STATE OF NEW YORK

4501

2023-2024 Regular Sessions

IN ASSEMBLY

February 16, 2023

Introduced by M. of A. EPSTEIN -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to establishing the empire state performance commission in the executive department for the purpose of designing and advising the governor and the legislature on the implementation of a performance-management and performance-budgeting system

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

Section 1. Short title. This act shall be known and may be cited as the "empire state performance commission act".

§ 2. Legislative intent. New York's lack of a comprehensive performance-budgeting scheme for state-funded programs often leads to irregular appropriation practices and rigid across-the-board cuts, without regard to the programs' effectiveness. A performance-management and performance-budgeting system that ties program funding to the results the programs achieve would provide lawmakers with more flexibility in making budget decisions and provide the public with a means by which they can evaluate how their tax dollars are being spent.

The legislature recognizes that implementing and maintaining a comprehensive system of performance-management and performance-budgeting is a complicated process that will require cooperation between the legislative and executive branches in order to be successful. Unilaterally imposing performance-management and performance-budgeting requirements on executive agencies would likely be unproductive and ineffective. Reforming the state budget process requires careful deliberation that includes feedback from the various stakeholders in the process, including the public.

This legislation creates a blue ribbon commission that will be charged with designing a performance-management and performance-budgeting model for New York to adopt. The commission is structured to elicit input from

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

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both houses of the legislature, the governor, executive agencies, and the public. Additionally, it is expected that the commission will consult with performance-management and/or performance-budgeting experts, other state governments, and/or academic research on performance-management and performance-budgeting. The intent of the legislature in creating this commission is to have legislation ready for passage in 2023 that implements a performance-management and performance-budgeting system starting with the 2025-2026 budget.

§ 3. The executive law is amended by adding a new article 49-C to read as follows:

ARTICLE 49-C

EMPIRE STATE PERFORMANCE COMMISSION

Section 996. Empire state performance commission; purpose.
996-a. Membership; terms; chair and vice chair.
996-b. Duties of the commission.
996-c. Deliberations of the commission; advisory committees.
996-d. Staff; cooperation and assistance.

§ 996. Empire state performance commission; purpose. The empire state performance commission is established as a blue ribbon commission in the executive department. The purpose of the commission is to design and advise the governor and the legislature on the implementation of a performance-management and performance-budgeting system. When used in this article, the term "performance-management" means a management system consisting of strategic planning, strategic performance and productivity measurement, program evaluation, and performance budgeting, and the term "performance-budgeting" means a systemic incorporation of planning, strategic performance and productivity measurement, and program evaluation information into the budgetary process.

§ 996-a. Membership; terms; chair and vice chair. 1. The commission shall be composed of fifteen members that include six legislative members and nine non-legislative members as follows:

(a) the governor;
(b) the comptroller;
(c) the speaker of the assembly;
(d) the minority leader of the assembly;
(e) the chair of the assembly ways and means committee;
(f) the temporary president of the senate;
(g) the minority leader of the senate;
(h) the chair of the senate finance committee;
(i) one non-legislative citizen member appointed by the speaker of the assembly;
(j) one non-legislative citizen member appointed by the temporary president of the senate;
(k) the director of the division of the budget;
(l) two executive department heads appointed by the governor; and
(m) two non-legislative citizen members appointed by the governor.

2. The legislative leaders shall submit their appointments to the governor, and the governor shall make his or her appointments, no later than thirty days after the effective date of this article. If any such appointment is not made by such date, the appointing officer may make the appointment after that date, but the vacant appointment shall not count for calculation of a quorum until it is filled. The governor and the comptroller shall serve on the commission coincident with their terms of office. Legislative members, the director of the division of the budget, and the two executive department heads appointed by the governor shall serve on the commission coincident with their holding

their respective positions. In the event that a legislative member holds more than one of the positions listed in subdivision one of this section, such legislative member shall designate another legislative member or members, as applicable, to serve as the representative for the other position or positions. Non-legislative citizen members shall be appointed for a term ending one year subsequent to the effective date of this article, or June first, two thousand twenty-four, whichever is later. Vacancies shall be filled in the same manner as the original appointments. The governor shall serve as the chair of the commission. The commission shall elect a vice chair from its membership.

3. The members of the commission shall receive no compensation for their services as members, but shall be allowed their actual and necessary expenses incurred in the performance of their duties. Members of the commission shall be considered public officers for purposes of section seventeen of the public officers law.

§ 996-b. Duties of the commission. The commission shall have the following duties:

1. Design a performance-management and performance-budgeting system for the state which may include, but is not limited to, the following:

(a) strategic planning;

(b) performance measurement;

(c) program evaluation;

(d) uniform standards for measuring, compiling, and reporting performance information;

(e) a website or other appropriate means for disseminating information about the performance-management and performance-budgeting system to the public; and

(f) a continuing oversight and advisory role for the commission.

2. Establish a timetable for phasing in and establishing a performance-management and performance-budgeting system.

3. Provide advice on the implementation of the performance-management and performance-budgeting system across state government.

4. Recommend a systematic process for the periodic evaluation of the performance-management and performance-budgeting system which provides for enhanced opportunities for public participation and input.

5. Solicit public input on appropriate aspects of performance-management and performance-budgeting as determined by the commission.

6. On or before March first, two thousand twenty-four, the commission shall recommend to the governor and the legislature legislation implementing a performance-management and performance-budgeting system for the state starting with fiscal year two thousand twenty--five--two thousand twenty-six. At the same time, the commission shall submit to the governor and the legislature a summary report of the activity and findings of the commission. The commission shall dissolve at the expiration of one year subsequent to the effective date of this article, or June first, two thousand twenty-four, whichever is later.

§ 996-c. Deliberations of the commission; advisory committees. 1. The commission shall meet at least four times. The meetings of the commission shall be held at the call of the chair or whenever five or more members so request. A majority of members of the commission shall constitute a quorum. Approval of any matter shall require the affirmative vote of a majority of the members voting thereon. Members may designate and authorize another person to act for him or her by proxy. Proxies shall be revocable at the pleasure of the member executing it.

2. The deliberations, meetings and other proceedings of the commission and any committee thereof shall be governed by article seven of the

public officers law. Any one or more members may participate in a meeting by means of a conference telephone, conference video or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting. At any meetings of the commission conducted by means of a conference telephone, conference video or similar communications equipment, other than executive sessions, the public shall be given an opportunity to listen. If a meeting other than an executive session is to be conducted by means of a conference telephone, conference video or similar communications equipment, the public notice for the meeting shall inform the public that such equipment will be used, and identify the means by which the public may listen to such meeting.

3. The commission may form such advisory committees as it deems necessary, convenient, or desirable to advise and assist in performing the duties conferred by this article.

§ 996-d. Staff; cooperation and assistance. 1. The division of the budget shall provide staff assistance to the commission. Additional assistance as needed shall be provided by the staffs of the assembly ways and means committee and the senate finance committee. All agencies, authorities, and institutions of the state shall cooperate and provide such assistance to the commission as the commission may request.

2. The chair, in consultation with the commission, may hire or appoint an executive director for the commission if deemed necessary.

§ 4. This act shall take effect immediately.