

STATE OF NEW YORK

10745

IN ASSEMBLY

July 9, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Thiele) --
read once and referred to the Committee on Corporations, Authorities
and Commissions

AN ACT to amend the public authorities law and the not-for-profit corpo-
ration law, in relation to reviews by the authority budget office and
granting the authorities budget office the authority to commence an
action or special proceeding to annul the corporate existence or
dissolve a corporation that has acted beyond its capacity or power or
to restrain it from carrying on unauthorized activities

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

1 Section 1. The public authorities law is amended by adding a new
2 section 8 to read as follows:

3 § 8. Reports of public authorities by authorities budget office;
4 recommendations for corrective action. Whenever the authorities budget
5 office issues a letter or report regarding the activities and operations
6 of any public authority, the head of the public authority which the
7 letter or report was about shall submit a written response to the letter
8 or report within thirty days of the receipt of the letter or report. If
9 the letter or report makes recommendations for corrective action, such
10 head shall report within one hundred eighty days after receipt thereof
11 to the authorities budget office what steps were taken to implement such
12 recommendations, and, where recommendations were not implemented, the
13 reasons therefor. Failure to comply with the provisions of this section
14 shall make the authority delinquent in its reporting requirements.

15 § 2. Subdivision 3 of section 2800 of the public authorities law, as
16 amended by chapter 766 of the laws of 2005, is amended to read as
17 follows:

18 3. Every financial report submitted under this section shall be
19 approved by the board and shall be certified, under penalty of perjury,
20 in writing by the chief executive officer and the chief financial offi-
21 cer of such authority that based on the officer's knowledge (a) the
22 information provided therein is accurate, correct and does not contain
23 any untrue statement of material fact; (b) does not omit any material

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

LBD15673-02-0

1 fact which, if omitted, would cause the financial statements to be
2 misleading in light of the circumstances under which such statements are
3 made; and (c) fairly presents in all material respects the financial
4 condition and results of operations of the authority as of, and for, the
5 periods presented in the financial statements. A knowing and willful
6 violation of this section shall constitute perjury in the third degree.

7 § 3. Subdivision 2 of section 2824 of the public authorities law, as
8 added by section 766 of the laws of 2005, is amended to read as follows:

9 2. (a) Individuals appointed to the board of a public authority shall
10 participate in state approved training regarding their legal, fiduciary,
11 financial and ethical responsibilities as directors of an authority
12 within one year of appointment to a board. Board members shall partic-
13 ipate in such continuing training as may be required to remain informed
14 of best practices, regulatory and statutory changes relating to the
15 effective oversight of the management and financial activities of public
16 authorities and to adhere to the highest standards of responsible gover-
17 nance.

18 (b) Except as otherwise provided in this chapter, a member in non-com-
19 pliance with the requirements set forth in this section shall be subject
20 to the enforcement powers of the authorities budget office, including
21 but not limited to removal from the board of said public authority. If
22 an individual appointed to the board of a public authority does not
23 complete their state approved training pursuant to paragraph (a) of this
24 subdivision the authority budget office shall notify said individual of
25 their official suspension as a board member. The suspension shall be for
26 a period of three months and shall commence with receipt of official
27 notice of the suspension by the authorities budget office. The suspen-
28 sion shall be terminated if such individual completes the required
29 training within the three month suspension period. If such individual
30 fails to complete the required training within the three month suspen-
31 sion period, the authorities budget office may remove the individual
32 from the public authority board.

33 (c) An individual that has been removed from a public authority board
34 by the authorities budget office pursuant to paragraph (b) of this
35 subdivision, may only be reinstated to that public authority board once
36 they provide the authorities budget office with official notice confirm-
37 ing the training requirements set forth in paragraph (a) of this subdivi-
38 vision have been met.

39 § 4. Section 104 of the not-for-profit corporation law is amended by
40 adding a new paragraph (h) to read as follows:

41 (h) If an instrument which is delivered to the department of state for
42 filing relates to municipal economic development, is a not-for-profit
43 corporation created pursuant to section fourteen hundred eleven of this
44 chapter or if such instrument may be deemed a local authority as defined
45 by subdivision two of section two of the public authorities law, the
46 department of state shall review, make, certify and transmit electron-
47 ically a copy of each such instrument relating to local economic devel-
48 opment to the authorities budget office.

49 § 5. Paragraphs (i) and (j) of subdivision 2 of section 6 of the
50 public authorities law, as added by chapter 506 of the laws of 2009, are
51 amended and a new paragraph (k) is added to read as follows:

52 (i) compel any authority which is deemed to be in non-compliance with
53 this title and title one of this article or article nine of this chapter
54 to submit to the authorities budget office a detailed explanation of
55 such failure to comply; ~~and~~

1 (j) commence a special proceeding in supreme court, when it does not
2 receive from a state or local authority upon request information, books,
3 records or other documentation necessary to perform its duties, seeking
4 an order directing the production of the same[-]; and

5 (k) commence an action or special proceeding to annul the corporate
6 existence or dissolve a corporation that has acted beyond its capacity
7 or power or to restrain it from carrying on unauthorized activities.

8 § 6. This act shall take effect on the ninetieth day after it shall
9 have become a law.