SPONSOR: Sen. Sokola & Rep. Longhurst
Sens. Townsend, Lockman, Hocker, Pettyjohn; Reps. Minor-Brown, Harris, Ramone, Yearick

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 15

AN ACT PROPOSING AN AMENDMENT TO ARTICLE III OF THE DELAWARE CONSTITUTION RELATING TO MEMBERS OF THE GOVERNOR'S CABINET.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend § 10, Article III of the Delaware Constitution by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 10. ~~Secretary of State;~~ Members of the Governor’s cabinet; confirmation of appointment or reappointment, term, and vacancy; Secretary of State’s duties and compensation.

Section 10.

(a) For purposes of this Section:

(1) “Governor’s term of office” means the entire term of a Governor under Section 5 of this Article, whether or not a Governor serves the entire term.

(2) “Member of the Governor’s cabinet” means the principal officer of an executive department or the principal officer of an executive department made subject to this Section by an act of the General Assembly.

(b) The Governor shall appoint, by and with the consent of a majority of all the members elected to the Senate, members of the Governor’s cabinet who shall serve at the pleasure of the Governor during the Governor’s term of office in which the members of the Governor’s cabinet were appointed.

(c) When a vacancy occurs by expiration of the Governor’s term of office, a member of the Governor’s cabinet may hold over in office until the member of the Governor’s cabinet, or a new appointee, is confirmed and takes the oath of office, but in no event shall a member of the Governor’s cabinet hold over in office for more than 90 days after the expiration of the Governor’s term of office.

(d)(1) ~~The Governor shall appoint, by and with the consent of a majority of all the members elected to the Senate, a Secretary of State, who shall hold office during the pleasure of the Governor. He or she~~ The Secretary of State shall keep a fair register of all the official acts and proceedings of the Governor, and shall, when required by either House of the General ~~Assembly~~ Assembly, lay the same, and all papers, ~~minutes~~ minutes, and vouchers, relative thereto, before such House, and shall perform such other duties as shall be enjoined upon ~~him or her~~ the Secretary of State by law.

(2) ~~He or she~~ The Secretary of State shall have a compensation for ~~his or her~~ service to be fixed by law.

(e) ~~The Secretary of State~~ Except as provided by paragraph (e)(1) of this Section, a member of the Governor's cabinet shall become a bona fide resident of ~~the~~ this State within ~~six~~ 6 months after ~~his or her appointment; provided, however, that upon~~ appointment.

(1) On good cause shown, the Governor may grant ~~an additional extension of six months.~~ an additional 6 months to become a bona fide resident of this State.

(2) After becoming a resident of ~~the~~ this State, ~~the Secretary~~ a member of the Governor's cabinet shall continuously be a resident of ~~the State as long as he or she retains office.~~ this State during the member's term of office.

(3) ~~Failure to obtain or retain such residency shall be an automatic resignation from office.~~ Failure to obtain or retain residency in this State operates as an automatic resignation of office and results in a vacancy in the office.

SYNOPSIS

The governance of this State relies on the qualifications and performance of the members of the Governor's cabinet. The General Assembly finds that the confirmation process is an important step to ensure the qualifications and performance of the Governor's cabinet.

This Act is the first leg of a constitutional amendment to require each holdover member of the Governor's cabinet to be reconfirmed by the Senate at the beginning of each term of the Governor.

This Act defines members of the Governor's cabinet as the principal officer of an executive department made subject to § 10 of Article III of the Delaware Constitution by an Act of the General Assembly. Senate Bill No. 16, as introduced, implements this Act by making the principal officer of the following executive departments subject to this constitutional requirement:

(1) The Department of Education.
(2) The Department of Military Affairs / Delaware National Guard.
(3) The Office of Management and Budget.
(4) The Department of Health and Social Services.
(5) The Department of Natural Resources and Environmental Control.
(6) The Department of Agriculture.
(7) The Department of Safety and Homeland Security.
(8) The Department of Finance.
(9) The Department of Transportation.
(10) The Department of Labor.
(11) The Delaware State Housing Authority.
(12) The Department of State.
(13) The Department of Correction.
(14) The Department of Services for Children, Youth and Their Families.
(15) The Department of Technology and Information.
(16) The Department of Human Resources.

This Act requires a greater than majority vote for passage because § 1 of Article XVI of the Delaware Constitution requires the affirmative vote of two-thirds of the members elected to each house of the General Assembly to amend the Delaware Constitution.

Amending the Delaware Constitution requires not only the passing of the changes in this Act, but also passage of the same changes after the next general election by the next General Assembly.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Author: Senator Sokola