

1717

2015-2016 Regular Sessions

I N   S E N A T E

January 14, 2015

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Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the town law, in relation to the office of town comptroller

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Paragraph (a) of subdivision 1 of section 20 of the town  
2 law, as amended by chapter 252 of the laws of 1990, is amended to read  
3 as follows:  
4     (a) Every town of the first class shall have a supervisor, four town  
5 councilmen, unless the number of councilmen shall have been increased to  
6 six or decreased to two as provided by this chapter, a town clerk, two  
7 town justices, a town superintendent of highways, one assessor, a  
8 receiver of taxes and assessments, A TOWN COMPTROLLER, as many town  
9 policemen and such other employees as the town board may determine  
10 necessary for the proper conduct of the affairs of the town. The super-  
11 visor, town councilmen, town clerk, town justices, town superintendent  
12 of highways and receiver of taxes and assessments in every such town  
13 shall be elective. All other officers and employees in such a town shall  
14 be appointed by the town board, except as otherwise provided by law. In  
15 any town in which a town police department has been established pursuant  
16 to law, or which town is a part of a county police district, the town  
17 board may appoint not more than four civil officers who shall possess  
18 all the powers and duties of constables in civil actions and proceedings  
19 only, and shall be paid no salary by the town board but shall be enti-  
20 tled to collect the statutory fees allowed by law in such civil actions  
21 and proceedings. The clerk of the court of a town shall be employed and  
22 discharged from employment only upon the advice and consent of the town  
23 justice or justices.

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

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1 S 2. Paragraphs (b) and (d) of subdivision 3 of section 20 of the town  
2 law, as amended by chapter 131 of the laws of 1955, are amended to read  
3 as follows:

4 (b) (1) The town board of any town of the first class[, or any town of  
5 the second class having a population of over forty thousand according to  
6 the latest federal census or state enumeration, may adopt a resolution  
7 establishing the office of town comptroller and] SHALL appoint a town  
8 comptroller who shall hold office until the first day of January next  
9 succeeding the first biennial town election held after the time of his  
10 OR HER appointment. On the first day of January next succeeding the  
11 first biennial town election held after the time of the establishment of  
12 such office, and biennially thereafter, the town board shall appoint a  
13 comptroller who shall hold office for a term of two years. [The town  
14 board of any town in which the office of town comptroller shall have  
15 been established may adopt a resolution abolishing such office and upon  
16 the expiration of the term of office of the incumbent such office shall  
17 be abolished and no successor shall be appointed.]

18 (2) THE TOWN BOARD OF ANY TOWN OF THE SECOND CLASS HAVING A POPULATION  
19 OF OVER FORTY THOUSAND ACCORDING TO THE LATEST FEDERAL CENSUS OR STATE  
20 ENUMERATION MAY ADOPT A RESOLUTION ESTABLISHING THE OFFICE OF TOWN COMP-  
21 TROLLER AND APPOINT A TOWN COMPTROLLER WHO SHALL HOLD OFFICE UNTIL THE  
22 FIRST DAY OF JANUARY NEXT SUCCEEDING THE FIRST BIENNIAL TOWN ELECTION  
23 HELD AFTER THE TIME OF HIS OR HER APPOINTMENT. ON THE FIRST DAY OF JANU-  
24 ARY NEXT SUCCEEDING THE FIRST BIENNIAL TOWN ELECTION HELD AFTER THE TIME  
25 OF THE ESTABLISHMENT OF SUCH OFFICE, AND BIENNIALY THEREAFTER, THE TOWN  
26 BOARD SHALL APPOINT A COMPTROLLER WHO SHALL HOLD OFFICE FOR A TERM OF  
27 TWO YEARS. THE TOWN BOARD OF ANY TOWN IN WHICH THE OFFICE OF TOWN COMP-  
28 TROLLER SHALL HAVE BEEN ESTABLISHED MAY ADOPT A RESOLUTION ABOLISHING  
29 SUCH OFFICE AND UPON THE EXPIRATION OF THE TERM OF OFFICE OF THE INCUM-  
30 BENT SUCH OFFICE SHALL BE ABOLISHED AND NO SUCCESSOR SHALL BE APPOINTED.

31 (d) The town board of any town [which has established the office of]  
32 IN WHICH THERE IS A town comptroller pursuant to the provisions of para-  
33 graph (b) of this subdivision, may establish the office of deputy comp-  
34 troller and fix the salary therefor; and the town board of any such town  
35 in which such office shall have been established may abolish such  
36 office. It shall be the duty of the deputy comptroller to assist the  
37 comptroller in the performance of his OR HER duties and if and when the  
38 comptroller is absent or is unable to perform the duties of his OR HER  
39 office for any other reason, such deputy shall have full power and  
40 authority to perform all the duties of the comptroller so long as such  
41 officer is either absent or otherwise incapable of performing his OR HER  
42 duties.

43 S 3. Subdivision 3 of section 29 of the town law, as amended by chap-  
44 ter 245 of the laws of 1973, is amended to read as follows:

45 3. Shall disburse such moneys only by checks payable to the person or  
46 persons entitled thereto, which checks shall[, if the town board  
47 requires such countersignature,] be countersigned by the town clerk, or  
48 by the comptroller in towns [where the office of] IN WHICH THERE IS A  
49 town comptroller [has been established]. When authorized by resolution  
50 of the town board, such checks may be signed with the facsimile signa-  
51 ture of the supervisor or other town officer whose signature is  
52 required, as reproduced by a machine or device commonly known as a  
53 checksigner. By resolution duly adopted, the town board may determine to  
54 enter into a contract to provide for the deposit of the periodic payroll  
55 of the town in a bank or trust company for disbursement by it in accordance  
56 with provisions of section ninety-six-b of the banking law.

1 S 4. Subdivision 9 of section 30 of the town law, as added by chapter  
2 500 of the laws of 1945, is amended to read as follows:

3 9. Except in towns [where the office of] IN WHICH THERE IS A town  
4 comptroller [has been created] the town clerk, when required by resol-  
5 ution of its town board, shall countersign all checks required to be  
6 signed by the supervisor.

7 S 5. Section 34 of the town law, as amended by chapter 105 of the laws  
8 of 1960, subdivision 2 as amended by chapter 1049 of the laws of 1969,  
9 is amended to read as follows:

10 S 34. Powers and duties of town comptroller. 1. In any town in which  
11 [the office of] THERE IS A town comptroller [shall have been estab-  
12 lished] and a town comptroller shall have been appointed and shall have  
13 qualified, the powers of the town board of that town with respect to  
14 auditing, allowing or rejecting all accounts, charges, claims or demands  
15 against the town or the improvement districts thereof and with respect  
16 to the examining, auditing and certification of accounts and receipts of  
17 town officers, and making provision for preparing and publishing or  
18 posting lists of all such accounts, charges, claims or demands after the  
19 audit or rejection thereof, including the powers conferred and duties  
20 imposed upon the town board in relation to auditing and approving  
21 certain claims pursuant to sections two hundred eighty-four and two  
22 hundred eighty-five of the highway law, shall devolve upon and thereaft-  
23 er be exercised by such town comptroller, during the continuance of such  
24 office; and with respect to the powers so conferred and the duties so  
25 imposed he OR SHE shall be the town board of the town during the contin-  
26 uance of such office. The comptroller[, when required by resolution of  
27 the town board,] shall countersign all checks required to be signed by  
28 the supervisor. The comptroller shall annually audit the fiscal affairs  
29 of each improvement district in said town operating under article thir-  
30 teen of this chapter and report thereon in writing to the town board.

31 2. In any town in which [the office of] THERE IS A town comptroller  
32 [shall have been established] and a town comptroller shall have been  
33 appointed and shall have qualified, [the town board may by ordinance  
34 provide that either or both of] the following powers conferred and  
35 duties imposed upon the supervisor under section one hundred twenty-five  
36 of this chapter shall devolve upon and be exercised by such town comp-  
37 troller during the continuance of such office: (a) the keeping of sepa-  
38 rate appropriation accounts and preventing funds or appropriation  
39 accounts from being overdrawn; [or] AND (b) the drawing upon funds or  
40 appropriations, provided the counter-signature of the supervisor shall  
41 be required. The town comptroller shall furnish to the supervisor such  
42 information and data as the supervisor may require for the purpose of  
43 enabling him OR HER to exercise his OR HER powers and perform his OR HER  
44 duties or make reports required by law.

45 S 6. Section 124 of the town law, as amended by chapter 390 of the  
46 laws of 1983, is amended to read as follows:

47 S 124. Designation of the comptroller as accounting officer. 1. (A)  
48 Notwithstanding any other provision of this chapter, [the town board of  
49 a town in which the office of comptroller has been established may, by  
50 resolution, determine that such officer] IN A TOWN OF THE FIRST CLASS  
51 THE COMPTROLLER shall be the accounting officer of the town[. In such  
52 event,] AND all of the accounting duties of the town supervisor shall be  
53 transferred to and be performed by the comptroller.

54 (B) NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE TOWN  
55 BOARD OF A TOWN OF THE SECOND CLASS IN WHICH THE OFFICE OF COMPTROLLER  
56 HAS BEEN ESTABLISHED MAY, BY RESOLUTION, DETERMINE THAT SUCH OFFICER

1 SHALL BE THE ACCOUNTING OFFICER OF THE TOWN, IN SUCH EVENT, ALL OF THE  
2 ACCOUNTING DUTIES OF THE TOWN SUPERVISOR SHALL BE TRANSFERRED TO AND BE  
3 PERFORMED BY THE COMPTROLLER.

4 2. In addition to keeping detailed accounting records, the comptroller  
5 shall prepare and transmit to the town clerk the report required by  
6 subdivision ten or, if the town board shall so determine, the report  
7 required by subdivision ten-a of section twenty-nine of this chapter.  
8 He OR SHE shall also render to the town board the detailed monthly  
9 statement required by section one hundred twenty-five of this chapter,  
10 and shall prepare and submit to the state department of audit and  
11 control the report required by section thirty of the general municipal  
12 law.

13 3. Notwithstanding any other provision of the highway law, social  
14 services law, or this chapter, no money shall be paid out by the super-  
15 visor except upon the warrant of the town comptroller. Every officer  
16 required to submit a monthly statement to the town supervisor pursuant  
17 to subdivision one of section twenty-seven of this chapter shall furnish  
18 a copy thereof to the town comptroller.

19 4. Nothing in this section shall be construed to relieve the town  
20 supervisor of his OR HER duties as treasurer of the town pursuant to  
21 subdivisions one, two, three and four of section twenty-nine of this  
22 chapter.

23 S 7. This act shall take effect immediately.