

# STATE OF NEW YORK

5937

2023-2024 Regular Sessions

## IN ASSEMBLY

March 24, 2023

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

AN ACT to amend the public officers law and the legislative law, in relation to the appointment process for state board positions

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

1 Section 1. Section 39 of the public officers law, as amended by chapter 122 of the laws of 1947, is amended to read as follows:

2 § 39. Filling vacancies in office of officer appointed by governor and  
3 senate. A vacancy which shall occur during the session of the senate, in  
4 the office of an officer appointed by the governor by and with the  
5 advice and consent of the senate, shall be filled in the same manner as  
6 an original appointment. Such a vacancy occurring or existing while the  
7 senate is not in session, including offices in which officers are holding  
8 over pursuant to the provisions of section five of this chapter or  
9 any other law, and offices vacant during the session of the senate,  
10 shall be filled by the governor for a term which shall expire upon the  
11 appointment and qualification of a successor but in any event such term  
12 shall expire at the end of twenty days from the commencement of the next  
13 meeting of the senate. There shall be a sixty-day notice period before  
14 any nominee is officially appointed and confirmed to a vacant position  
15 pursuant to this section, during which time the legislature may contract  
16 with an independent private investigator or private investigation firm  
17 pursuant to sections six and seven of the legislative law to conduct an  
18 investigation and create a report on such nominee containing the results  
19 of such investigation, which shall be made available to the appropriate  
20 committee and all members of the legislature.

21 § 2. Section 40 of the public officers law is amended to read as follows:

22 § 40. Vacancy occurring in office of legislative appointee, during  
23 legislative recess. When a vacancy shall occur or exist, otherwise than  
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EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 by expiration of term, during the recess of the legislature, in the  
2 office of any officer appointed by the legislature, the governor shall  
3 appoint a person to fill the vacancy for a term which shall expire at  
4 the end of twenty days from the commencement of the next meeting of the  
5 legislature. There shall be a sixty-day notice period before any nominee  
6 is officially appointed and confirmed to a vacant position pursuant to  
7 this section, during which time the legislature may contract with an  
8 independent private investigator or private investigation firm pursuant  
9 to sections six and seven of the legislative law to conduct an investi-  
10 gation and create a report on such nominee containing the results of  
11 such investigation, which shall be made available to the appropriate  
12 committee and all members of the legislature.

13 § 3. Section 41 of the public officers law, as amended by chapter 91  
14 of the laws of 1928, is amended to read as follows:

15 § 41. Vacancies filled by legislature. When a vacancy occurs or  
16 exists, other than by removal, in the office of comptroller or attor-  
17 ney-general, or a resignation of either such officer to take effect at  
18 any future day shall have been made while the legislature is in session,  
19 the two houses thereof, by joint ballot, shall appoint a person to fill  
20 such actual or prospective vacancy. There shall be a sixty-day notice  
21 period before any nominee is officially appointed and confirmed to a  
22 vacant position pursuant to this section, during which time the legisla-  
23 ture may contract with an independent private investigator or private  
24 investigation firm pursuant to sections six and seven of the legislative  
25 law to conduct an investigation and create a report on such nominee  
26 containing the results of such investigation, which shall be made avail-  
27 able to the appropriate committee and all members of the legislature.

28 § 4. Section 43 of the public officers law, as renumbered by chapter  
29 649 of the laws of 1922, is amended to read as follows:

30 § 43. Filling other vacancies. If a vacancy shall occur, otherwise  
31 than by expiration of term, with no provision of law for filling the  
32 same, if the office be elective, the governor shall appoint a person to  
33 execute the duties thereof until the vacancy shall be filled by an  
34 election. But if the term of such officer shall expire with the calendar  
35 year in which the appointment shall be made, or if the office be appoin-  
36 tive, the appointee shall hold for the residue of the term. There shall  
37 be a sixty-day notice period before any nominee is officially appointed  
38 and confirmed to a vacant position pursuant to this section, during  
39 which time the legislature may contract with an independent private  
40 investigator or private investigation firm pursuant to sections six and  
41 seven of the legislative law to conduct an investigation and create a  
42 report on such nominee containing the results of such investigation,  
43 which shall be made available to the appropriate committee and all  
44 members of the legislature.

45 § 5. Section 6 of the legislative law is amended by adding a new  
46 subdivision 9 to read as follows:

47 9. (a) An appropriation shall be made for and the temporary president  
48 of the senate and the minority leader of the senate shall, in conjunc-  
49 tion with each other, contract with an independent private investigator  
50 or private investigation firm to conduct a background check on a poten-  
51 tial nominee before being appointed to a vacant position pursuant to  
52 sections thirty-nine, forty, forty-one and forty-three of the public  
53 officers law. Once a nominee has been named, such nomination shall be  
54 submitted to the journal clerk of the senate. Once the journal clerk has  
55 received such nomination, he or she shall forward such nomination to the

1 appropriate committee related to the position such nominee is being  
2 appointed to for review.

3 (b) Once the journal clerk has forwarded the nomination to the appro-  
4 priate committee, the sixty-day period referenced pursuant to sections  
5 thirty-nine, forty, forty-one and forty-three of the public officers law  
6 shall begin. A private investigator or private investigation firm shall  
7 then complete their investigation pursuant to paragraph (a) of this  
8 subdivision within thirty days and shall submit such report to the  
9 appropriate committee and shall make such report available to all  
10 members of the senate. The committee, as well as the members of the  
11 senate shall then have thirty days to review such report and make any  
12 objections or hold any hearings, as necessary, before such nominee is  
13 confirmed to such vacant position.

14 § 6. Section 7 of the legislative law, as amended by chapter 506 of  
15 the laws of 1960, the closing paragraph as added by chapter 141 of the  
16 laws of 1994, is amended to read as follows:

17 § 7. Officers and employees of the assembly. 1. The assembly may  
18 choose a clerk, a sergeant-at-arms and a stenographer. When an appropri-  
19 ation has been made for the services, temporary or otherwise, of offi-  
20 cers and employees of the assembly and their appointment is not other-  
21 wise authorized by law, the speaker of the assembly may appoint such  
22 officers and employees and fix their compensation, respectively, within  
23 the amount provided by appropriation. The majority leader of the assem-  
24 bly may appoint a counsel to majority leader, an assistant counsel to  
25 majority leader, a secretary to majority leader, and a clerk to majority  
26 leader. The minority leader of the assembly may appoint a counsel to  
27 minority leader, a clerk to minority, an assistant clerk to minority, a  
28 secretary to minority leader, a clerk to minority leader, an assistant  
29 clerk to minority leader, a ways and means minority clerk, two stenogra-  
30 phers, a clerk-chauffeur and a messenger to minority. In case of the  
31 death or resignation of the clerk of the assembly, or his inability to  
32 exercise the powers and/or discharge the duties of said office, notwith-  
33 standing any other provisions of law the speaker of the assembly shall  
34 appoint an acting clerk or designate the assistant clerk as acting clerk  
35 to serve until a clerk is chosen by the assembly to fill the vacancy or  
36 until the disability shall cease. The acting clerk so appointed or  
37 designated as such shall have and exercise all of the powers of the  
38 clerk of the assembly until a clerk has been chosen and has qualified or  
39 until the disability shall cease.

40 2. Whenever the speaker of the assembly is authorized or required,  
41 singly or jointly, to certify or approve warrants or vouchers for the  
42 compensation of any person, it shall be sufficient if he execute the  
43 first such warrant or voucher, and thereafter the same may be certified  
44 or approved by his designee or designees, so long as the rate of such  
45 compensation is not increased, and upon proof by affidavit or otherwise  
46 that the same is due. Such designation shall be in writing and filed in  
47 the office of the speaker and in the office of the comptroller, and  
48 shall remain in effect during the term of office of the speaker unless  
49 sooner revoked by him.

50 3. Notwithstanding any law to the contrary, the speaker of the assem-  
51 bly or his or her designee may authorize expenditures to be made from  
52 appropriations or reappropriations made to the assembly ways and means  
53 committee, or the allocable portion of an appropriation or reappropri-  
54 ation so made to a legislative council, commission or task force the  
55 expenditures from which are for assembly purposes in whole or in alloca-  
56 ble part. The speaker of the assembly may effect such authorization by

1 filing his or her approval of such authorization with the state comp-  
2 troller.

3 4. (a) An appropriation shall be made for and the speaker of the  
4 assembly and the minority leader of the assembly shall, in conjunction  
5 with each other, contract with an independent private investigator or  
6 private investigation firm to conduct a background check on a potential  
7 nominee before being appointed to a vacant position pursuant to sections  
8 thirty-nine, forty, forty-one and forty-three of the public officers  
9 law. Once a nominee has been named, such nomination shall be submitted  
10 to the journal clerk of the assembly. Once the journal clerk has  
11 received such nomination, he or she shall forward such nomination to the  
12 appropriate committee related to the position such nominee is being  
13 appointed to for review.

14 (b) Once the journal clerk has forwarded the nomination to the appro-  
15 priate committee, the sixty-day period referenced pursuant to sections  
16 thirty-nine, forty, forty-one and forty-three of the public officers law  
17 shall begin. A private investigator or private investigation firm shall  
18 then complete their investigation pursuant to paragraph (a) of this  
19 subdivision within thirty days and shall submit such report to the  
20 appropriate committee and shall make such report available to all  
21 members of the assembly. The committee, as well as the members of the  
22 assembly shall then have thirty days to review such report and make any  
23 objections or hold any hearings, as necessary, before such nominee is  
24 confirmed to such vacant position.

25 § 7. This act shall take effect immediately.