

STATE OF NEW YORK

7736

2023-2024 Regular Sessions

IN ASSEMBLY

June 6, 2023

Introduced by M. of A. ZEBROWSKI -- read once and referred to the
Committee on Economic Development

AN ACT to amend the New York state urban development corporation act and
the economic development law, in relation to establishing a procedure
for appointing a president or chairperson upon a vacancy of such posi-
tion and correcting certain gendered language

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

1 Section 1. Section 4 of section 1 of chapter 174 of the laws of 1968,
2 constituting the New York state urban development corporation act,
3 subdivisions 1, 1-a and 3 as amended by chapter 280 of the laws of 1984
4 and as further amended by section 104 of part A of chapter 62 of the
5 laws of 2011, subdivision 2 as amended by chapter 55 of the laws of
6 1992, subdivision 3-a as added by chapter 61 of the laws of 1975, and
7 subdivisions 7 and 8 as amended by chapter 823 of the laws of 2022, is
8 amended to read as follows:

9 § 4. New York state urban development corporation. (1) There is hereby
10 created the New York state urban development corporation. The corpo-
11 ration shall be a corporate governmental agency of the state, constitut-
12 ing a political subdivision and public benefit corporation. Its member-
13 ship shall consist of nine directors as follows: the superintendent of
14 financial services, the [~~chairman~~] chairperson of the New York state
15 science and technology foundation, and seven directors to be appointed
16 by the governor with the advice and consent of the senate. From the
17 seven directors appointed by him or her, the governor shall designate
18 the [~~chairman~~] chairperson of the corporation and two others who shall
19 all serve at the pleasure of the governor. Of the four remaining direc-
20 tors, one of such directors first appointed by the governor after the
21 effective date of this subdivision as amended shall serve for a term
22 ending January first next succeeding his or her appointment, one of such
23 directors shall serve for a term ending one year from such date, one of

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

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1 such directors shall serve for a term ending two years from such date,
2 and one of such directors shall serve for a term ending three years from
3 such date. Their successors shall serve for terms of four years each.
4 Directors shall continue in office until their successors have been
5 appointed and qualified. In the event of a vacancy occurring in the
6 office of a director by death, resignation or otherwise, the governor
7 shall appoint a successor with the advice and consent of the senate to
8 serve for the balance of the unexpired term. The governor shall appoint
9 the president of the corporation, with the advice and consent of the
10 senate, who shall be the chief executive officer of the corporation and
11 who shall serve at the pleasure of the governor. Such president may not
12 be one of the directors appointed by the governor. In the event of a
13 vacancy occurring in the office of the president or the chairperson by
14 death, resignation or otherwise, the governor shall appoint a successor
15 with the advice and consent of the senate to serve for the balance of
16 the unexpired term. The governor may designate an acting president or
17 chairperson for a period not to exceed six months or until a successor
18 has been confirmed by the senate, whichever comes first.

19 (1-a) The superintendent of financial services and the [~~chairman~~]
20 chairperson of the New York state science and technology foundation each
21 may designate a person from his or her department to represent him or
22 her at all meetings of the corporation from which such director may be
23 absent. Any representative so designated shall have the power to attend
24 and to vote at any meeting of the corporation from which the director so
25 designating him or her is absent, with the same force and effect as if
26 the director designating him or her were present and voting. Such desig-
27 nation shall be by written notice filed with the [~~chairman~~] chairperson
28 of the corporation by the director making the designation. The desig-
29 nation of each such person shall continue until revoked at any time by
30 written notice to the [~~chairman~~] chairperson by the director making the
31 designation. Such designation shall not limit the power of the director
32 making the designation to attend and vote in person at any meeting of
33 the corporation.

34 (2) The directors, other than the [~~chairman~~] chairperson, shall serve
35 without salary or other compensation, but each director, including the
36 [~~chairman~~] chairperson, shall be entitled to reimbursement for actual
37 and necessary expenses incurred in the performance of his or her offi-
38 cial duties. Anything to the contrary contained herein notwithstanding,
39 the president of the corporation[, ~~whether or not he or she is a direc-~~
40 ~~tor,~~] and the [~~chairman if he or she is not the president~~] chairperson
41 shall be entitled to receive such salary as the directors may determine
42 for their services as chief executive officer and [~~chairman~~] chairperson
43 respectively.

44 (3) Such directors other than the superintendent of financial
45 services, the [~~chairman~~] chairperson of the New York state science and
46 technology foundation, [~~and any director who serves as president of the~~
47 ~~corporation~~] may engage in private employment, or in a profession or
48 business. The corporation, its directors, officers and employees shall
49 be subject to the provisions of sections seventy-three and seventy-four
50 of the public officers law.

51 (3-a) The state shall save harmless and indemnify any person who shall
52 have served as a director, officer or employee of the corporation
53 against financial loss or litigation expense arising in connection with
54 any claim, demand, suit or judgment, or the defense thereof, based on a
55 cause of action, whenever accrued, involving allegations that pecuniary
56 harm was sustained by any person as a result of any transaction of the

1 corporation taking place on or after the effective date of the New York
2 state project finance agency act. In the event any such claim, demand,
3 suit or judgment shall occur, a director, officer or employee of the
4 corporation shall be saved harmless and indemnified by the state under
5 this subdivision unless such individual is found by a final judicial
6 determination not to have acted in good faith, for a purpose which he or
7 she reasonably believed to be in the best interests of the corporation
8 or not to have had reasonable cause to believe that his or her conduct
9 was lawful. In any suit described in the first sentence of this subdivi-
10 sion, any director, officer or employee made a party defendant to such
11 suit shall be entitled to be represented by private counsel of his or
12 her choice; provided, however, that the attorney general is authorized,
13 as a condition to indemnification of the fees and expenses of such
14 representation, to require that appropriate groups of such individuals
15 be represented by the same counsel; and provided further, that with the
16 approval of the attorney general or of a court (obtained by application
17 substantially as provided in section seven hundred twenty-five of the
18 business corporation law), indemnification for such fees and expenses
19 shall be paid from time to time during the pendency of such suit. The
20 provisions of this subdivision shall be in addition to and shall not
21 supplant any indemnification or other benefits heretofore or hereafter
22 conferred upon directors, officers and employees of the corporation by
23 section seventeen of the public officers law, by action of the corpo-
24 ration, or otherwise. The provisions of this subdivision shall inure
25 only to directors, officers and employees of the corporation, shall not
26 enlarge or diminish the rights of any other party, and shall not impair,
27 limit or modify the rights and obligations of any insurer under any
28 policy of insurance.

29 (4) The directors of the corporation shall serve ex officio as direc-
30 tors of the corporation for urban development and research of New York,
31 created by the New York state urban development and research corporation
32 act, and of the urban development guarantee fund of New York, created by
33 the urban development guarantee fund of New York act. The [~~chairman~~]
34 chairperson of the corporation shall serve as [~~chairman~~] chairperson of
35 the corporation for urban development and research of New York and of
36 the urban development guarantee fund of New York.

37 (5) Notwithstanding any inconsistent provisions of law, general,
38 special or local, no officer or employee of the state or of any civil
39 division thereof, shall be deemed to have forfeited or shall forfeit his
40 or her office or employment by reason of his or her acceptance of
41 membership on the corporation created by this section; provided, howev-
42 er, a director who holds such other public office or employment shall
43 receive no additional compensation or allowance for services rendered
44 pursuant to this act, but shall be entitled to reimbursement for his or
45 her actual and necessary expenses incurred in the performance of such
46 services.

47 (6) The governor shall appoint a business advisory council for urban
48 development, to advise and make recommendations to the corporation with
49 respect to development policies and programs and to encourage maximum
50 participation in projects of the corporation by the private sector of
51 the economy, including members of the council and firms and corporations
52 with which they are [~~affiliated~~] affiliated. Such council shall consist
53 of not more than twenty-five members, who shall serve at the pleasure of
54 the governor, and who shall be broadly representative of commerce and
55 industry, the financial community and the construction and housing
56 industries. Such members shall serve without salary, but shall be enti-

1 tled to reimbursement for their actual and necessary expenses incurred
2 in the performance of their duties.

3 (7) The corporation shall establish one or more community advisory
4 committees to consider and advise the corporation upon matters submitted
5 to them by the corporation concerning the development of any area or any
6 project, and may establish rules and regulations with respect to such
7 committees. The corporation or its successor shall publish and maintain
8 a list of all community advisory committee members, and community advisory
9 committee meeting agendas, materials, and minutes on its website.
10 Meeting agendas and materials shall be posted on such website at least
11 one business day in advance of community advisory committee meetings.
12 All upcoming meeting times and locations shall be posted on such website
13 at least one week in advance. Community advisory committee meetings
14 shall be accessible for the public to view and attend live. The members
15 of such community advisory committees shall serve, at the pleasure of
16 the corporation, without salary, but shall be entitled to reimbursement
17 for their actual and necessary expenses incurred in the performance of
18 their duties. Notwithstanding any inconsistent provision of law, general,
19 special or local, no officer or employee of the state or of any
20 civil division thereof, shall be deemed to have forfeited or shall
21 forfeit his or her office or employment by reason of his or her acceptance
22 of membership on such community advisory committee.

23 (8) The governor may remove any director appointed by him or her for
24 inefficiency, neglect of duty or misconduct in office after giving him
25 or her a copy of the charges against him or her, and an opportunity to
26 be heard, in person or by counsel, in his or her defense, upon not less
27 than ten days' notice. If any such director shall be removed, the governor
28 shall file in the office of the department of state a complete
29 statement of charges made against such director and his or her findings
30 thereon, together with a complete record of the proceeding. The foregoing
31 provisions shall not apply in the case of the chairperson and any
32 other director who serves at the pleasure of the governor.

33 (9) The corporation and its corporate existence shall continue until
34 terminated by law, provided, however, that no such law shall take effect
35 so long as the corporation shall have bonds, notes and other obligations
36 outstanding, unless adequate provision has been made for the payment
37 thereof in the documents securing the same. Upon termination of the
38 existence of the corporation, all its rights and properties shall pass
39 to and be vested in the state.

40 (10) A majority of the directors of the corporation then in office
41 shall constitute a quorum for the transaction of any business or the
42 exercise of any power or function of the corporation, except as otherwise
43 provided in subdivision two of section sixteen[~~, subdivision two,~~
44 ~~hereof~~] of this act. The corporation may delegate to one or more of its
45 directors, or its officers, agents and employees, such powers and duties
46 as it may deem proper.

47 (11) The corporation shall take affirmative action in working with
48 construction firms, contractors and subcontractors, labor unions and
49 manufacturing and industrial firms, to the end that residents of areas
50 in which projects are to be located shall be afforded participation in
51 the construction work on projects of the corporation, and in the business
52 operations of tenants and occupants of industrial projects undertaken
53 by the corporation.

54 § 2. Section 10 of the economic development law, as amended by chapter
55 839 of the laws of 1987, is amended to read as follows:

§ 10. Department of economic development; commissioner. There shall be in the state government a department of economic development. The head of the department shall be the commissioner of economic development who shall be appointed by the governor, by and with the advice and consent of the senate, and hold office until the end of the term of the governor by whom he or she was appointed and until his or her successor is appointed and has qualified. The principal office of the department shall be in the city of Albany. Regional offices may be established and maintained by the department in such places as the commissioner may determine and for which appropriations are made by the legislature. The commissioner may, with the commissioners of general services, transportation and labor, develop and institute a procedure for the uniform collection of employment and economic data within the state for use in connection with the scheduling of public works projects.

§ 3. This act shall take effect immediately.