STATE OF NEW YORK

2418

2017-2018 Regular Sessions

IN ASSEMBLY

January 20, 2017

Introduced by M. of A. RA, LUPINACCI -- Multi-Sponsored by -- M. of A. LOPEZ -- read once and referred to the Committee on Education

AN ACT to amend the education law and the public officers law, in relation to the board of regents of the university of the state of New York

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 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. **Regents in office March thirty-first, two thousand seventeen, whose terms expire on April first, two thousand seventeen, shall hold office until their terms are filled as provided in this subdivision. Commencing April first, two thousand seventeen, each regent shall be elected to a term of five years, each such term to expire on the last day of June.** 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 fails to agree on such concurrent resolution by~~

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

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~~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~~] on the third Tuesday in May, provided, however, that such election shall be held on the second Tuesday in May if the speaker of the assembly and the temporary president of the senate certify no later than March first that such election would conflict with religious observances. Such election shall be from a list of three names submitted by the commission on regent nomination not less than thirty days prior to the date chosen for the election. The standing committees on education and higher education of the senate and assembly shall conduct public hearings on the nominees submitted by the commission at which nominees shall have the opportunity to be heard, and shall forward to the full membership of each house one name for each seat for which nominees were submitted. When the term of the regent serving as chancellor shall expire and such regent is nominated for another term, the education and higher education committees shall consider such nominee's record of service as chancellor as well as his service as a regent.

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.

§ 2. Section 203 of the education law is amended to read as follows:

§ 203. Officers. The [~~elective officers of the university shall be a chancellor and a vice-chancellor who shall serve without salary, and such other officers as are deemed necessary by the regents, all of whom~~] university shall be presided over by a chancellor and a vice-chancellor who shall be designated from among the members of the board of regents by the governor with the advice and consent of the senate. They shall serve without salary. Additionally, such other officers as are deemed necessary by the regents shall be chosen by ballot by the regents and shall hold office during their pleasure; but no election, removal or change of salary of an elective officer shall be made by [~~less than six votes~~] a vote of less than a majority of the members of the board of regents in favor thereof. Each regent and each elective officer shall, before entering on his duties, take and file with the secretary of state the oath of office required of state officers.

The chancellor shall preside at all convocations and at all meetings of the regents, and confer all degrees which they shall authorize. In

his absence or inability to act, the vice-chancellor, or if he be also absent, the senior regent present, shall perform all the duties and have all the powers of the chancellor.

§ 3. Section 204 of the education law, as amended by chapter 317 of the laws of 2016, is amended to read as follows:

§ 204. Meetings and absences. [~~1. (a)~~] The regents may provide for regular meetings [~~of the board of regents and any committee, subcommittee, task force, or other subgroups thereof. Notice of time and place for all regular public meetings of the board of regents and any committee, subcommittee, task force, or other subgroups thereof shall be publicly provided at least seven days in advance of such meeting. Such notice of time, place and agenda shall be distributed via the board's official internet website and specifically distributed by United States postal service to all regents at their usual addresses and, if a meeting of a committee, subcommittee, task force, or other subgroups thereof, by such means, including but not limited to the United States postal service or electronic means, as determined by the committee, subcommittee, task force, or other subgroups thereof. An agenda for a regular public meeting of the board shall be comprised of a list of all items to be considered with a description of the subject matter of each such item and shall be posted at least three days in advance of the meeting; provided however, that in an instance of a health or public safety emergency, the board may include additional items to the agenda with less than three days notice. In an instance of a health or public safety emergency, the board shall use best efforts to make public any changes to the agenda prior to the regular meeting. The notice and agenda shall be considered a public record.~~

~~(b) The~~], and the chancellor, or the commissioner, or any five regents, may at any time call a special meeting of the board of regents and fix the time and place therefor[~~. Notice of time, place and agenda for all special public meetings of the board of regents shall be publicly provided at least three days in advance of such meeting. Such notice of time, place and agenda shall be distributed via the board's official internet website and specifically circulated according to the rules and regulations of the regents to all regents. The board of regents special public meeting agenda shall be comprised of a list of all items to be considered with a description of the subject matter of each such item; provided however, that in an instance of a health or public safety emergency, the board may include additional items to the agenda with less than three days notice. In an instance of a health or public safety emergency, the board shall use best efforts to make public any changes to the agenda prior to the special meeting. The notice and agenda shall be considered a public record.~~

~~2. Any meeting of the board of regents and any committee, subcommittee, task force, or other subgroups thereof shall be conducted in accordance with article seven of the public officers law.~~

~~3. A summary of committee reports, any other minutes, and attendance of the board of regents for either regular or special meetings shall be electronically available on the board of regents website at the close of each board meeting and shall be considered a public record. The video recording of any regular full board meeting shall be posted no later than five days following the meeting of the board. Any meeting summaries and actions taken shall be posted on the board of regents website within five days of approval by the board. Information posted on the board of regents website shall remain on the site as archived data for a minimum of ten years.~~

~~4.~~]; and at least ten days' notice of every meeting shall be mailed to the usual address of each regent. Meetings of the board of regents shall be governed by sections one hundred through one hundred eleven of the public officers law relating to open meetings. A verbatim transcript of each meeting shall be maintained. If any regent shall fail to attend three consecutive meetings, without excuse accepted as satisfactory by the regents, [~~that regent~~] he may be deemed to have resigned and the regents shall then report the vacancy to the legislature, which shall fill it.

§ 4. Section 205 of the education law is amended to read as follows:

§ 205. Quorum. [~~Seven~~] A majority of the regents [~~attending~~] shall be a quorum for the transaction of business.

§ 5. The education law is amended by adding a new section 206-a to read as follows:

§ 206-a. Local public hearings. Notwithstanding the provisions of section two hundred six of this article, each regent shall conduct at least one public hearing each year in his or her judicial district to solicit public comment on issues relevant to the board's role in setting education policy in the state. Regents elected at-large may conduct such hearings at any location within the state. Each regent shall submit a report to the board on such hearing.

§ 6. The education law is amended by adding a new section 206-b to read as follows:

§ 206-b. Education advisory committees. There is hereby created in each judicial district an education advisory committee to actively assist and advise the regent representing that judicial district in the analysis and development of education policy in New York state. Each committee shall be broadly representative of the education community and shall consist of not less than eleven members who shall be residents of the judicial district. The initial members of the advisory committee shall include a representative appointed by the New York State Congress of Parents and Teachers, New York State United Teachers, National Education Association of New York, Council of School Superintendents, Conference of Big Five School Districts, New York Library Association, New York State Catholic Conference, United Federation of Teachers, Business Council of New York, School Boards Association, and the Association of Colleges and Universities of the State of New York. The advisory committee may be expanded as necessary to incorporate other interests in the analysis and development of education policy in New York state. Additionally, each member of the senate and assembly may appoint one member who shall be a resident of the judicial district in which the senator or assembly member lives. Each advisory committee member shall serve at the pleasure of the legislator or entity which designated it.

Members of the committee shall serve without compensation. The regent from that judicial district shall serve as chair of the advisory committee.

Each committee shall meet at least twice each year. At least thirty days notice of each meeting shall be given by the chair. Such notice shall contain the time and place of the public meeting. The chair of each committee shall submit a report annually on the work of the committee to the board of regents and to the legislature.

§ 7. The education law is amended by adding a new section 200 to read as follows:

§ 200. Definitions. 1. For the purpose of this article, the following terms shall have the following meanings:

(a) "Commission" means the commission on regent nomination.

(b) "Candidate" means a person who is eligible to serve as a member of the board of regents and (1) who has requested the commission to consider his qualifications to serve on such board; or (2) who has been recommended for consideration by the commission by another person, including a community or professional organization; or (3) who has agreed to be considered by the commission at the commission's request.

2. Organization of the commission. (a) A commission on regent nomination is hereby established. The commission shall consist of eight members of whom two shall be appointed by the speaker of the assembly, two by the temporary president of the senate, two by the minority leader of the senate, and two by the minority leader of the assembly. No member of the commission shall hold or have held any elected public office for which he or she receives compensation during his or her period of service. No member of the commission shall hold any office in any political party. No member of the commission shall be eligible for appointment to the board of regents during the member's period of service or within one year thereafter. The members of the commission shall be residents of the state.

(b) The members first appointed by the temporary president of the senate and the speaker of the assembly shall have respectively two-year and four-year terms as the appointing officer shall designate. The members first appointed by the minority leader of the senate shall have one-year and three-year terms, respectively. The members first appointed by the minority leader of the assembly shall have one-year and three-year terms, respectively. Each subsequent appointment shall be for a term of four years.

(c) A vacancy shall be deemed to occur immediately upon the appointment or election of any member to an office that would disqualify him or her 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 or her actual and necessary expenses incurred in the discharge of his or her duties.

(f) Six members of the commission shall constitute a quorum.

3. Functions of the commission. (a) The commission shall consider and evaluate the qualifications of candidates for election to the board of regents and, as each term expires or a vacancy occurs on such board, shall recommend to the legislature three persons who by their character, temperament, professional aptitude and experience are well qualified to serve on such board.

(b) A recommendation to the legislature shall require the concurrence of six members of the commission. The recommendations shall be transmitted to the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly in a single written report which shall be released to the public by the commission at the time it is submitted to the legislature. 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 legislature.

(c) No person shall be recommended to the legislature 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 temporary president of the senate and the speaker of the assembly the financial statement filed by each person who is recommended. The financial statement filed by the person who is appointed to fill a vacancy shall be made available to the public. The financial statements filed by all other persons recommended to the legislature, but not elected to the board of regents, shall be confidential.

(d) In considering whether to recommend a candidate for service as a regent, the commission shall consider whether the candidate's professional interests might create a conflict of interest or whether the board's ability to maintain a quorum for action on business before it might be in jeopardy if the member abstained from voting.

4. 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 service on 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 legislature concerning the qualifications of any person whom it has recommended for service on the board of regents.

(d) The commission may appoint, and at pleasure remove, a counsel and such other staff as it may require from time to time, and prescribe their powers and duties. The commission shall fix the compensation of its staff and provide for reimbursement of their expenses within the amounts appropriated by law.

(e) Do all other things necessary and convenient to carry out its functions pursuant to this article.

5. Rules of the commission. (a) The commission shall adopt, and may amend, written rules of procedure not inconsistent with law.

(b) Rules of the commission shall be filed with the secretary of state and shall be published in the official compilation of codes, rules and regulations of the state. Upon request of any person, the secretary of state shall furnish a copy of the commission's rules without charge.

(c) Rules of the commission may prescribe forms and questionnaires to be completed and, if required by the commission, verified by candidates.

(d) Rules of the commission shall provide that upon the completion by the commission of its consideration and evaluation of the qualifications of a candidate, there shall be no reconsideration of such candidate for the vacancy for which he was considered, except with the concurrence of nine members of the commission.

§ 8. Subdivision 1 of section 215-a of the education law, as amended by chapter 44 of the laws of 2000, is amended to read as follows:

1. The regents of the university of the state of New York shall prepare and submit to the governor, the temporary president of the senate, and the speaker of the assembly, not later than the first day of January, nineteen hundred eighty-nine, nineteen hundred ninety and nineteen hundred ninety-one and the fifteenth day of February of each year

thereafter, a report concerning the schools of the state which shall set forth with respect to the preceding school year: enrollment trends; indicators of student achievement in reading, writing, mathematics, science and vocational courses; graduation, college attendance and employment rates; such other indicators of student performance as the regents shall determine; information concerning teacher and administrator preparation, turnover, in-service education and performance; information concerning school library expenditures and school library media specialist employment; expenditure per pupil on regular education and expenditure per pupil on special education and such other information as requested by the governor, the temporary president of the senate, or the speaker of the assembly. To the extent practicable, all such information shall be displayed on both a statewide and individual district basis and by racial/ethnic group and gender. The regents are authorized to require school districts, boards of cooperative educational services and nonpublic schools to provide such information as is necessary to prepare the report. In preparing the report, the regents shall consult with other interested parties, including local school districts, teachers' and faculty organizations, school administrators, parents and students. **The education and higher education committees of the senate and assembly shall conduct at least one public hearing at which the chancellor, commissioner, and other members of the board of regents shall discuss and defend the report.**

§ 9. The education law is amended by adding a new section 215-e to read as follows:

§ 215-e. Meetings with the legislature. Each regent shall meet at least once each year with the members of the senate and assembly from his or her region of the state. In addition, any committee or subcommittee of the board of regents shall meet at least annually with the chairs of the appropriate standing committees of the senate and assembly.

§ 10. The temporary president of the senate and the speaker of the assembly shall commission an independent management study of the organization of the board of regents and the state education department. Such study shall include recommendations on reorganization and streamlining the department of education and on the scope of responsibilities of the board of regents, and shall be presented to the temporary president of the senate and the speaker of the assembly no later than July 1, 2018.

§ 11. The public officers law is amended by adding a new section 32-a to read as follows:

§ 32-a. Removal of members of the board of regents. Members of the board of regents may be removed as provided herein by the legislature for misconduct or malversation in office. No such removal shall be made unless the person who is sought to be removed shall have been served with a copy of the charges against him or her and have an opportunity of being heard. The senate and assembly shall have power to make such joint rules as they may see fit for the practice before them. At the time appointed for the investigation, the education and higher education committees of the senate and assembly shall proceed to hear and try the charges against such officer, and may take proofs in relation thereto.

Any recommendation for removal shall require a vote of two-thirds of the members of the education and higher education committees of the senate and assembly. Such recommendation shall be approved if two-thirds of all the members elected to the senate and assembly shall concur therein. On the question of removal, the yeas and nays shall be entered on the journal.

If the senate and assembly shall reject a recommendation of removal the secretary of the senate and the clerk of the assembly shall, by a writing signed by them and by the president of the senate and speaker of the assembly, communicate the fact of such rejection to the regent. If the senate and assembly shall concur in such a recommendation the removal shall take effect upon the passage of the resolution of concurrence, and duplicate copies of such resolution, certified by the secretary and president of the senate and the clerk and speaker of the assembly, shall be executed and delivered by such secretary to the regent and the chancellor of the board of regents.

§ 12. This act shall take effect immediately.