

# STATE OF NEW YORK

452

2023-2024 Regular Sessions

## IN ASSEMBLY

January 9, 2023

Introduced by M. of A. EPSTEIN, GONZALEZ-ROJAS, DAVILA, GLICK -- 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:

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

3 1-b. No person who is serving as a state officer or employee in the  
4 executive chamber of the governor, or person who is a lobbyist regis-  
5 tered under a state or local law, or person registered as a lobbyist  
6 pursuant to article one-A of the legislative law, shall within the peri-  
7 od of such service or employment be appointed by the governor to any  
8 board, agency or capacity that would require such nomination to be  
9 approved by the senate.

10 § 2. Subdivision 1 and the opening paragraph of subdivision 2 of  
11 section 2825 of the public authorities law, subdivision 1 as amended by  
12 chapter 766 of the laws of 2005 and the opening paragraph of subdivision  
13 2 as amended by chapter 174 of the laws of 2010, are amended to read as  
14 follows:

15 1. No public officer or employee shall be ineligible for appointment  
16 as a trustee or member of the governing body of a state or local author-  
17 ity, as defined in section two of this chapter, and any public officer  
18 or employee may accept such appointment and serve as such trustee or  
19 member without forfeiture of any other public office or position of  
20 public employment by reason thereof, provided, however, that a public  
21 officer or employee serving in the executive chamber of the governor  
22 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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1 Except for members who serve as members by virtue of holding a civil  
2 office of the state, [~~the majority of~~] the remaining members of the  
3 governing body of every state or local authority shall be independent  
4 members; provided, however, that this provision shall apply to appoint-  
5 ments made on or after the effective date of chapter seven hundred  
6 sixty-six of the laws of two thousand five which added this subdivision.  
7 The official or officials having the authority to appoint or remove such  
8 remaining members shall take such actions as may be necessary to satisfy  
9 this requirement and further, shall consider the prospective diversity  
10 of the members of a state authority when making their determinations to  
11 appoint any member. For the purposes of this section, an independent  
12 member is one who:

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

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

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

43 4. Any one or more of the members of an agency may be an official or  
44 an employee of the municipality. In the event that an official or an  
45 employee of the municipality shall be appointed as a member of the agen-  
46 cy, acceptance or retention of such appointment shall not be deemed a  
47 forfeiture of his or her municipal office or employment, or incompatible  
48 therewith or affect his or her tenure or compensation in any way. The  
49 term of office of a member of an agency who is an official or an employ-  
50 ee of the municipality when appointed as a member thereof by special act  
51 of the legislature creating the industrial development agency shall  
52 terminate at the expiration of the term of his or her municipal office.

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

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

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

8 (1) There is hereby created the New York state urban development  
9 corporation. The corporation shall be a corporate governmental agency of  
10 the state, constituting a political subdivision and public benefit  
11 corporation. Its membership shall consist of nine directors as follows:  
12 the superintendent of financial services, the [~~chairman~~] chairperson of  
13 the New York state science and technology foundation, and seven direc-  
14 tors to be appointed by the governor with the advice and consent of the  
15 senate. No public officer or employee serving in the executive chamber  
16 of the governor shall be eligible for such appointment within the period  
17 of their service. From the seven directors appointed by [~~him,~~] the  
18 governor, he or she shall designate the [~~chairman~~] chairperson of the  
19 corporation and two others who shall all serve at the pleasure of the  
20 governor. Of the four remaining directors, one of such directors first  
21 appointed by the governor after the effective date of this subdivision  
22 as amended shall serve for a term ending January first next succeeding  
23 his or her appointment, one of such directors shall serve for a term  
24 ending one year from such date, one of such directors shall serve for a  
25 term ending two years from such date, and one of such directors shall  
26 serve for a term ending three years from such date. Their successors  
27 shall serve for terms of four years each. Directors shall continue in  
28 office until their successors have been appointed and qualified. In the  
29 event of a vacancy occurring in the office of a director by death,  
30 resignation or otherwise, the governor shall appoint a successor with  
31 the advice and consent of the senate to serve for the balance of the  
32 unexpired term. The governor shall appoint the president of the corpo-  
33 ration, with the advice and consent of the senate, who shall be the  
34 chief executive officer of the corporation and who shall serve at the  
35 pleasure of the governor. Such president may be one of the directors  
36 appointed by the governor.

37 § 5. This act shall take effect immediately.