the expiration of their term, such vacancy shall be filled by election by the members of the board then in office, who shall separately convene for such purpose, a majority of those members then in office being a quorum, on the first day of February in each year or within thirty days thereafter, or for the purpose of filling a vacancy existing otherwise than by expiration a term within thirty days after its occurrence. ANY TRUSTEE APPOINTED TO A NEW TERM OR FILLING A VACANCY ON OR AFTER JUNE 1, 2016 MUST BE EITHER A RESIDENT OF BROOKLYN OR OWN OR OPERATE A BUSINESS IN BROOKLYN; AND PROVIDED FURTHER THAT THE APPOINTING PARTY SHALL NOTIFY THE OTHER APPOINTING PARTY OF WHO WAS APPOINTED. THE APPOINTING PARTY SHALL BE AUTHORIZED TO REMOVE A TRUSTEE WHOM SUCH PARTY APPOINTED FOR MISCONDUCT, INCAPACITY, NEGLECT OF DUTY, OR WHERE IT APPEARS TO THE SATISFACTION OF THE APPOINTING PARTY THAT THE TRUSTEE HAS FAILED OR REFUSES TO CARRY INTO EFFECT ITS EDUCATIONAL PURPOSE. THE APPOINTING PARTY SHALL NOT BE REQUIRED TO OBTAIN A RECOMMENDATION FROM THE BOARD TO REMOVE A TRUSTEE WHICH SUCH PARTY APPOINTED. A TRUSTEE SUBJECT TO REMOVAL SHALL HAVE AN OPPORTUNITY TO SUBMIT A RESPONSE OR APPEAL WITHIN SEVEN BUSINESS DAYS TO ANY CAUSE FOR REMOVAL TO THE APPOINTING PARTY AND THE APPOINTING PARTY SHALL REVIEW THE REASON FOR REMOVAL AND ANY RESPONSE SUBMITTED TO THE PARTY PRIOR TO THE REMOVAL OF SUCH PERSON. WHEN THE BOARD RECOMMENDS REMOVAL, THE TRUSTEE SUBJECT TO REMOVAL MAY APPEAL TO BOTH APPOINTING PARTIES AND EITHER APPOINTING PARTY MAY REMOVE THE TRUSTEE WHERE SUFFICIENT CAUSE IS FOUND. WHEN ONE OF THE APPOINTING PARTIES RECOMMENDS REMOVAL OF A TRUSTEE, SUCH APPOINTING PARTY MUST PROVIDE THE SUBJECT TRUSTEE WITH NOTICE AND AN OPPORTUNITY TO APPEAL, PROVIDED, HOWEVER, THAT THE TRUSTEE SUBJECT TO REMOVAL BY AN APPOINTING BODY MAY SUBMIT A WRITTEN APPEAL TO BOTH APPOINTING PARTIES FOR REVIEW AND BOTH PARTIES MUST AGREE ON REMOVAL FOR SUCH REMOVAL TO BE EFFECTIVE. Membership in the said corporation shall not operate to vacate any nonsalaried city office. The said corporation shall make and publish an annual report in detail of its proceedings and transactions for each year, including a full and detailed statement of its revenues and expenses, and it shall furnish copies thereof to the mayor, the council, the comptroller of the city of New York and to the president of the borough of Brooklyn. THE BROOKLYN PUBLIC LIBRARY SHALL BE SUBJECT TO ARTICLE 6 OF THE PUBLIC OFFICERS LAW.

S 2. Chapter 606 of the laws of 1902 relating to the incorporation of the Brooklyn public library and limiting and defining the powers thereof

is amended by adding four new sections 4-a, 5-a, 8-a and 8-b to read as follows:

S 4-A. A. THE TRUSTEES SHALL HOLD ANNUAL PUBLIC BUDGET HEARINGS, PROVIDE A THIRTY DAY PUBLIC COMMENT PERIOD PRIOR TO ADOPTION OF THE BUDGET AND REPORT ALL REVENUE SOURCES OF FUNDING FOR THE BUDGET, BOTH PUBLIC AND PRIVATE.

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

S 5-A. A. THE EXECUTIVE DIRECTOR AND KEY LIBRARY EXECUTIVE PERSONNEL SHALL COMPLY WITH FINANCIAL DISCLOSURE REQUIREMENTS WHEN PUBLIC MONEY IS USED TO FUND STAFF SALARIES. FOR THE PURPOSES OF THIS SECTION, "PUBLIC MONEY" SHALL MEAN MONEY FROM THE STATE OR COUNTY OR A TOWN, VILLAGE, OR CITY. THE BOARD OF TRUSTEES SHALL ADOPT BY-LAWS REQUIRING MANDATORY ANNUAL FINANCIAL DISCLOSURES FROM THE EXECUTIVE DIRECTOR AND OTHER KEY LIBRARY EXECUTIVE PERSONNEL.

B. THE BOARD OF TRUSTEES SHALL ADOPT BY-LAWS LIMITING THE TYPE AND EXTENT OF EMPLOYMENT THE EXECUTIVE DIRECTOR AND ANY KEY LIBRARY EXECUTIVE PERSONNEL MAY ENGAGE IN OTHER THAN HIS OR HER EMPLOYMENT WITH THE LIBRARY. SUCH BY-LAWS SHALL REQUIRE THE EXECUTIVE DIRECTOR AND THE KEY LIBRARY EXECUTIVE PERSONNEL TO REPORT ANY EMPLOYMENT OTHER THAN HIS OR HER EMPLOYMENT WITH THE LIBRARY TO THE BOARD OF TRUSTEES AND SHALL REQUIRE THE BOARD TO APPROVE SUCH EMPLOYMENT.

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

S 8-A. THE BOARD OF TRUSTEES SHALL APPOINT:

A. AN AUDIT COMMITTEE WHICH SHALL OVERSEE THE LIBRARY'S ACCOUNTING AND FINANCIAL REPORTING PROCESSES AND ANNUAL AUDITS. THE AUDIT COMMITTEE SHALL RETAIN AN AUDITOR, REVIEW THE SCOPE AND PLANNING OF ALL AUDITS WITH THE AUDITOR AND REVIEW AND DISCUSS THE RESULTS. THE AUDIT COMMITTEE SHALL CONSIDER THE AUDITOR'S PERFORMANCE AND INDEPENDENCE AND REPORT ANNUALLY ON THE AUDITOR'S ACTIVITIES TO THE BOARD OF TRUSTEES.

B. AN EXECUTIVE COMMITTEE WHICH SHALL BE COMPRISED OF A REPRESENTATIVE CROSS-SECTION OF THE BOARD OF TRUSTEES. THE BOARD OF TRUSTEES SHALL ABOLISH THE ADMINISTRATIVE COMMITTEE AND ANY ESSENTIAL FUNCTIONS OR DUTIES OF SUCH COMMITTEE SHALL BE TRANSFERRED TO THE EXECUTIVE COMMITTEE.

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

S 8-B. THE BOARD OF TRUSTEES SHALL ESTABLISH BY-LAWS PROHIBITING A PERSON WITH A CONFLICT OF INTEREST FROM BEING PRESENT AT OR PARTICIPATING IN ANY DELIBERATIONS OR VOTING ON THE MATTER GIVING RISE TO THE CONFLICT. THE BY-LAWS SHALL ALSO PROHIBIT THE PERSON WITH THE CONFLICT

FROM IMPROPERLY INFLUENCING THE DELIBERATION OR VOTING ON SUCH MATTER. ANY CONFLICTS OF INTEREST BROUGHT TO THE ATTENTION OF THE BOARD OF TRUSTEES OR THE AUDIT COMMITTEE SHALL BE DOCUMENTED IN THE MINUTES OF ANY MEETING AT WHICH SUCH CONFLICT WAS DISCUSSED.

S 3. The board of trustees of the Brooklyn Public Library shall engage an outside consultant with the requisite expertise to conduct and complete a comprehensive executive compensation study within ninety days of the date this act shall have become a law. Such study shall include, but not be limited to, a review of acceptable fringe benefits, including car allowances and tuition reimbursements.

S 4. This act shall take effect immediately.