

# STATE OF NEW YORK

8659

## IN SENATE

July 1, 2020

Introduced by Sen. GAUGHRAN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the public authorities law and the not-for-profit corporation 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 Assembly, 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  
24 fact which, if omitted, would cause the financial statements to be

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

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

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

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

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

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

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

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

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

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

55 (j) commence a special proceeding in supreme court, when it does not  
56 receive from a state or local authority upon request information, books,

1 records or other documentation necessary to perform its duties, seeking  
2 an order directing the production of the same[-]; and  
3 (k) commence an action or special proceeding to annul the corporate  
4 existence or dissolve a corporation that has acted beyond its capacity  
5 or power or to restrain it from carrying on unauthorized activities.  
6 § 6. This act shall take effect on the ninetieth day after it shall  
7 have become a law.