

STATE OF NEW YORK

8391

2021-2022 Regular Sessions

IN ASSEMBLY

October 20, 2021

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

AN ACT to amend the executive law, in relation to establishing the commission on public officer investigation

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

1 Section 1. The executive law is amended by adding a new section 63-e
2 to read as follows:

3 § 63-e. Commission on public officer investigation. 1. There is estab-
4 lished within the department of law the commission on public officer
5 investigation which shall undertake a comprehensive review of matters
6 concerning the public peace, public safety and public justice and the
7 alleged commission of an indictable offense by certain public officials.
8 After such review, if the commission has found a substantial basis to
9 conclude that an individual has violated the law of this state, the
10 commission shall authorize a full investigation by the attorney general.

11 2. When the commission receives a complaint alleging a violation of
12 the law of this state by statewide elected officials, members of the
13 legislature, employees of the legislature, state officers and employees,
14 as defined in sections seventy-three and seventy-three-a of the public
15 officers law and candidates for statewide elected office, or if the
16 commission determines on its own initiative to review a possible
17 violation, the commission shall notify the individual in writing,
18 describe the alleged violation of law, provide a description of the
19 allegation and the evidence, if any, supporting such allegation and
20 provide the individual with a ten day period in which to submit a writ-
21 ten response, including any evidence, statements and proposed witnesses
22 relating to the activities cited as an alleged violation of law. The
23 commission shall, within fourteen days after a complaint is received or
24 a review is commenced on the commission's own initiative, vote on wheth-
25 er a substantial basis exists to conclude that an individual has

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

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1 violated the law of this state. If at least seven members of the commis-
2 sion vote in favor of the existence of a substantial basis, a full
3 investigation of the matter by the attorney general shall be authorized.

4 3. Upon the vote of at least seven members of the commission that a
5 substantial basis exists to conclude that an individual has violated the
6 law of this state, the commission shall authorize a full investigation
7 by the attorney general. Written notice of such authorization shall
8 immediately be provided to the attorney general along with a report
9 detailing the review by the commission. If the commission determines at
10 any stage that there is no violation or that any potential violation has
11 been rectified, it shall advise the individual and the complainant, if
12 any, in writing within five days of such decision.

13 4. The jurisdiction of the commission when acting pursuant to this
14 section shall continue notwithstanding that a statewide elected official
15 or a state officer or employee or member of the legislature or legisla-
16 tive employee separates from state service or a candidate ceases to be a
17 candidate, provided that the commission notifies such individual of the
18 alleged violation of law within one year from his or her separation from
19 state service or his or her termination of candidacy.

20 5. The commission shall consist of thirteen members who shall possess
21 knowledge or experience in criminal law or law enforcement and who shall
22 be appointed as follows: five members shall be appointed by the tempo-
23 rary president of the senate, four members shall be appointed by the
24 speaker of the assembly, two members shall be appointed by the minority
25 leader of the senate and two members shall be appointed by the minority
26 leader of the assembly.

27 6. Members of the commission shall receive a per diem allowance for
28 each day spent in the performance of his or her duties under this arti-
29 cle, and, in addition thereto, shall be reimbursed for all reasonable
30 expenses actually and necessarily incurred by him or her in the perform-
31 ance of his or her duties under this section.

32 7. Members of the commission shall serve for terms of five years. Any
33 vacancy occurring on the commission shall be filled within thirty days
34 of its occurrence in the same manner as the member whose vacancy is
35 being filled was appointed. A person appointed to fill a vacancy occur-
36 ring other than by expiration of a term of office shall be appointed for
37 the unexpired term of the member he or she succeeds.

38 8. The commission shall have jurisdiction to investigate but shall
39 have no jurisdiction to impose penalties for any violation of the law of
40 this state.

41 9. To effectuate the purposes of this section, the commission may
42 request and shall receive from the department and any other agency,
43 department, division, board, bureau or commission of the state, or any
44 political subdivision thereof, such assistance, information and data as
45 will enable the commission to properly carry out its powers and duties
46 as described in this section.

47 § 2. Subdivision 3 of section 63 of the executive law, as amended by
48 chapter 155 of the laws of 2012, is amended to read as follows:

49 3. Upon request of the governor, comptroller, secretary of state,
50 commissioner of transportation, superintendent of financial services,
51 commissioner of taxation and finance, commissioner of motor vehicles, or
52 the state inspector general, or the head of any other department,
53 authority, division or agency of the state, or upon authorization by the
54 commission on public officer investigation created pursuant to section
55 63-e of this article, investigate the alleged commission of any indicta-
56 ble offense or offenses in violation of the law which the officer making

1 the request is especially required to execute or in relation to any
2 matters connected with such department, and [~~to~~] prosecute the person or
3 persons believed to have committed the same and any crime or offense
4 arising out of such investigation or prosecution or both, including but
5 not limited to appearing before and presenting all such matters to a
6 grand jury.

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

9 8. Whenever in his or her judgment the public interest requires it,
10 the attorney-general may, with the approval of the governor, and when
11 directed by the governor or the commission on public officer investi-
12 gation created pursuant to section 63-e of this article, shall, inquire
13 into matters concerning the public peace, public safety and public
14 justice. For such purpose he or she may, in his or her discretion, and
15 without civil service examination, appoint and employ, and at pleasure
16 remove, such deputies, officers and other persons as he or she deems
17 necessary, determine their duties and, with the approval of the gover-
18 nor, fix their compensation. All appointments made pursuant to this
19 subdivision shall be immediately reported to the governor, and shall not
20 be reported to any other state officer or department. Payments of sala-
21 ries and compensation of officers and employees and of the expenses of
22 the inquiry shall be made out of funds provided by the legislature for
23 such purposes, which shall be deposited in a bank or trust company in
24 the names of the governor and the attorney-general, payable only on the
25 draft or check of the attorney-general, countersigned by the governor,
26 and such disbursements shall be subject to no audit except by the gover-
27 nor and the attorney-general. The attorney-general, his or her deputy,
28 or other officer, designated by him or her, is empowered to subpoena
29 witnesses, compel their attendance, examine them under oath before
30 himself, herself or a magistrate and require that any books, records,
31 documents or papers relevant or material to the inquiry be turned over
32 to him or her for inspection, examination or audit, pursuant to the
33 civil practice law and rules. If a person subpoenaed to attend upon such
34 inquiry fails to obey the command of a subpoena without reasonable
35 cause, or if a person in attendance upon such inquiry shall, without
36 reasonable cause, refuse to be sworn or to be examined or to answer a
37 question or to produce a book or paper, when ordered so to do by the
38 officer conducting such inquiry, he or she shall be guilty of a misde-
39 meanor. It shall be the duty of all public officers, their deputies,
40 assistants and subordinates, clerks and employees, and all other
41 persons, to render and furnish to the attorney-general, his or her depu-
42 ty or other designated officer, when requested, all information and
43 assistance in their possession and within their power. Each deputy or
44 other officer appointed or designated to conduct such inquiry shall make
45 a weekly report in detail to the attorney-general, in form to be
46 approved by the governor and the attorney-general, which report shall be
47 in duplicate, one copy of which shall be forthwith, upon its receipt by
48 the attorney-general, transmitted by him or her to the governor. Any
49 officer participating in such inquiry and any person examined as a
50 witness upon such inquiry who shall disclose to any person other than
51 the governor or the attorney-general the name of any witness examined or
52 any information obtained upon such inquiry, except as directed by the
53 governor or the attorney-general, shall be guilty of a misdemeanor.

54 § 4. This act shall take effect immediately.