



MEMO IN SUPPORT

A8053 (González-Rojas)

Establishes Commission to Study COVID-19 Pandemic Response

November 15, 2023

TITLE OF BILL

An act to amend the public health law, in relation to establishing a COVID-19 pandemic response study commission.

SUMMARY OF PROVISIONS

Section 1 adds definitions of “COVID-19 pandemic” and “commission” to Public Health Law §2180.

Section 2 adds a new §2184 to Public Health Law. Subsection a establishes a COVID-19 pandemic response study commission. Subsection b provides that it shall consist of 16 members:

- Eight, including the chair, appointed by the Governor (3);
- Three each appointed by the Senate and Assembly majority leaders (6; and
- One each appointed by the Senate and Assembly minority leaders (2).
- The Department of Health and Department of Homeland Security and Emergency Services shall serve as non-voting members.
- At least half of the commissioners selected by elected officials shall be chosen pursuant to the recommendations in subsection c.

Subsection c provides that the health commissioner shall consult with with the commissioner of the Division of Homeland Security and Emergency Services, the county health commissioners, the NYC commissioner of Health and Mental Hygiene, local health officers, and the deans of the schools of public health in New York State to solicit

recommendations for appointment to the commission. The commissioners shall advise the appointers of the recommendations received.

Subsection d states that a majority of the commission shall constitute a quorum, and that the commission may act by a vote of the majority of the total number of members on the commission.

Subsection e states that all members shall be selected on the basis of their expertise in relevant fields such as public health. At least one member shall have experience with the health needs of underserved communities disproportionately affected by COVID-19.

Other sections provide that:

- Commissioners shall not be compensated except for actual and necessary related expenses (f);
- The commission may request and receive assistance, including financial assistance, from local, state, and federal government entities in carrying out its functions (g);
- The commission's scope is all aspects of pandemic response (management of hospitals, designation of essential businesses, nursing home transfers, etc.) (Subsection 2(a));
- The commission shall conduct studies and hold public hearings, including at least one on its preliminary report(s) (2(b));
- The commission shall issue one or more preliminary reports on its findings and recommendations, the first within one year after the commission's initial meeting, with the report(s) posted on the department's website (2(c));
- Within 18 months of its first meeting, the commission shall issue a final report, also published on the department's website (2(d));
- The commission's proceedings will be subject to the Freedom of Information and Open Meetings Laws (2(e));
- The commission has the authority to hire employees and execute contracts (2-f);
- The commission may conduct/solicit scientific research (2(g)); and
- For its purposes, the commission shall have access to state records and documents, including confidential materials, and may interview witnesses, issue subpoenas, and refer matters for prosecution, while also protecting patient confidentiality (2(h)).

Section 3 states that the commission shall be deemed expired 60 days after issuing its final report, though the Governor may continue the commission's existence through executive orders.

Section 4 states that the bill takes effect immediately, and shall be repealed after the issuance of the final report.

STATEMENT OF SUPPORT

Our groups support this bill because we believe it will save lives and help provide greater accountability of our state government's response to the COVID-19 pandemic.

To date, more than 75,000 New Yorkers have lost their lives to the COVID-19 pandemic. Given the massive loss of life, the state has an obligation to have an independent commission review what went wrong, why, and what can be done to prevent it from happening again in the future, just as the National Transportation Safety Board does after a plane crash.

Last year, the Governor's office hired Olson Group Ltd., an emergency management firm, to conduct its own review. While this is a step forward, Olson Group does not have full access to state records or subpoena power, severely limiting what the review can achieve. Additionally, the firm was selected by the Governor's office, rather than a broader segment of stakeholders, and no public hearings are required to be held on its findings. Establishing a commission with subpoena powers and greater independence, as this bill proposes, will give the state a better understanding of what transpired and recommendations to improve future pandemic responses.

We urge the Legislature to pass this bill.