

STATE OF NEW YORK

53

2023-2024 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2023

Introduced by Sens. GOUNARDES, BAILEY, BRISPORT, HINCHEY, LIU, MAY, MAYER, SALAZAR, SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the executive law, in relation to granting the legislature the authority to direct the attorney-general to inquire into matters concerning the public peace, public safety and public justice

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

1 Section 1. Subdivision 8 of section 63 of the executive law, as
2 amended by chapter 451 of the laws of 1977, is amended to read as
3 follows:
4 8. (a) Whenever in his or her judgment the public interest requires
5 it, the attorney-general may, with the approval of the governor, and
6 when directed by the governor, shall, inquire into matters concerning
7 the public peace, public safety and public justice. For such purpose he
8 or she may, in his or her discretion, and without civil service examina-
9 tion, appoint and employ, and at pleasure remove, such deputies, offi-
10 cers and other persons as he or she deems necessary, determine their
11 duties and, with the approval of the governor, fix their compensation.
12 All appointments made pursuant to this [~~subdivision~~] paragraph shall be
13 immediately reported to the governor, and shall not be reported to any
14 other state officer or department. Payments of salaries and compensation
15 of officers and employees and of the expenses of the inquiry shall be
16 made out of funds provided by the legislature for such purposes, which
17 shall be deposited in a bank or trust company in the names of the gover-
18 nor and the attorney-general, payable only on the draft or check of the
19 attorney-general, countersigned by the governor, and such disbursements
20 shall be subject to no audit except by the governor and the attorney-
21 general. The attorney-general, his or her deputy, or other officer,

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

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1 designated by him or her, is empowered to subpoena witnesses, compel
2 their attendance, examine them under oath before himself or herself or a
3 magistrate and require that any books, records, documents [~~ex~~], papers,
4 or electronic communications or records relevant or material to the
5 inquiry be turned over to him or her for inspection, examination or
6 audit, pursuant to the civil practice law and rules. If a person subpoenaed
7 to attend upon such inquiry fails to obey the command of a subpoena
8 without reasonable cause, or if a person in attendance upon such inquiry
9 shall, without reasonable cause, refuse to be sworn or to be examined or
10 to answer a question or to produce a book [~~ex~~], paper, or electronic
11 communication or record, when ordered so to do by the officer conducting
12 such inquiry, he or she shall be guilty of a misdemeanor. It shall be
13 the duty of all public officers, their deputies, assistants and subordi-
14 nates, clerks and employees, and all other persons, to render and
15 furnish to the attorney-general, his or her deputy or other designated
16 officer, when requested, all information and assistance in their
17 possession and within their power. Each deputy or other officer
18 appointed or designated to conduct such inquiry shall make a weekly
19 report in detail to the attorney-general, in form to be approved by the
20 governor and the attorney-general, which report shall be in duplicate,
21 one copy of which shall be forthwith, upon its receipt by the attorney-
22 general, transmitted by him or her to the governor. Any officer partic-
23 ipating in such inquiry and any person examined as a witness upon such
24 inquiry who shall disclose to any person other than the governor or the
25 attorney-general the name of any witness examined or any information
26 obtained upon such inquiry, except as directed by the governor or the
27 attorney-general, shall be guilty of a misdemeanor.

28 (b) Provided, further, that the legislature shall be empowered to
29 direct the attorney-general by concurrent resolution to inquire into
30 matters concerning the public peace, public safety and public justice.
31 For such purposes the attorney-general may, in his or her discretion,
32 and without civil service examination, appoint and employ, and at pleas-
33 ure remove, such deputies, officers and other persons as he or she deems
34 necessary, determine their duties and, with the approval of the legisla-
35 ture, fix their compensation. All appointments made pursuant to this
36 paragraph shall be immediately reported to the temporary president of
37 the senate and the speaker of the assembly and shall not be reported to
38 any other state officer or department. Payments of salaries and compen-
39 sation of officers and employees and of the expenses of the inquiry
40 shall be made out of funds provided by the legislature for such
41 purposes, which shall be deposited in a bank or trust company in the
42 names of the temporary president of the senate, the speaker of the
43 assembly, and the attorney-general, payable only on the draft or check
44 of the attorney-general, countersigned by the temporary president of the
45 senate and the speaker of the assembly, and such disbursements shall be
46 subject to no audit except by the legislature and the attorney-general.
47 The attorney-general, his or her deputy, or other officer, designated by
48 him or her, is empowered to subpoena witnesses, compel their attendance,
49 examine them under oath before him or her or a magistrate and require
50 that any books, records, documents, papers, or electronic communications
51 or records relevant or material to the inquiry be turned over to him or
52 her for inspection, examination or audit, pursuant to the civil practice
53 law and rules. If a person subpoenaed to attend upon such inquiry fails
54 to obey the command of a subpoena without reasonable cause, or if a
55 person in attendance upon such inquiry shall, without reasonable cause,
56 refuse to be sworn or to be examined or to answer a question or to

1 produce a book, paper, or electronic communication or record when
2 ordered to do so by the officer conducting such inquiry, he or she shall
3 be guilty of a misdemeanor. It shall be the duty of all public officers,
4 their deputies, assistants and subordinates, clerks and employees, and
5 all other persons, to render and furnish to the attorney-general, his or
6 her deputy or other designated officer, when requested, all information
7 and assistance in their possession and within their power. Each deputy
8 or other officer appointed or designated to conduct such inquiry shall
9 make a weekly report in detail to the attorney-general, in a form to be
10 approved by the legislature and the attorney-general, which report shall
11 be in duplicate, one copy of which shall be forthwith, upon its receipt
12 by the attorney-general, transmitted by him or her to the temporary
13 president of the senate and the speaker of the assembly. Any officer
14 participating in such inquiry and any person examined as a witness upon
15 such inquiry who shall disclose to any person other than the legislature
16 or the attorney-general the name of any witness examined or any informa-
17 tion obtained upon such inquiry, except as directed by the legislature
18 or the attorney-general, shall be guilty of a misdemeanor. The investi-
19 gation described in this paragraph shall be entirely free from interfer-
20 ence from the governor or any other state agency or official. The attor-
21 ney-general and legislature shall be under no obligation to disclose any
22 information pertaining to such investigation with any such agency or
23 official and shall be empowered to take additional steps not prescribed
24 by this paragraph to shield the investigation from attempts to influence
25 such investigation which they deem unwarranted and inappropriate.

26 § 2. This act shall take effect immediately.