STATE OF NEW YORK

3837--A

2019-2020 Regular Sessions

IN SENATE

February 19, 2019

Introduced by Sens. GOUNARDES, BIAGGI, GIANARIS, KAPLAN, KAVANAGH, MONTGOMERY, RAMOS -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- recommitted to the Committee on Transportation 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 the public authorities law, in relation to membership on the board of the metropolitan transportation authority

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

Section 1. Paragraph (a) of subdivision 1 of section 1263 of the public authorities law, as amended by chapter 549 of the laws of 1994 and subparagraph 1 as amended by section 1 of part E of chapter 39 of the laws of 2019, is amended to read as follows:

(a)(1) There is hereby created the "metropolitan transportation authority." The authority shall be a body corporate and politic constituting a public benefit corporation. The authority shall consist of a [~~chairman~~] **chairperson**, [~~sixteen~~] **twenty** other voting members, and [~~two~~] **three** non-voting [~~and four alternate non-voting members~~], as described in subparagraph two of this paragraph appointed by the governor by and with the advice and consent of the senate. Any member appointed to a term commencing on or after June thirtieth, two thousand nine shall have experience in one or more of the following areas: transportation, public administration, business management, finance, accounting, law, engineering, land use, urban and regional planning, management of large capital projects, labor relations, or have experience in some other area of activity central to the mission of the authority. Four of the [~~sixteen~~] **twenty** voting members other than the [~~chairman~~] **chairperson** shall be appointed on the written recommendation of the mayor of the city of New York; **one of the twenty voting members other than the chairperson shall be appointed on the written recommendation of the New York city transit**

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

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authority advisory council; one of the twenty voting members other than the chairperson shall be appointed on the written recommendation of the Metro-North rail commuter council; one of the twenty voting members other than the chairperson shall be appointed on the written recommendation of the Long Island Rail Road commuter's council; one of the twenty voting members other than the chairperson shall be a New York city transit authority user with a publicly disclosed disability appointed on the written recommendation of the head of an independent living center located in New York city; and each of seven other voting members other than the [~~chairman~~] chairperson shall be appointed after selection from a written list of three recommendations from the chief executive officer of the county in which the particular member is required to reside pursuant to the provisions of this subdivision. Of the members appointed on recommendation of the chief executive officer of a county, one such member shall be, at the time of appointment, a resident of the county of Nassau, one a resident of the county of Suffolk, one a resident of the county of Westchester, one a resident of the county of Dutchess, one a resident of the county of Orange, one a resident of the county of Putnam and one a resident of the county of Rockland, provided that the term of any member who is a resident of a county that has withdrawn from the metropolitan commuter transportation district pursuant to section twelve hundred seventy-nine-b of this title shall terminate upon the effective date of such county's withdrawal from such district. Of the five voting members, other than the [~~chairman~~] chairperson, appointed by the governor without recommendation from any other person, three shall be, at the time of appointment, residents of the city of New York and two shall be, at the time of appointment, residents of such city or of any of the aforementioned counties in the metropolitan commuter transportation district. Provided however, notwithstanding the foregoing residency requirement, one of the five voting members appointed by the governor without recommendation from any other person, other than the [~~chairman~~] chairperson, may be the director of the New York state division of the budget, and provided further that, in the event of such appointment, the budget director's membership in the authority shall be deemed ex-officio. The [~~chairman~~] chairperson and each of the members shall be appointed for a term of six years, provided however, that the [~~chairman~~] chairperson first appointed shall serve for a term ending June thirtieth, nineteen hundred eighty-one, provided that thirty days after the effective date of the chapter of the laws of two thousand nine which amended this subparagraph, the term of the [~~chairman~~] chairperson shall expire; provided, further, that such [~~chairman~~] chairperson may continue to discharge the duties of his or her office until the position of [~~chairman~~] chairperson is filled by appointment by the governor upon the advice and consent of the senate and the term of such new [~~chairman~~] chairperson shall terminate June thirtieth, two thousand fifteen. The [~~sixteen~~] twenty other members first appointed shall serve for the following terms: The members from the counties of Nassau and Westchester shall each serve for a term ending June thirtieth, nineteen hundred eighty-five; the members from the county of Suffolk and from the counties of Dutchess, Orange, Putnam and Rockland shall each serve for a term ending June thirtieth, nineteen hundred ninety-two; two of the members appointed on recommendation of the mayor of the city of New York shall each serve for a term ending June thirtieth, nineteen hundred eighty-four and, two shall each serve for a term ending June thirtieth, nineteen hundred eighty-one; two of the members appointed by the governor without the recommendation of any other person shall each serve for

a term ending June thirtieth, nineteen hundred eighty-two, two shall each serve for a term ending June thirtieth, nineteen hundred eighty and one shall serve for a term ending June thirtieth, nineteen hundred eighty-five; the member appointed by the governor on recommendation of the New York city transit authority advisory council shall serve for a term ending June thirtieth, two thousand twenty-four, and no more than two six-year terms; the member appointed by the governor on recommendation of the Metro-North rail commuter council shall serve for a term ending June thirtieth, two thousand twenty-four, and no more than two six-year terms; the member appointed by the governor on recommendation of the Long Island Rail Road commuter's council shall serve for a term ending June thirtieth, two thousand twenty-four, and no more than two six-year terms; and the member with a publicly disclosed disability appointed on the written recommendation of the head of an independent living center located in New York city shall serve for a term ending June thirtieth, two thousand twenty-four. [~~The two non-voting and four alternate non-voting members shall serve until January first, two thousand one.~~] The members from the counties of Dutchess, Orange, Putnam and Rockland shall cast one collective vote.

(2) There shall be [~~two~~] three non-voting members [~~and four alternate non-voting members~~] of the authority, as referred to in subparagraph one of this paragraph.

The first non-voting member shall be [~~a regular mass transit user of the facilities of the authority and be recommended to the governor by the New York city transit authority advisory council. The first alternate non-voting member shall be a regular mass transit user of the facilities of the authority and be recommended to the governor by the Metro-North commuter council. The second alternate non-voting member shall be a regular mass transit user of the facilities of the authority and be recommended to the governor by the Long Island Rail Road commuter's council.~~

~~The second non-voting member shall be~~] recommended to the governor by the labor organization representing the majority of employees of the Long Island Rail Road. The [~~third alternate~~] second non-voting member shall be recommended to the governor by the labor organization representing the majority of employees of the New York city transit authority. The [~~fourth alternate~~] third non-voting member shall be recommended to the governor by the labor organization representing the majority of employees of the Metro-North Commuter Railroad Company. The [~~chairman~~] chairperson of the authority, at his or her direction, may exclude [~~such~~] any non-voting member [~~or alternate non-voting member~~] from attending any portion of a meeting of the authority or of any committee established pursuant to paragraph (b) of subdivision four of this section held for the purpose of discussing negotiations with labor organizations.

[~~The non-voting member and the two alternate non-voting members representing the New York York city transit authority advisory council, the Metro-North commuter council, and the Long Island Rail Road commuter's council shall serve eighteen month rotating terms, after which time an alternate non-voting member shall become the non-voting member and the rotation shall continue until each alternate member has served at least one eighteen month term as a non-voting member. The other non-voting member and alternate non-voting members representing the New York city transit authority, Metro-North Commuter Railroad Company, and the Long Island Rail Road labor organizations shall serve eighteen month rotating terms, after which time an alternate non-voting~~

~~member shall become the non-voting member and the rotation shall continue until each alternate member has served at least one eighteen month term as a non-voting member. The transit authority and the commuter railroads shall not be represented concurrently by the two non-voting members during any such eighteen month period.~~]

§ 2. Paragraph (a) of subdivision 1 of section 1263 of the public authorities law, as amended by section 2 of part E of chapter 39 of the laws of 2019, is amended to read as follows:

(a) There is hereby created the "metropolitan transportation authority." The authority shall be a body corporate and politic constituting a public benefit corporation. The authority shall consist of a [~~chairman~~] **chairperson** and [~~sixteen~~] **twenty** other members appointed by the governor by and with the advice and consent of the senate. Any member appointed to a term commencing on or after June thirtieth, two thousand nine shall have experience in one or more of the following areas of expertise: transportation, public administration, business management, finance, accounting, law, engineering, land use, urban and regional planning, management of large capital projects, labor relations, or have experience in some other area of activity central to the mission of the authority. Four of the [~~sixteen~~] **twenty** members other than the [~~chairman~~] **chairperson** shall be appointed on the written recommendation of the mayor of the city of New York; **one of the twenty voting members other than the chairperson shall be appointed on the written recommendation of the New York city transit authority advisory council; one of the twenty voting members other than the chairperson shall be appointed on the written recommendation of the Metro-North rail commuter council; one of the twenty voting members other than the chairperson shall be appointed on the written recommendations of the Long Island Rail Road commuter's council; one of the twenty voting members other than the chairperson shall be a New York city transit authority user with a publicly disclosed disability appointed on the written recommendation of the head of an independent living center located in New York city;** and each of seven other members other than the [~~chairman~~] **chairperson** shall be appointed after selection from a written list of three recommendations from the chief executive officer of the county in which the particular member is required to reside pursuant to the provisions of this subdivision. Of the members appointed on recommendation of the chief executive officer of a county, one such member shall be, at the time of appointment, a resident of the county of Nassau; one a resident of the county of Suffolk; one a resident of the county of Westchester; and one a resident of the county of Dutchess, one a resident of the county of Orange, one a resident of the county of Putnam and one a resident of the county of Rockland, provided that the term of any member who is a resident of a county that has withdrawn from the metropolitan commuter transportation district pursuant to section twelve hundred seventy-nine-b of this title shall terminate upon the effective date of such county's withdrawal from such district. Of the five members, other than the [~~chairman~~] **chairperson**, appointed by the governor without recommendation from any other person, three shall be, at the time of appointment, residents of the city of New York and two shall be, at the time of appointment, residents of such city or of any of the aforementioned counties in the metropolitan commuter transportation district. Provided however, notwithstanding the foregoing residency requirement, one of the five voting members appointed by the governor without recommendation from any other person, other than the [~~chairman~~] **chairperson**, may be the director of the New York state division of the budget, and provided further that, in the

event of such appointment, the budget director's membership in the authority shall be deemed ex-officio. The [~~chairman~~] chairperson and each of the members shall be appointed for a term of six years, provided however, that the [~~chairman~~] chairperson first appointed shall serve for a term ending June thirtieth, nineteen hundred eighty-one, provided that thirty days after the effective date of the chapter of the laws of two thousand nine which amended this paragraph, the term of the [~~chairman~~] chairperson shall expire; provided, further, that such [~~chairman~~] chairperson may continue to discharge the duties of his or her office until the position of [~~chairman~~] chairperson is filled by appointment by the governor upon the advice and consent of the senate and the term of such new [~~chairman~~] chairperson shall terminate June thirtieth, two thousand fifteen. The [~~sixteen~~] twenty other members first appointed shall serve for the following terms: The members from the counties of Nassau and Westchester shall each serve for a term ending June thirtieth, nineteen hundred eighty-five; the members from the county of Suffolk and from the counties of Dutchess, Orange, Putnam and Rockland shall each serve for a term ending June thirtieth, nineteen hundred ninety-two; two of the members appointed on recommendation of the mayor of the city of New York shall each serve for a term ending June thirtieth, nineteen hundred eighty-four and, two shall each serve for a term ending June thirtieth, nineteen hundred eighty-one; two of the members appointed by the governor without the recommendation of any other person shall each serve for a term ending June thirtieth, nineteen hundred eighty-two, two shall each serve for a term ending June thirtieth, nineteen hundred eighty and one shall serve for a term ending June thirtieth, nineteen hundred eighty-five; the member appointed by the governor on recommendation of the New York city transit authority advisory council shall serve for a term ending June thirtieth, two thousand twenty-four, and no more than two six-year terms; the member appointed by the governor on recommendation of the Metro-North rail commuter council shall serve for a term ending June thirtieth, two thousand twenty-four, and no more than two six-year terms the member appointed by the governor on recommendation of the Long Island Rail Road commuter's council shall serve for a term ending June thirtieth, two thousand twenty-four, and no more than two six-year terms; and the member appointed by the governor on the written recommendation of the head of an independent living center in New York city shall serve for a term ending June thirtieth, two thousand twenty-four. The members from the counties of Dutchess, Orange, Putnam and Rockland shall cast one collective vote.

§ 3. Subdivision 2 of section 1263 of the public authorities law, as amended by chapter 55 of the laws of 1992, is amended to read as follows:

2. The [~~chairman~~] chairperson and the first vice [~~chairman~~] chairperson shall be paid a salary in the amount determined by the authority; the other members shall not receive a salary or other compensation. Each member, including the [~~chairman~~] chairperson and the first vice [~~chairman~~] chairperson, shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of his or her official duties.

§ 4. Paragraph (a) of subdivision 4 of section 1263 of the public authorities law, as amended by chapter 506 of the laws of 2009, is amended to read as follows:

(a) Notwithstanding any provision of law to the contrary, the [~~chairman~~] chairperson shall be the chief executive officer of the authority and shall be responsible for the discharge of the executive and adminis-

trative functions and powers of the authority. The [~~chairman~~] **chairperson** may appoint an executive director and such other officials and employees as shall in his or her judgment be needed to discharge the executive and administrative functions and powers of the authority.

§ 5. Paragraph (b) of subdivision 4 of section 1263 of the public authorities law, as amended by section 1 of chapter 425 of the laws of 2018, is amended to read as follows:

(b) The [~~chairman~~] **chairperson** shall establish committees to assist him **or her** in the performance of his **or her** duties and shall appoint members of the authority to such committees. Among such committees, there shall be a committee on operations of the New York city transit authority, the Manhattan and Bronx surface transit operating authority and the Staten Island rapid transit operating authority; a committee on operations of the Long Island Rail Road and the metropolitan suburban bus authority; a committee on operations of the Metro-North commuter railroad; a committee on operations of the Triborough bridge and tunnel authority; a committee on finance; a committee on capital program oversight; and a committee on safety. In addition to such appointed members, each of the non-voting members referred to in subparagraph two of paragraph (a) of subdivision one of this section shall serve on the committee on capital program oversight, the committee on finance, the committee on safety, the committee on operations of the Triborough bridge and tunnel authority, and the operations committee relevant to the commuter council that recommended such member. [~~The alternate non-voting members shall each serve on the respective operations committee relevant to the commuter council that recommended each member.~~] The committee on capital program oversight and the committee on safety shall include not less than three members, and shall include the chairpersons of the committee on operations of the New York city transit authority, the Manhattan and Bronx surface transit operating authority and the Staten Island rapid transit operating authority, the committee on operations of the Long Island Rail Road and the metropolitan suburban bus authority, and the committee on operations of the Metro-North commuter railroad. The committee on safety shall convene at least once annually and each committee chairperson, that is a member of the committee on safety, shall report to the committee on safety any and all initiatives, concerns, improvements, or failures involving the safety of: (1) customers; (2) employees; and (3) the public at large, in relation to authority facilities and services. The capital program committee shall, with respect to any approved or proposed capital program plans, (i) monitor the current and future availability of funds to be utilized for such plans approved or proposed to be submitted to the metropolitan transportation capital program review board as provided in section twelve hundred sixty-nine-b of this title; (ii) monitor the contract awards of the metropolitan transportation authority and the New York city transit authority to insure that such awards are consistent with (A) provisions of law authorizing United States content and New York state content; (B) collective bargaining agreements; (C) provisions of law providing for participation by minority and women-owned businesses; (D) New York state labor laws; (E) competitive bidding requirements including those regarding sole source contracts; and (F) any other relevant requirements established by law; (iii) monitor the award of contracts to determine if such awards are consistent with the manner in which the work was traditionally performed in the past provided, however, that any such determination shall not be admissible as evidence in any arbitration or judicial proceeding; (iv) review the relationship between capital

expenditures pursuant to each such capital program plan and current and future operating budget requirements; (v) monitor the progress of capital elements described in each capital program plan approved as provided in section twelve hundred sixty-nine-b of this title; (vi) monitor the expenditures incurred and to be incurred for each such element; and (vii) identify capital elements not progressing on schedule, ascertain responsibility therefor and recommend those actions required or appropriate to accelerate their implementation. The capital program committee shall issue a quarterly report on its activities and findings, and shall in connection with the preparation of such quarterly report, consult with the state division of the budget, the state department of transportation, the members of the metropolitan transportation authority capital program review board and any other group the committee deems relevant, including public employee organizations, and, at least annually, with a nationally recognized independent transit engineering firm. Such report shall be made available to the members of the authority, to the members of the metropolitan transportation authority capital program review board, and the directors of the municipal assistance corporation for the city of New York.

§ 6. Paragraph (b) of subdivision 4 of section 1263 of the public authorities law, as amended by section 2 of chapter 425 of the laws of 2018, is amended to read as follows:

(b) The [~~chairman~~] **chairperson** shall establish committees to assist him **or her** in the performance of his **or her** duties and shall appoint members of the authority to such committees. Among such committees, there shall be a committee on operations of the New York city transit authority, the Manhattan and Bronx surface transit operating authority and the Staten Island rapid transit operating authority; a committee on operations of the Long Island Rail Road and the metropolitan suburban bus authority; a committee on operations of the Metro-North commuter railroad; a committee on operations of the Triborough bridge and tunnel authority; a committee on finance; a committee on capital program oversight; and a committee on safety. The committee on capital program oversight shall include not less than four members, and shall include the chairpersons of the committee on operations of the New York city transit authority, the Manhattan and Bronx surface transit operating authority and the Staten Island rapid transit operating authority, the committee on operations of the Long Island Rail Road and the metropolitan suburban bus authority, the committee on operations of the Metro-North commuter railroad, and the committee on safety. The committee on safety shall convene at least once annually and each committee chairperson, that is a member of the committee on safety, shall report to the committee on safety any and all initiatives, concerns, improvements, or failures involving the safety of: (1) customers; (2) employees; and (3) the public at large, in relation to authority facilities and services. The capital program committee shall, with respect to any approved or proposed capital program plans, (i) monitor the current and future availability of funds to be utilized for such plans approved or proposed to be submitted to the metropolitan transportation capital program review board as provided in section twelve hundred sixty-nine-b of this title; (ii) monitor the contract awards of the metropolitan transportation authority and the New York city transit authority to insure that such awards are consistent with (A) provisions of law authorizing United States content and New York state content; (B) collective bargaining agreements; (C) provisions of law providing for participation by minority and women-owned businesses; (D) New York state labor laws; (E)

competitive bidding requirements including those regarding sole source contracts; and (F) any other relevant requirements established by law; (iii) monitor the award of contracts to determine if such awards are consistent with the manner in which the work was traditionally performed in the past provided, however, that any such determination shall not be admissible as evidence in any arbitration or judicial proceeding; (iv) review the relationship between capital expenditures pursuant to each such capital program plan and current and future operating budget requirements; (v) monitor the progress of capital elements described in each capital program plan approved as provided in section twelve hundred sixty-nine-b of this title; (vi) monitor the expenditures incurred and to be incurred for each such element; and (vii) identify capital elements not progressing on schedule, ascertain responsibility therefor and recommend those actions required or appropriate to accelerate their implementation. The capital program committee shall issue a quarterly report on its activities and findings, and shall in connection with the preparation of such quarterly report, consult with the state division of the budget, the state department of transportation, the members of the metropolitan transportation authority capital program review board and any other group the committee deems relevant, including public employee organizations, and, at least annually, with a nationally recognized independent transit engineering firm. Such report shall be made available to the members of the authority, to the members of the metropolitan transportation authority capital program review board, and the directors of the municipal assistance corporation for the city of New York.

§ 7. Paragraphs (c) and (d) of subdivision 4 of section 1263 of the public authorities law, paragraph (c) as added by chapter 247 of the laws of 1990, paragraph (d) as added by section 5 of part H of chapter 25 of the laws of 2009, are amended to read as follows:

(c) The [~~chairman~~] **chairperson** shall ensure that at every meeting of the board and at every meeting of each committee the public shall be allotted a period of time, not less than thirty minutes, to speak on any topic on the agenda.

(d) Notwithstanding paragraph (c) of subdivision one of section twenty-eight hundred twenty-four of this chapter or any other provision of law to the contrary, the [~~chairman~~] **chairperson** shall not participate in establishing authority policies regarding the payment of salary, compensation and reimbursement to, nor establish rules for the time and attendance of, the chief executive officer. The salary of the [~~chairman~~] **chairperson**, as determined pursuant to subdivision two of this section, shall also be compensation for all services performed as chief executive officer.

§ 8. This act shall take effect immediately; provided that the amendments to paragraph (a) of subdivision 1 of section 1263 of the public authorities law made by section one of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 3 of chapter 549 of the laws of 1994, as amended, when upon such date the provisions of section two of this act shall take effect; and provided further that the amendments to paragraph (b) of subdivision 4 of section 1263 of the public authorities law made by section five of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 3 of chapter 549 of the laws of 1994, as amended, when upon such date the provisions of section six of this act shall take effect.