

STATE OF NEW YORK

5621

2023-2024 Regular Sessions

IN ASSEMBLY

March 17, 2023

Introduced by M. of A. ZEBROWSKI, COLTON, STIRPE, GOODELL -- Multi-Sponsored by -- M. of A. LUPARDO -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the public officers law and the criminal procedure law, in relation to the withholding of salaries of elected officials who have been indicted on charges of any crimes related to their public office

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

Section 1. Article 8 of the public officers law, as renumbered by chapter 511 of the laws of 1976, is renumbered article 9 and a new article 8 is added to read as follows:

ARTICLE 8

WITHHOLDING SALARY OF ELECTED OFFICIALS

Section 112. Definitions.

113. Terms and conditions.

114. Withholding of salary payments.

§ 112. Definitions. As used in this article:

1. "Elected officials" means every officer who is elected by electors of the state or officer who is elected by a political party.

2. "Crimes related to public office" means any of the following criminal offenses whether committed in this state or in any other jurisdiction by an elected official through the use of his or her public office or by the individual representing that he or she was acting with the authority of any governmental entity, and acting as an elected official:

a. a felony for committing, aiding or abetting a larceny of public funds from the state or a municipality;

b. a felony committed in direct connection with service as an elected official; or

c. a felony committed by such person who, with the intent to defraud, realizes or obtains, or attempts to realize or obtain, a profit, gain or

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

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1 advantage for himself or herself or for some other person, through the
2 use or attempted use of the power, rights, privileges or duties of his
3 or her position as an elected official.

4 § 113. Terms and conditions. Notwithstanding any other law to the
5 contrary, it shall be a term and condition of holding public elected
6 office in the state of New York that all elected officials' salary
7 payments are subject to the provisions of this article.

8 § 114. Withholding of salary payments. 1. a. Upon notification of an
9 indictment pursuant to section 190.95 of the criminal procedure law, the
10 public employer of an elected official, who has been indicted on charges
11 of any crimes related to their public office, shall withhold such
12 elected official's salary payments. If such elected official seeks
13 another public office or another public employment position while under
14 indictment, it shall be the burden of the elected official to notify
15 their new public employer of their indictment. This section shall apply
16 for all salary payments while employed as an elected official, official
17 or employee of the state or local government.

18 b. A public employer shall notify the elected official of such salary
19 payment withholding and provide them with a copy of notification of the
20 indictment pursuant to section 190.95 of the criminal procedure law.

21 2. Upon notification, the public employer or employers of an elected
22 official facing charges of crimes related to their public office that
23 has had such charges dismissed, acquitted or have been found not guilty
24 by trial jury, shall promptly pay the withheld salary payments to the
25 elected official within sixty days.

26 3. Upon a plea of guilty, or by conviction after trial to crimes
27 related to public office of an elected official, the withheld salary
28 payments shall not be paid and returned. Such withheld payments shall be
29 deposited into the public employer's general fund.

30 4. A public employer shall provide the elected official with a
31 detailed accounting of the withheld salary payments following the
32 conclusion of an indictment pursuant to subdivision two or three of this
33 section.

34 § 2. The criminal procedure law is amended by adding a new section
35 190.95 to read as follows:

36 § 190.95 Grand jury; notification of indictment in certain cases.

37 Upon the indictment of an elected official on crimes related to public
38 office, as defined in section one hundred twelve of the public officers
39 law, the grand jury shall direct the district attorney to notify the
40 elected official's public employer of the indictment. The district
41 attorney shall notify the public employer no later than thirty days
42 following the indictment.

43 § 3. The criminal procedure law is amended by adding a new section
44 220.52 to read as follows:

45 § 220.52 Notice of entry of guilty plea involving an elected official.

46 The court shall notify the public employer or employers of a defend-
47 ant, who is facing crimes related to their public office as an elected
48 official as defined in section one hundred twelve of the public officers
49 law, that has entered a guilty plea to a count or counts of an indict-
50 ment of a crime that was related to their public office. The court shall
51 notify such defendant's public employer or employers of the entry of a
52 guilty plea within thirty days.

53 § 4. The criminal procedure law is amended by adding a new section
54 310.90 to read as follows:

55 § 310.90 Verdict; notification in certain cases.

1 The verdict of the jury involving a defendant, who at the time of the
2 criminal act in question was an elected official and the crimes were
3 related to their public office, shall be transmitted by the court to the
4 defendant's public employer or employers within thirty days.

5 § 5. Section 290.10 of the criminal procedure law is amended by adding
6 a new subdivision 5 to read as follows:

7 5. Upon issuing a trial order of dismissal for a defendant, who at the
8 time of the criminal act or acts in question was an elected official and
9 the crimes were related to their public office, which dismisses all
10 counts of the indictment which are related to the defendant's public
11 office, the court shall notify the defendant's public employer within
12 thirty days.

13 § 6. This act shall take effect on the first of January next succeed-
14 ing the date on which it shall have become a law.