STATE OF NEW YORK

3869

2017-2018 Regular Sessions

IN ASSEMBLY

January 30, 2017

Introduced by M. of A. LAVINE -- read once and referred to the Committee on Ways and Means

AN ACT authorizing the comptroller to appoint a state monitor to oversee the town of Oyster Bay and establishing the powers and duties of the state monitor; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. Definitions. For the purposes of this act:

(a) "State monitor" or "monitor" shall mean the person appointed pursuant to section two of this act, or an interim person appointed to such position.

(b) "Board" shall mean the town board of the town of Oyster Bay.

(c) "Supervisor" shall mean the supervisor of the town of Oyster Bay.

§ 2. Appointment. (a) The comptroller shall appoint a state monitor to provide direct oversight of the fiscal policies, practices, programs and decisions of the town of Oyster Bay, the town board and the supervisor, within ninety days following the effective date of this act. The comptroller shall provide the monitor with technical support and assistance for the purposes of carrying out his or her duties under this act, if requested by the state monitor. The state monitor shall serve at the pleasure of the comptroller.

(b) The comptroller shall have the authority to appoint a state monitor on an interim basis during the search for a permanent appointment and in the event of resignation, death, incapacity, or any other reason which causes the monitor to be unable to perform his or her duties and until such time as a permanent state monitor is appointed. Any state monitor appointed on an interim basis shall have the powers and duties of the state monitor contained in this act.

(c) The state monitor, including his or her staff, shall be paid a fixed salary set by the comptroller and shall be reimbursed for actual

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

LBD06651-01-7

expenses incurred in the performance of his or her duties including travel and supplies. The costs associated with the implementation of this act shall be borne by the town of Oyster Bay.

(d) Notwithstanding any other provision of general or special law, the earnings limitations contained in any such general or special law, local law and/or charter and applicable to the employment of persons in a position or positions in public service in any calendar year while retired and receiving a retirement allowance shall not apply to any appointment authorized by this act. If applicable, the state monitor may continue as retired and without loss, suspension or diminution of his or her retirement allowance provided that such individual is granted a waiver of retirement earnings limitation by the comptroller.

(e) For the purposes of this act, the state monitor and his or her staff shall be considered state employees as defined in the public officers law.

§ 3. State monitor powers. The state monitor shall have the power to:

(a) Propose a resolution or course of action to be considered by the town board or supervisor if the state monitor finds that such resolution or course of action is necessary in order to carry out his or her duties required by this act and is necessary for the fiscal stability of the town. If such resolution or course of action is proposed, the board must vote on the proposed resolution or course of action within fourteen days of receiving such resolution, or at the next regularly scheduled board meeting.

(b) Review and make recommendations on the operation, management, efficiency and productivity of the relevant municipality and any subsidiary organization.

(c) Issue bonds.

(d) Consult with the locality during the budget-making process and make recommendations. The monitor shall have the authority to approve or reject budgets and required multi-year financial plans.

(e) Comment on the proposed borrowings and collective bargaining agreements.

(f) Override decisions by the board or supervisor if he or she finds that such override is necessary in order to carry out his or her duties required by this act and is necessary for the fiscal stability of the town. The state monitor may override a decision by the board or supervisor by issuing a directive, which must include specific findings as to the necessity of such override. The board may appeal the state monitor's override in accordance with section five of this act.

(g) Access all town documents and records. Town personnel shall provide any and all documents requested by the state monitor or his or her designee without charge, and the state monitor shall have access to all electronic information systems, databases, and planning documents. The monitor shall maintain the security and confidentiality of all information protected from disclosure by federal or state law or regulation.

(h) Direct the board and supervisor to undergo any training as deemed necessary and pursuant to timelines established by the state monitor.

(i) Hire staff necessary to assist in carrying out the state monitor's duties required by this act, subject to a staffing plan approved by the comptroller.

(j) Hold public hearings or forums on town fiscal matters as he or she deems necessary.

(k) Conduct any relevant studies, reports, and reviews of town fiscal matters.

§ 4. State monitor duties. The state monitor shall have the following duties:

(a) Develop and implement a five-year strategic fiscal improvement plan in consultation with the comptroller and the board within six months from the date of appointment.

1. The monitor shall hold at least one public hearing within the town, prior to the certification of the plan by the state monitor, for the purpose of presenting the contents of the improvement plan and seeking public comment on its contents. The supervisor shall ensure that notice for the public hearing or hearings are posted in a manner to maximize the participation of residents.

2. The plan must establish a set of goals with appropriate benchmarks and measurable objectives and identify strategies to address areas where improvements are needed in financial stability.

3. The plan shall be publicly available at least fourteen days before the hearing or hearings at which it will be presented and the supervisor shall ensure that copies thereof shall be prepared and made available, upon request, to residents within the town.

4. Following the hearing or hearings held pursuant to paragraph one of this subdivision, but prior to certification of the improvement plan by the state monitor, the state monitor shall publicly report to the board an assessment of all public comments concerning the proposed plan and a description of any changes made to such plan as a result of public comments received. The certified plan must be submitted to the board, comptroller, governor, the temporary president of the senate, and the speaker of the assembly.

(b) Attend all meetings of the board including executive sessions. The state monitor, or designee of the monitor, shall be deemed to be a non-voting member of the board and shall be entitled to sit with board members at all meetings of the board and participate in all board hearings and meetings, and the supervisor shall be required to provide adequate notice to the state monitor of all such meetings and hearings. The state monitor shall ensure to the extent practicable that the board conducts all meetings, including executive sessions, in compliance with article 7 of the public officers law, and shall be authorized to seek written advisory opinions from the committee on open government.

(c) Supervise the fiscal and operational management of the town, including, but not limited to, oversight over the development of the annual budget.

(d) Submit an annual report to the board, comptroller, governor, the temporary president of the senate, and the speaker of the assembly on the progress of the strategic fiscal improvement plan, actions undertaken by the monitor, any financial information the monitor deems appropriate, and other town matters of importance. At the conclusion of the monitor's appointment as determined by section seven of this act, the state monitor shall issue a final report that includes long term recommendations that address the unique needs of the town.

§ 5. Appeal process for monitor decisions. Notwithstanding any other law, rule or regulation to the contrary, all decisions made by the state monitor, including decisions to overturn board and supervisor actions, shall be final and conclusive unless and until modified or reversed in an appeal to the comptroller pursuant to this section. When the board alleges that a reversal of a board or supervisor decision by the state monitor violates the regulations of the comptroller, or the terms of a certified five-year strategic fiscal improvement plan, the board may appeal by petition to the comptroller.

§ 6. Regulations. The comptroller shall be authorized to promulgate regulations and immediately take such other actions as necessary to implement the provisions of this act.

§ 7. Appointment period. The appointment of the state monitor shall be for a period of at least five years from the initial date of the state monitor appointment. At the expiration of the initial appointment period, the comptroller shall have the authority to extend the appointment for an additional period of time in intervals of one to five years, as determined by the comptroller. The appointment may be extended, for a term or terms as the comptroller deems necessary, consistent with the repeal date of this act.

§ 8. This act shall take effect immediately and shall expire and be deemed repealed December 31, 2026.