STATE OF NEW YORK

1067

2023-2024 Regular Sessions

IN SENATE

January 10, 2023

Introduced by Sens. BORRELLO, HELMING, OBERACKER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government 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:

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:

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

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

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

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§ 40. Vacancy occurring in office of legislative appointee, during legislative recess. When a vacancy shall occur or exist, otherwise than by expiration of term, during the recess of the legislature, in the office of any officer appointed by the legislature, the governor shall appoint a person to fill the vacancy for a term which shall expire at the end of twenty days from the commencement of the next meeting of the legislature. **There shall be a sixty-day notice period before any nominee is officially appointed and confirmed to a vacant position pursuant to this section, during which time the legislature may contract with an independent private investigator or private investigation firm pursuant to sections six and seven of the legislative law to conduct an investigation and create a report on such nominee containing the results of such investigation, which shall be made available to the appropriate committee and all members of the legislature.**

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

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

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

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

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

9. (a) An appropriation shall be made for and the temporary president of the senate and the minority leader of the senate shall, in conjunction with each other, contract with an independent private investigator or private investigation firm to conduct a background check on a potential nominee before being appointed to a vacant position pursuant to sections thirty-nine, forty, forty-one and forty-three of the public officers law. Once a nominee has been named, such nomination shall be submitted to the journal clerk of the senate. Once the journal clerk has

received such nomination, he or she shall forward such nomination to the appropriate committee related to the position such nominee is being appointed to for review.

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

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

§ 7. Officers and employees of the assembly. 1. The assembly may choose a clerk, a sergeant-at-arms and a stenographer. When an appropriation has been made for the services, temporary or otherwise, of officers and employees of the assembly and their appointment is not otherwise authorized by law, the speaker of the assembly may appoint such officers and employees and fix their compensation, respectively, within the amount provided by appropriation. The majority leader of the assembly may appoint a counsel to majority leader, an assistant counsel to majority leader, a secretary to majority leader, and a clerk to majority leader. The minority leader of the assembly may appoint a counsel to minority leader, a clerk to minority, an assistant clerk to minority, a secretary to minority leader, a clerk to minority leader, an assistant clerk to minority leader, a ways and means minority clerk, two stenographers, a clerk-chauffeur and a messenger to minority. In case of the death or resignation of the clerk of the assembly, or his inability to exercise the powers and/or discharge the duties of said office, notwithstanding any other provisions of law the speaker of the assembly shall appoint an acting clerk or designate the assistant clerk as acting clerk to serve until a clerk is chosen by the assembly to fill the vacancy or until the disability shall cease. The acting clerk so appointed or designated as such shall have and exercise all of the powers of the clerk of the assembly until a clerk has been chosen and has qualified or until the disability shall cease.

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

3. Notwithstanding any law to the contrary, the speaker of the assembly or his or her designee may authorize expenditures to be made from appropriations or reappropriations made to the assembly ways and means committee, or the allocable portion of an appropriation or reappropriation so made to a legislative council, commission or task force the expenditures from which are for assembly purposes in whole or in alloca-

ble part. The speaker of the assembly may effect such authorization by filing his or her approval of such authorization with the state comptroller.

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

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

§ 7. This act shall take effect immediately.