

# STATE OF NEW YORK

1298

2025-2026 Regular Sessions

## IN SENATE

January 9, 2025

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:

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

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

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

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

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

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

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

30 § 4. Section 43 of the public officers law, as renumbered by chapter  
31 649 of the laws of 1922, is amended to read as follows:

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

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

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

1 received such nomination, such journal clerk shall forward such nomi-  
2 nation to the appropriate committee related to the position such nominee  
3 is being appointed to for review.

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

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

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

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

52 3. Notwithstanding any law to the contrary, the speaker of the assem-  
53 bly or [~~his or her~~] the speaker of the assembly's designee may authorize  
54 expenditures to be made from appropriations or reappropriations made to  
55 the assembly ways and means committee, or the allocable portion of an  
56 appropriation or reappropriation so made to a legislative council,

1 commission or task force the expenditures from which are for assembly  
2 purposes in whole or in allocable part. The speaker of the assembly may  
3 effect such authorization by filing [~~his or her~~] such speaker of the  
4 assembly's approval of such authorization with the state comptroller.

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

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

27 § 7. This act shall take effect immediately.