

STATE OF NEW YORK

4070--A

Cal. No. 625

2017-2018 Regular Sessions

IN SENATE

February 2, 2017

Introduced by Sens. KLEIN, ADDABBO, AVELLA, CARLUCCI, SAVINO, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to direct the office of general services to conduct a study to examine, evaluate and make recommendations relating to the establishment of an office of risk assessment and management, and/or expanding the powers and duties of the state chief risk officer

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

1 Section 1. The office of general services, in consultation with the
2 department of law, the department of audit and control, the state insurance fund, the department of financial services, the office of employee
3 relations, the state emergency management office, the state chief risk
4 officer, and the division of budget, shall conduct a study to examine,
5 evaluate and make recommendations concerning the establishment, within
6 the office of general services or any other appropriate state agency, an
7 office of risk assessment and management, and/or expanding the powers
8 and duties of the state chief risk officer. The office of general
9 services, in conducting such study, should direct its attention to at
10 least the following:
11

12 (a) the suggested proposed powers of such office of risk assessment
13 and management, and/or expanding the powers and duties of the state
14 chief risk officer, which may include, but not be limited to, the power
15 to:

16 (1) analyze the potential exposure of the state to liability and
17 financial loss arising from its acts and omissions, from the ownership,
18 control or use of its real and personal property, or the conduct or
19 actions of its employees or agents;

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

LBD03883-05-7

1 (2) establish and coordinate business continuity programs for essen-
2 tial state functions and services;

3 (3) implement risk management programs to manage the state's exposure
4 to risk in the most cost effective manner including, but not limited to,
5 programs to reduce the likelihood and potential cost of loss events, and
6 the purchase of insurance or other risk sharing arrangements where
7 appropriate;

8 (4) analyze the implementation of state and local municipal natural
9 disaster mitigation plans, as provided in article 2-B of the executive
10 law, as it relates to effectively minimizing potential loss, exposure or
11 damage to state and municipal infrastructure, and to real and personal
12 property in coastal areas of the state due to the occurrence of a
13 catastrophic weather event or natural disaster; and

14 (5) coordinate and support the risk management programs of all state
15 agencies;

16 (b) the appointment of the state chief risk officer, who may be
17 appointed and empowered to administer the proposed office of risk
18 assessment and management. With regard to such state chief risk officer,
19 the office of general services should consider:

20 (1) the process for the appointment of the state chief risk officer;

21 (2) the compensation to be paid to the state chief risk officer;

22 (3) the qualifications of the state chief risk officer, which may
23 include, but not be limited to:

24 (A) an understanding of and the ability to apply the generally
25 accepted principles, standards and techniques utilized for the identifi-
26 cation, assessment and management of enterprise risk;

27 (B) possessing sufficient experience in identifying, assessing and
28 managing enterprise risk exposures that present the breadth and level of
29 complexity of issues that can reasonably be expected to be raised during
30 the course of state operations; and

31 (C) having acquired his or her qualifications, through appropriate
32 education and relevant risk management experience on behalf of a commer-
33 cial or governmental organization; and

34 (c) the fulfillment of the functions of the proposed office of risk
35 assessment and management, and/or expanding the powers and duties of the
36 state chief risk officer by conducting a preliminary examination and
37 evaluation, in consultation with the comptroller, the attorney general,
38 the state emergency management office, the department of financial
39 services and the state chief risk officer, of the kinds and scope of
40 risk exposures faced by the state. Such examination and evaluation may
41 include, but not be limited to:

42 (1) the practices and procedures of all state agencies, as they
43 pertain to, impact upon, cause or deter damage or loss to: physical
44 property owned or controlled by the state, or physical injuries
45 sustained by state employees, persons receiving services from the state
46 or members of the general public;

47 (2) the actions, claim settlements, and claim settlement processes
48 related to actions in the court of claims, and in federal and state
49 courts of competent jurisdiction as they relate to the disposition of
50 matters against the state;

51 (3) the essential operations and service functions of the state and
52 local governments, and the kinds of procedures that may be necessary to
53 maintain or restore such normal and regular operations and functions to
54 an appropriate level following a catastrophic weather event, natural
55 disaster or other emergency event;

1 (4) the potential future liabilities arising from existing or proposed
2 state operations or functions;

3 (5) a description on how to prepare an inventory of all real property
4 owned or leased, for a period of time of more than ten years, by all
5 state agencies, and to begin to ascertain how to assess past, present
6 and potential future liability exposures and the nature of those expo-
7 sures; and

8 (6) a description of the kinds of appropriate cost effective tech-
9 niques and programs needed to reduce the cost of the state's exposure to
10 liability and financial loss arising from its operations; and

11 (d) allowing any public benefit corporation, public authority or local
12 government to contract for the services of the proposed state chief risk
13 officer and the office of risk assessment and management in the event
14 that such public benefit corporation, public authority or local govern-
15 ment is without internal risk assessment and enterprise risk management
16 services, or wishes to supplement such internal services with the
17 services provided by the chief risk officer and the office.

18 § 2. In addition to the requirements of section one of this act, the
19 office of general services shall begin to examine, analyze and deter-
20 mine:

21 (a) an estimate of the financial benefits that could be realized by
22 establishing an office of risk assessment and management and/or expand-
23 ing the powers and duties of the state chief risk officer, and the
24 potential reduction in the state's liability exposure;

25 (b) the financial costs and an estimate of the size of the workforce
26 necessary to establish such an office and/or a state chief risk officer
27 with expanded powers and duties;

28 (c) the method or process by which such proposed office could be
29 established and the manner in which such office's operations could be
30 phased in over 5 years; and

31 (d) the method of financing the establishment and operations of the
32 office of risk assessment and management and/or a state chief risk offi-
33 cer with expanded powers and duties, in as much as the initial costs of
34 such office, or officer may not be offset by cost savings and reduction
35 in liability exposure until such office or officer has been in existence
36 for an extended period of time.

37 § 3. Within eighteen months of the effective date of this act, the
38 office of general services shall submit to the governor, the attorney
39 general, the state comptroller, the state emergency management office,
40 the state chief risk officer, the state insurance fund, the department
41 of financial services, the office of employee relations, the division of
42 budget, the temporary president of the senate, the speaker of the assem-
43 bly, the minority leader of the senate and the minority leader of the
44 assembly, a report of its findings, conclusions and recommendations, and
45 shall submit with its report such legislative proposals as it deems
46 necessary to implement its recommendations.

47 § 4. This act shall take effect immediately.