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

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I N S E N A T E

May 12, 2016

Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the civil service law, the education law and the public authorities law, in relation to changing the designation of the fashion institute of technology from a community college to a four year college; and repealing certain provisions of the education law relating thereto

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

Section 1. Subdivision (i) of section 35 of civil service law, as amended by chapter 1167 of the laws of 1971, is amended to read as follows:

(i) all positions in community colleges in the professional service as defined in subdivision two of section six thousand three hundred six of the education law, which shall include all positions on the instructional staffs of [the fashion institute of technology,] the New York city community college of applied arts and sciences, and of the community colleges sponsored by the board of higher education in the city of New York as [respectively] defined in [sections] SECTION two thousand five hundred eighty-seven[, six thousand two hundred six-a, and six thousand two hundred six-b] of the education law. Such positions in community colleges other than [the fashion institute of technology,] the New York city community college of applied arts and sciences, and community colleges sponsored by the board of higher education of the city of New York shall be determined by the board of trustees of such colleges with the approval of the chancellor of state university, and certified by each such board to the commission or officer which administers the civil service law for the local sponsor of the community college administered by such board. Each such board of trustees shall prescribe qualifications for appointment for all classes of positions so certified by it, and shall establish specifications setting forth the qualifications for and the nature and scope of the duties and responsibilities of such positions. Each such board of trustees shall file such qualifications for appointment and such specifications with the civil service commis-

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

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sion and with the commission or officer to which the certification is made;

S 2. Subdivision 3 of section 352 of the education law, as amended by chapter 552 of the laws of 1985, is amended to read as follows:

3. The state university shall consist of the four university centers at Albany, Binghamton, Buffalo and Stony Brook, the designated colleges of arts and sciences at Brockport, Buffalo, Cortland, Fredonia, Geneseo, New Paltz, Old Westbury, Oneonta, Oswego, Plattsburgh, Potsdam and Purchase, empire state college, the agricultural and technical colleges at Alfred, Canton, Cobleskill, Delhi, Farmingdale, FASHION INSTITUTE OF TECHNOLOGY and Morrisville, downstate medical center, upstate medical center, the college of optometry, the college of environmental science and forestry, maritime college, the college of technology at Utica/Rome, the statutory or contract colleges at Cornell university and Alfred university, and such additional universities, colleges and other institutions, facilities and research centers as have been or hereafter may be acquired, established, operated or contracted to be operated for the state by the state university trustees.

S 3. Paragraph (b) of subdivision 14 of section 1680 of the public authorities law, as amended by chapter 332 of the laws of 1975, is amended to read as follows:

(b) The provisions of paragraph [a] (A) of this subdivision shall not apply to facilities for a locally sponsored community college in the city of New York [other than the fashion institute of technology].

S 4. Paragraph a of subdivision 1 of section 2587 of the education law, as added by chapter 429 of the laws of 1957, is amended to read as follows:

a. FOR THE PURPOSES OF THIS SECTION, "[Community] college" shall mean fashion institute of technology, [a community college sponsored by the board of education of the city of New York] A FOUR YEAR COLLEGE, PART OF THE STATE UNIVERSITY.

S 5. Paragraph c of subdivision 1 of section 2587 of the education law, as added by chapter 429 of the laws of 1957, is amended to read as follows:

c. "Instructional staff" shall mean the persons employed in the [community] college in the positions of president, dean, director, assistant dean, assistant director, chairman of department or division, senior instructor, instructor, lecturer, college registrar, college bursar, laboratory technician, college administrative assistant, instructor technologist, college librarian, assistant librarian; or in any position which the board in its discretion may add thereto.

S 6. Subdivision 3 of section 2587 of the education law, as added by chapter 429 of the laws of 1957, is amended to read as follows:

3. The permanent instructional staff shall consist of:

a. All persons employed on an annual salary basis in the [community] college in the positions of senior instructor, librarian, assistant librarian, college registrar, college bursar or college administrative assistant, who, on the date on which this section is enacted, are serving in any of the positions enumerated in this paragraph and have completed at least four full years of continuous service on an annual salary from the date of their appointment to any of the positions enumerated in this paragraph, or who have so served at least three full years and have been appointed for a fourth full year.

b. All other persons employed on an annual salary basis in the [community] college in the positions of senior instructor, librarian, assistant librarian, college registrar, college bursar, college administrative

assistant, or in any position hereafter created which the board in its discretion may designate as a tenure position, who, after serving on an annual salary in any of the positions enumerated or provided for in this paragraph for three full years continuously, have been appointed or shall be appointed for a fourth full year, except as provided in subdivision four of this section, provided that in determining the tenure rights of such persons time served as an instructor shall be counted.

c. Any regularly appointed member of the teaching or supervising staff of the board of education of the city of New York who, on the date on which this section is enacted, is serving in the [community] college in the position of senior instructor, librarian, assistant librarian, college registrar, college bursar or college administrative assistant, pursuant to an assignment by the superintendent of schools of the board of education of the city of New York, and has or thereafter shall have completed three full years of continuous service in any of the positions enumerated in this paragraph, or in any position hereafter created which the board may designate as a tenure position, shall be entitled to become a member of the permanent instructional staff of the [community] college with tenure in the position in which he is then serving in the [community] college providing such person, within three months after such completion of three full years of continuous service, shall notify the president of the [community] college in writing of his election to become a member of the permanent instructional staff of the [community] college with tenure in the position in which he is then serving in the [community] college, and provided further that such person shall within the same period resign from his position in the board of education of the city of New York. Such person shall have the absolute right, notwithstanding his election to become a member of the permanent instructional staff of the [community] college with tenure, to continue as a member of the retirement system of which he was a member immediately prior to such election, without any loss or diminution in his rights, status or privileges in such retirement system. Any regular license issued by the superintendent of schools of the board of education of the city of New York, held by such person at the time he becomes entitled to tenure in the [community] college shall continue to be valid during his continuance of service in the [community] college.

S 7. Subdivision 5 of section 2587 of the education law, as added by chapter 429 of the laws of 1957, is amended to read as follows:

5. A certificate of permanent tenure shall be issued by the board upon the enactment of this section to each person then employed in the [community] college who, on or prior to the date of such enactment, shall have satisfied the requirements for entitlement to tenure prescribed by this section. In the case of any person now or hereafter employed in the [community] college, who, after such date of enactment, satisfies such requirements for entitlement to tenure, a certificate of permanent tenure shall be issued by the board to such person, upon the completion by such person of such requirements.

S 8. Subdivision 6 of section 2587 of the education law, as amended by chapter 650 of the laws of 1990, is amended to read as follows:

6. For the purpose of appointments and promotions in the instructional staff which may be made after the date on which this section is enacted, the board shall determine to what extent examinations are practicable to ascertain merit and fitness for each of the positions under its jurisdiction, and, insofar as examinations are deemed practicable, shall determine to what extent it is practicable, that such examinations be competitive. Any examination held in accordance with the provisions of

this subdivision shall be set and administered through any agency which the board may from time to time create or designate. The superintendent of schools of the board of education of the city of New York may, upon the request of the president of the [community] college, direct the medical board of the board of education of the city of New York to render such service as the president of the [community] college may request to assist the board and the president of the [community] college in the ascertainment of merit and fitness for appointment to or relative to service in instructional positions in the [community] college.

S 9. Subdivisions 7 and 8 of section 2587 of the education law, as added by chapter 429 of the laws of 1957, are amended to read as follows:

7. Neither tenure as conferred through the operation of this section nor the period requisite for the achievement of tenure shall be affected by transfer within the [community] college, or by promotion, or by change of title, except that a person upon whom tenure is conferred through the operation of this section and who may be transferred to any position in the [community] college, or who may be promoted, or whose title may be changed, shall have tenure in his new position, provided such position is not one of those enumerated in subdivision four of this section. Nothing herein contained shall be construed to prevent the board from assigning any person having tenure to any appropriate position on the staff, but no such assignment shall carry with it a reduction in rank or a reduction in salary other than the elimination of any additional emolument provided for administrative positions.

8. A position held by a person upon whom tenure is conferred through the operation of this section may be abolished or discontinued by the board for reasons which are not discriminatory against a particular person or persons. In the event that a position in a specified subject is to be abolished or discontinued, such position shall be that of the person last appointed to such position; provided, however, that all persons in such position upon whom tenure is not conferred by the operation of this section shall be dismissed before the position of any other person in such subject is abolished or discontinued. If the board abolishes or discontinues the position of a person upon whom tenure is conferred through the operation of this section and can find no position in the [community] college which can be efficiently and capably filled by such person, then his name shall be placed and shall remain for three years on a preferred eligible list of candidates for reappointment to fill a vacancy that may thereafter occur in a position which can be efficiently and capably filled by such person or to fill a newly created position which can be efficiently and capably filled by such person. Reappointment from such preferred eligible list to a position in a specified subject shall be made in the order of the original appointment of the persons on such preferred eligible list. Any person reappointed from such preferred eligible list shall be reappointed at a salary not less than that which he was receiving when his position was abolished or discontinued. Any person whose name is placed on such preferred eligible list as hereinbefore provided shall, for the purpose of maintaining his status in any retirement system of which he is a member, be deemed to be on leave of absence without pay.

S 10. Subdivision 10 of section 6305 of the education law is REPEALED.

S 11. Subdivision 3 of section 6306 of the education law, as amended by chapter 552 of the laws of 1984, is amended to read as follows:

3. In the city of New York, upon the establishment of a community college sponsored by the board of education, the sponsoring board shall

be the trustees and shall be vested with the powers of a board of trustees of a community college, or upon the application of the sponsoring board, approved by the state university trustees, the board of trustees of such community college may be appointed and serve in the manner provided by subdivision one of this section; and upon the establishment and continuance of a community college sponsored by the city of New York, the local sponsor may designate the board of education in that city as the trustee to be vested with the powers of a board of trustees of a community college, or the local sponsor may provide that the board of trustees of such community college shall be appointed and serve in the manner provided by subdivision one of this section. In the event that the board of education serves as the board of trustees of a community college in the city of New York, its powers and duties in relation thereto shall be as prescribed in this article for boards of trustees of community colleges. [In the city of New York, the board of trustees of the fashion institute of technology shall, under such by-laws as such board deems appropriate, provide for the eligibility for sabbatical leaves of absence to members of its permanent instructional staff; provided, however, that when such leaves are for one-half year, they shall be at full pay, and when such leaves are for one year, they shall be at half pay.]

S 12. Subdivision 3-a of section 6306 of the education law is REPEALED.

S 13. This act shall take effect immediately.