STATE OF NEW YORK

8175

2021-2022 Regular Sessions

IN ASSEMBLY

July 7, 2021

Introduced by M. of A. EPSTEIN -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the public officers law, the public authorities law, the general municipal law and the New York state urban development corporation act, in relation to prohibiting a person employed by the governor in the executive chamber or employed as a lobbyist from being appointed to a position that requires approval of the senate

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

Section 1. Section 3 of the public officers law is amended by adding a new subdivision 1-b to read as follows:

1-b. No person who is serving as a state officer or employee in the executive chamber of the governor, or person who is a lobbyist registered under a state or local law, or person registered as a lobbyist pursuant to article one-A of the legislative law, shall within the period of such service or employment be appointed by the governor to any board, agency or capacity that would require such nomination to be approved by the senate.

§ 2. Subdivision 1 and the opening paragraph of subdivision 2 of section 2825 of the public authorities law, subdivision 1 as amended by chapter 766 of the laws of 2005 and the opening paragraph of subdivision 2 as amended by chapter 174 of the laws of 2010, are amended to read as follows:

1. No public officer or employee shall be ineligible for appointment as a trustee or member of the governing body of a state or local authority, as defined in section two of this chapter, and any public officer or employee may accept such appointment and serve as such trustee or member without forfeiture of any other public office or position of public employment by reason thereof**, provided, however, that a public officer or employee serving in the executive chamber of the governor shall be ineligible for any such appointment**.

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

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Except for members who serve as members by virtue of holding a civil office of the state, [~~the majority of~~] the remaining members of the governing body of every state or local authority shall be independent members; provided, however, that this provision shall apply to appointments made on or after the effective date of chapter seven hundred sixty-six of the laws of two thousand five which added this subdivision. The official or officials having the authority to appoint or remove such remaining members shall take such actions as may be necessary to satisfy this requirement and further, shall consider the prospective diversity of the members of a state authority when making their determinations to appoint any member. For the purposes of this section, an independent member is one who:

§ 3. Paragraph (a) of subdivision 1 and subdivisions 2 and 4 of section 856 of the general municipal law, paragraph (a) of subdivision 1 and subdivision 4 as added by chapter 1030 of the laws of 1969 and subdivision 2 as amended by chapter 356 of the laws of 1993, are amended and a new subdivision 5 is added to read as follows:

(a) Upon the establishment of an industrial development agency by special act of the legislature, the governing body of the municipality for whose benefit such agency is established shall file within six months after the effective date of the special act of the legislature establishing such agency or before the first day of July, nineteen hundred sixty-nine, whichever date shall be later, in the office of the secretary of state, a certificate setting forth: (1) the date of passage of the special act establishing the agency; (2) the name of the agency; (3) the names of the members and their terms of office, specifying which member is the [~~chairman~~] **chairperson**; and (4) facts establishing the need for the establishment of an agency in such municipality.

2. An agency shall be a corporate governmental agency, constituting a public benefit corporation. Except as otherwise provided by special act of the legislature, an agency shall consist of not less than three nor more than seven members who shall be appointed by the governing body of each municipality and who shall serve at the pleasure of the appointing authority. Such members may include representatives of local government, school boards, organized labor and business. A member shall continue to hold office until his **or her** successor is appointed and has qualified. The governing body of each municipality shall designate the first [~~chairman~~] **chairperson** and file with the secretary of state a certificate of appointment or reappointment of any member. Such members shall receive no compensation for their services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of their duties.

4. Any one or more of the members of an agency may be an official or an employee of the municipality. In the event that an official or an employee of the municipality shall be appointed as a member of the agency, acceptance or retention of such appointment shall not be deemed a forfeiture of his **or her** municipal office or employment, or incompatible therewith or affect his **or her** tenure or compensation in any way. The term of office of a member of an agency who is an official or an employee of the municipality when appointed as a member thereof by special act of the legislature creating the industrial development agency shall terminate at the expiration of the term of his **or her** municipal office.

5. No person who is serving as a public officer or employee in the executive chamber of the governor, or person who is a lobbyist registered under a state or local law, or a person registered as a lobbyist pursuant to article one-A of the legislative law, shall within the peri-

od of such service or employment be appointed to serve on any industrial development agency.

§ 4. Subdivision 1 of section 4 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by chapter 280 of the laws of 1984 and as further amended by section 104 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

(1) There is hereby created the New York state urban development corporation. The corporation shall be a corporate governmental agency of the state, constituting a political subdivision and public benefit corporation. Its membership shall consist of nine directors as follows: the superintendent of financial services, the [~~chairman~~] chairperson of the New York state science and technology foundation, and seven directors to be appointed by the governor with the advice and consent of the senate. No public officer or employee serving in the executive chamber of the governor shall be eligible for such appointment within the period of their service. From the seven directors appointed by [~~him,~~] the governor, he or she shall designate the [~~chairman~~] chairperson of the corporation and two others who shall all serve at the pleasure of the governor. Of the four remaining directors, one of such directors first appointed by the governor after the effective date of this subdivision as amended shall serve for a term ending January first next succeeding his or her appointment, one of such directors shall serve for a term ending one year from such date, one of such directors shall serve for a term ending two years from such date, and one of such directors shall serve for a term ending three years from such date. Their successors shall serve for terms of four years each. Directors shall continue in office until their successors have been appointed and qualified. In the event of a vacancy occurring in the office of a director by death, resignation or otherwise, the governor shall appoint a successor with the advice and consent of the senate to serve for the balance of the unexpired term. The governor shall appoint the president of the corporation, with the advice and consent of the senate, who shall be the chief executive officer of the corporation and who shall serve at the pleasure of the governor. Such president may be one of the directors appointed by the governor.

§ 5. This act shall take effect immediately.