STATE OF NEW YORK

1150

2019-2020 Regular Sessions

IN SENATE

January 11, 2019

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:

Section 1. Paragraph (a) of subdivision 1 of section 20 of the town law, as amended by chapter 252 of the laws of 1990, is amended to read as follows:

(a) Every town of the first class shall have a supervisor, four town councilmen, unless the number of councilmen shall have been increased to six or decreased to two as provided by this chapter, a town clerk, two town justices, a town superintendent of highways, one assessor, a receiver of taxes and assessments, **a town comptroller,** as many town policemen and such other employees as the town board may determine necessary for the proper conduct of the affairs of the town. The supervisor, town councilmen, town clerk, town justices, town superintendent of highways and receiver of taxes and assessments in every such town shall be elective. All other officers and employees in such a town shall be appointed by the town board, except as otherwise provided by law. In any town in which a town police department has been established pursuant to law, or which town is a part of a county police district, the town board may appoint not more than four civil officers who shall possess all the powers and duties of constables in civil actions and proceedings only, and shall be paid no salary by the town board but shall be entitled to collect the statutory fees allowed by law in such civil actions and proceedings. The clerk of the court of a town shall be employed and discharged from employment only upon the advice and consent of the town justice or justices.

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

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

(b) **(1)** The town board of any town of the first class[~~, or any town of the second class having a population of over forty thousand according to the latest federal census or state enumeration, may adopt a resolution establishing the office of town comptroller and~~] **shall** appoint a town comptroller who shall hold office until the first day of January next succeeding the first biennial town election held after the time of his **or her** appointment. On the first day of January next succeeding the first biennial town election held after the time of the establishment of such office, and biennially thereafter, the town board shall appoint a comptroller who shall hold office for a term of two years. [~~The town board of any town in which the office of town comptroller shall have been established may adopt a resolution abolishing such office and upon the expiration of the term of office of the incumbent such office shall be abolished and no successor shall be appointed.~~]

(2) The town board of any town of the second class having a population of over forty thousand according to the latest federal census or state enumeration may adopt a resolution establishing the office of town comptroller and appoint a town comptroller who shall hold office until the first day of January next succeeding the first biennial town election held after the time of his or her appointment. On the first day of January next succeeding the first biennial town election held after the time of the establishment of such office, and biennially thereafter, the town board shall appoint a comptroller who shall hold office for a term of two years. The town board of any town in which the office of town comptroller shall have been established may adopt a resolution abolishing such office and upon the expiration of the term of office of the incumbent such office shall be abolished and no successor shall be appointed.

(d) The town board of any town [~~which has established the office of~~] **in which there is a** town comptroller pursuant to the provisions of paragraph (b) of this subdivision, may establish the office of deputy comptroller and fix the salary therefor; and the town board of any such town in which such office shall have been established may abolish such office. It shall be the duty of the deputy comptroller to assist the comptroller in the performance of his **or her** duties and if and when the comptroller is absent or is unable to perform the duties of his **or her** office for any other reason, such deputy shall have full power and authority to perform all the duties of the comptroller so long as such officer is either absent or otherwise incapable of performing his **or her** duties.

§ 3. Subdivision 3 of section 29 of the town law, as amended by chapter 245 of the laws of 1973, is amended to read as follows:

3. Shall disburse such moneys only by checks payable to the person or persons entitled thereto, which checks shall[~~, if the town board requires such countersignature,~~] be countersigned by the town clerk, or by the comptroller in towns [~~where the office of~~] **in which there is a** town comptroller [~~has been established~~]. When authorized by resolution of the town board, such checks may be signed with the facsimile signature of the supervisor or other town officer whose signature is required, as reproduced by a machine or device commonly known as a checksigner. By resolution duly adopted, the town board may determine to enter into a contract to provide for the deposit of the periodic payroll of the town in a bank or trust company for disbursal by it in accordance with provisions of section ninety-six-b of the banking law.

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

9. Except in towns [~~where the office of~~] in which there is a town comptroller [~~has been created~~] the town clerk, when required by resolution of its town board, shall countersign all checks required to be signed by the supervisor.

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

§ 34. Powers and duties of town comptroller. 1. In any town in which [~~the office of~~] there is a town comptroller [~~shall have been established~~] and a town comptroller shall have been appointed and shall have qualified, the powers of the town board of that town with respect to auditing, allowing or rejecting all accounts, charges, claims or demands against the town or the improvement districts thereof and with respect to the examining, auditing and certification of accounts and receipts of town officers, and making provision for preparing and publishing or posting lists of all such accounts, charges, claims or demands after the audit or rejection thereof, including the powers conferred and duties imposed upon the town board in relation to auditing and approving certain claims pursuant to sections two hundred eighty-four and two hundred eighty-five of the highway law, shall devolve upon and thereafter be exercised by such town comptroller, during the continuance of such office; and with respect to the powers so conferred and the duties so imposed he or she shall be the town board of the town during the continuance of such office. The comptroller[~~, when required by resolution of the town board,~~] shall countersign all checks required to be signed by the supervisor. The comptroller shall annually audit the fiscal affairs of each improvement district in said town operating under article thirteen of this chapter and report thereon in writing to the town board.

2. In any town in which [~~the office of~~] there is a town comptroller [~~shall have been established~~] and a town comptroller shall have been appointed and shall have qualified, [~~the town board may by ordinance provide that either or both of~~] the following powers conferred and duties imposed upon the supervisor under section one hundred twenty-five of this chapter shall devolve upon and be exercised by such town comptroller during the continuance of such office: (a) the keeping of separate appropriation accounts and preventing funds or appropriation accounts from being overdrawn; [~~or~~] and (b) the drawing upon funds or appropriations, provided the counter-signature of the supervisor shall be required. The town comptroller shall furnish to the supervisor such information and data as the supervisor may require for the purpose of enabling him or her to exercise his or her powers and perform his or her duties or make reports required by law.

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

§ 124. Designation of the comptroller as accounting officer. 1. (a) Notwithstanding any other provision of this chapter, [~~the town board of a town in which the office of comptroller has been established may, by resolution, determine that such officer~~] in a town of the first class the comptroller shall be the accounting officer of the town[~~. In such event,~~] and all of the accounting duties of the town supervisor shall be transferred to and be performed by the comptroller.

(b) Notwithstanding any other provision of this chapter, the town board of a town of the second class in which the office of comptroller has been established may, by resolution, determine that such officer

shall be the accounting officer of the town, In such event, all of the accounting duties of the town supervisor shall be transferred to and be performed by the comptroller.

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

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

4. Nothing in this section shall be construed to relieve the town supervisor of his **or her** duties as treasurer of the town pursuant to subdivisions one, two, three and four of section twenty-nine of this chapter.

§ 7. This act shall take effect immediately.