STATE OF NEW YORK

8121

2023-2024 Regular Sessions

IN ASSEMBLY

October 13, 2023

Introduced by M. of A. THIELE, OTIS, BRONSON -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law and the not-for-profit corporation law, in relation to reviews by the authorities budget office and granting the authorities budget office the authority to commence an action or special proceeding to annul the corporate existence or dissolve a corporation that has acted beyond its capacity or power or to restrain it from carrying on unauthorized activities

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

Section 1. The public authorities law is amended by adding a new section 8 to read as follows:

§ 8. Reports of public authorities by authorities budget office; recommendations for corrective action. Whenever the authorities budget office issues a letter or report regarding the activities and operations of any public authority, the head of the public authority which the letter or report was about shall submit a written response to the letter or report within thirty days of the receipt of the letter or report. If the letter or report makes recommendations for corrective action, such head shall report within one hundred eighty days after receipt thereof to the authorities budget office what steps were taken to implement such recommendations, and, where recommendations were not implemented, the reasons therefor. Failure to comply with the provisions of this section shall make the authority delinquent in its reporting requirements.

§ 2. Subdivision 3 of section 2800 of the public authorities law, as amended by chapter 766 of the laws of 2005, is amended to read as follows:

3. Every financial report submitted under this section shall be approved by the board and shall be certified**, under penalty of perjury,** in writing by the chief executive officer and the chief financial officer of such authority that based on the officer's knowledge (a) the

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

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information provided therein is accurate, correct and does not contain any untrue statement of material fact; (b) does not omit any material fact which, if omitted, would cause the financial statements to be misleading in light of the circumstances under which such statements are made; and (c) fairly presents in all material respects the financial condition and results of operations of the authority as of, and for, the periods presented in the financial statements. **A knowing and willful violation of this section shall constitute perjury in the third degree.**

§ 3. Subdivision 2 of section 2824 of the public authorities law, as added by section 766 of the laws of 2005, is amended to read as follows:

2. **(a)** Individuals appointed to the board of a public authority shall participate in state approved training regarding their legal, fiduciary, financial and ethical responsibilities as directors of an authority within one year of appointment to a board. Board members shall participate in such continuing training as may be required to remain informed of best practices, regulatory and statutory changes relating to the effective oversight of the management and financial activities of public authorities and to adhere to the highest standards of responsible governance.

(b) Except as otherwise provided in this chapter, a member in non-compliance with the requirements set forth in this section shall be subject to the enforcement powers of the authorities budget office, including but not limited to removal from the board of said public authority. If an individual appointed to the board of a public authority does not complete their state approved training pursuant to paragraph (a) of this subdivision the authority budget office shall notify said individual of their official suspension as a board member. The suspension shall be for a period of three months and shall commence with receipt of official notice of the suspension by the authorities budget office. The suspension shall be terminated if such individual completes the required training within the three month suspension period. If such individual fails to complete the required training within the three month suspension period, the authorities budget office may remove the individual from the public authority board.

(c) An individual that has been removed from a public authority board by the authorities budget office pursuant to paragraph (b) of this subdivision, may only be reinstated to that public authority board once they provide the authorities budget office with official notice confirming the training requirements set forth in paragraph (a) of this subdivision have been met.

§ 4. Section 104 of the not-for-profit corporation law is amended by adding a new paragraph (h) to read as follows:

(h) If an instrument which is delivered to the department of state for filing relates to a not-for-profit corporation created pursuant to section fourteen hundred eleven of this chapter or to an entity that may be deemed a local authority as defined by subdivision two of section two of the public authorities law, the department of state shall review, make, certify and transmit electronically a copy of each such instrument relating to local economic development to the authorities budget office.

§ 5. Paragraphs (i) and (j) of subdivision 2 of section 6 of the public authorities law, as added by chapter 506 of the laws of 2009, are amended and a new paragraph (k) is added to read as follows:

(i) compel any authority which is deemed to be in non-compliance with this title and title one of this article or article nine of this chapter to submit to the authorities budget office a detailed explanation of such failure to comply; [~~and~~]

(j) commence a special proceeding in supreme court, when it does not receive from a state or local authority upon request information, books, records or other documentation necessary to perform its duties, seeking an order directing the production of the same[.]; and

(k) commence an action or special proceeding to annul the corporate existence or dissolve a corporation that has acted beyond its capacity or power or to restrain it from carrying on unauthorized activities.

§ 6. This act shall take effect on the ninetieth day after it shall have become a law.