

# STATE OF NEW YORK

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2308

2017-2018 Regular Sessions

## IN SENATE

January 13, 2017

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

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:

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

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

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

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

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

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

22 (c) The state monitor, including his or her staff, shall be paid a  
23 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.

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

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

13 (e) For the purposes of this act, the state monitor and his or her  
14 staff shall be considered state employees as defined in the public offi-  
15 cers law.

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

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

25 (b) Review and make recommendations on the operation, management,  
26 efficiency and productivity of the relevant municipality and any subsid-  
27 iary organization.

28 (c) Issue bonds.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40     (d) Submit an annual report to the board, comptroller, governor, the  
41 temporary president of the senate, and the speaker of the assembly on  
42 the progress of the strategic fiscal improvement plan, actions undertak-  
43 en by the monitor, any financial information the monitor deems appropri-  
44 ate, and other town matters of importance. At the conclusion of the  
45 monitor's appointment as determined by section seven of this act, the  
46 state monitor shall issue a final report that includes long term recom-  
47 mendations that address the unique needs of the town.

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

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

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

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