STATE OF NEW YORK

5306

2021-2022 Regular Sessions

IN SENATE

March 1, 2021

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the executive law, in relation to granting the legislature the authority to direct the attorney-general to inquire into matters concerning the public peace, public safety and public justice

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

Section 1. Subdivision 8 of section 63 of the executive law, as amended by chapter 451 of the laws of 1977, is amended to read as follows:

8. **(a)** Whenever in his **or her** judgment the public interest requires it, the attorney-general may, with the approval of the governor, and when directed by the governor, shall, inquire into matters concerning the public peace, public safety and public justice. For such purpose he **or she** may, in his **or her** discretion, and without civil service examination, appoint and employ, and at pleasure remove, such deputies, officers and other persons as he **or she** deems necessary, determine their duties and, with the approval of the governor, fix their compensation. All appointments made pursuant to this [~~subdivision~~] **paragraph** shall be immediately reported to the governor, and shall not be reported to any other state officer or department. Payments of salaries and compensation of officers and employees and of the expenses of the inquiry shall be made out of funds provided by the legislature for such purposes, which shall be deposited in a bank or trust company in the names of the governor and the attorney-general, payable only on the draft or check of the attorney-general, countersigned by the governor, and such disbursements shall be subject to no audit except by the governor and the attorney-general. The attorney-general, his **or her** deputy, or other officer, designated by him **or her**, is empowered to subpoena witnesses, compel their attendance, examine them under oath before himself **or herself** or a

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

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magistrate and require that any books, records, documents [~~or~~], papers, or electronic communications or records relevant or material to the inquiry be turned over to him or her for inspection, examination or audit, pursuant to the civil practice law and rules. If a person subpoenaed to attend upon such inquiry fails to obey the command of a subpoena without reasonable cause, or if a person in attendance upon such inquiry shall, without reasonable cause, refuse to be sworn or to be examined or to answer a question or to produce a book [~~or~~], paper, or electronic communication or record, when ordered so to do by the officer conducting such inquiry, he or she shall be guilty of a misdemeanor. It shall be the duty of all public officers, their deputies, assistants and subordinates, clerks and employees, and all other persons, to render and furnish to the attorney-general, his or her deputy or other designated officer, when requested, all information and assistance in their possession and within their power. Each deputy or other officer appointed or designated to conduct such inquiry shall make a weekly report in detail to the attorney-general, in form to be approved by the governor and the attorney-general, which report shall be in duplicate, one copy of which shall be forthwith, upon its receipt by the attorney-general, transmitted by him or her to the governor. Any officer participating in such inquiry and any person examined as a witness upon such inquiry who shall disclose to any person other than the governor or the attorney-general the name of any witness examined or any information obtained upon such inquiry, except as directed by the governor or the attorney-general, shall be guilty of a misdemeanor.

(b) Provided, further, that the legislature shall be empowered to direct the attorney-general by concurrent resolution to inquire into matters concerning the public peace, public safety and public justice. For such purposes the attorney-general may, in his or her discretion, and without civil service examination, appoint and employ, and at pleasure remove, such deputies, officers and other persons as he or she deems necessary, determine their duties and, with the approval of the legislature, fix their compensation. All appointments made pursuant to this paragraph shall be immediately reported to the temporary president of the senate and the speaker of the assembly and shall not be reported to any other state officer or department. Payments of salaries and compensation of officers and employees and of the expenses of the inquiry shall be made out of funds provided by the legislature for such purposes, which shall be deposited in a bank or trust company in the names of the temporary president of the senate, the speaker of the assembly, and the attorney-general, payable only on the draft or check of the attorney-general, countersigned by the temporary president of the senate and the speaker of the assembly, and such disbursements shall be subject to no audit except by the legislature and the attorney-general. The attorney-general, his or her deputy, or other officer, designated by him or her, is empowered to subpoena witnesses, compel their attendance, examine them under oath before him or her or a magistrate and require that any books, records, documents, papers, or electronic communications or records relevant or material to the inquiry be turned over to him or her for inspection, examination or audit, pursuant to the civil practice law and rules. If a person subpoenaed to attend upon such inquiry fails to obey the command of a subpoena without reasonable cause, or if a person in attendance upon such inquiry shall, without reasonable cause, refuse to be sworn or to be examined or to answer a question or to produce a book, paper, or electronic communication or record when ordered to do so by the officer conducting such inquiry, he or she shall

be guilty of a misdemeanor. It shall be the duty of all public officers, their deputies, assistants and subordinates, clerks and employees, and all other persons, to render and furnish to the attorney-general, his or her deputy or other designated officer, when requested, all information and assistance in their possession and within their power. Each deputy or other officer appointed or designated to conduct such inquiry shall make a weekly report in detail to the attorney-general, in a form to be approved by the legislature and the attorney-general, which report shall be in duplicate, one copy of which shall be forthwith, upon its receipt by the attorney-general, transmitted by him or her to the temporary president of the senate and the speaker of the assembly. Any officer participating in such inquiry and any person examined as a witness upon such inquiry who shall disclose to any person other than the legislature or the attorney-general the name of any witness examined or any information obtained upon such inquiry, except as directed by the legislature or the attorney-general, shall be guilty of a misdemeanor. The investigation described in this paragraph shall be entirely free from interference from the governor or any other state agency or official. The attorney-general and legislature shall be under no obligation to disclose any information pertaining to such investigation with any such agency or official and shall be empowered to take additional steps not prescribed by this paragraph to shield the investigation from attempts to influence such investigation which they deem unwarranted and inappropriate.

§ 2. This act shall take effect immediately.