STATE OF NEW YORK

1549

2017-2018 Regular Sessions

IN SENATE

January 10, 2017

Introduced by Sen. AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT in relation to appointing a special prosecutor to investigate and prosecute acts of fraud, waste and corruption by the New York city department of buildings and the New York city board of standards and appeals

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. 1. The governor, by and with the advice and consent of the senate, shall within 30 days of the effective date of this act appoint a special prosecutor to investigate and prosecute acts of fraud, waste and corruption by the New York city department of buildings and New York city board of standards and appeals. The special prosecutor shall serve for a term of 3 years unless removed by the governor, after notice and an opportunity for a hearing, and then only for one or more of the following reasons: permanent disability which renders the special prosecutor incapable of performing the duties of his or her office; gross inefficiency, typified by a lack of ability to properly conduct investigations and prosecutions; neglect of duty, including an unwillingness to pursue claims of criminal fraud, abuse or corruption; malfeasance; conviction of a felony; or conduct involving moral turpitude.

2. Such special prosecutor shall receive an annual salary to be fixed by law from within the amounts appropriated therefor. Such special prosecutor shall possess all of the powers of an assistant attorney general otherwise authorized by this act provided, however that such special prosecutor shall devote his or her full time and effort exclusively to investigations and prosecutions of actions and proceedings relating to claims of malfeasance, conflicts of interest and acts of fraud, waste and corruption against the New York city department of buildings and New York city board of standards and appeals.

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

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3. The special prosecutor may appoint such other deputies, directors, assistants, and other employees to serve at the special prosecutor's pleasure and discretion as may be needed for the performance of duties and may prescribe their powers and fix their compensation within the amounts appropriated therefor.

4. The special prosecutor shall have the following special functions, powers and duties:

(a) To receive, investigate and prosecute complaints as more particularly enumerated in paragraphs (b) through (g) of this subdivision whenever such special prosecutor reasonably concludes that the activity alleged may constitute a crime;

(b) To receive, investigate and prosecute complaints from the public or any other source concerning alleged malfeasance, conflicts of interest and acts of fraud, waste and corruption by anyone within the department of buildings and the board of standards and appeals or anyone doing business with those agencies;

(c) To receive, investigate and prosecute complaints of alleged failure of the agencies to enforce and comply with the agencies' procedures, building code, zoning resolution, and other pertinent laws, rules and regulations;

(d) To receive, investigate and prosecute complaints of alleged failures of local officials and employees and private individuals to comply with the agencies' procedures, building code, zoning resolution, and other pertinent laws, rules and regulations;

(e) To receive, investigate and prosecute complaints from the public or any other source concerning alleged solicitation for remuneration directly or indirectly, overtly or covertly, in cash or in kind, in return for doing their jobs, overlooking violations, approving contracts and applications, misrepresenting or falsifying information on documents filed with the city, and engaging in any other illegal activities;

(f) To conduct any inquiry pertinent or material to the discharge of the functions, powers and duties imposed by law; and through designated members of the staff, to subpoena and enforce the attendance of witnesses, administer oaths, take testimony and compel the production of such books, papers, records and documents as may be relevant to any such inquiry and investigation;

(g) To request from any department, board, bureau, commission or other agency of New York city and state and its political subdivisions, and the same are authorized and directed to provide, such cooperation and assistance, services and data as will enable him or her properly to carry out his or her functions, powers and duties;

(h) To make an annual report to the governor, the attorney general and the legislature concerning such work during the preceding year, and to make such further interim reports to them as they or any of them shall deem advisable or require;

(i) To develop and implement guidelines and procedures for the conduct of investigations and to develop training programs for investigators and other members of the staff; and

(j) To coordinate the activities of his or her office including, but not limited to: inquiries, investigations and prosecutions with the department of investigation and the appropriate district attorney's offices, to the extent practicable, to realize efficiencies and reduce costs to the special prosecutor's office; and

(k) To do all things necessary or convenient to carry out the functions, powers and duties set forth in this act.

5. Any organization, institution, or other person who reports or provides information to the special prosecutor in good faith, and without malice, shall not be subject to an action for civil damages or other relief as the result of such communication. Any such communication shall remain confidential and shall not be disclosed unless consented to or unless ordered by the court.

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