



SPONSOR: Sen. Sokola & Rep. Longhurst
Sens. Townsend, Lockman, Hocker, Pettyjohn, Buckson,
Hansen, Huxtable, Lawson, Richardson, Wilson; Reps.
Minor-Brown, Harris, Ramone, Yearick

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 16

AN ACT TO AMEND TITLE 14, TITLE 20, TITLE 29, AND TITLE 31 OF THE DELAWARE CODE RELATING TO MEMBERS OF THE GOVERNOR'S CABINET.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 102, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 102. Secretary; Deputy, Associate and Assistant Secretaries; Acting Secretary; appointment.

(a) The administrator and head of the Department ~~shall be~~ is the Secretary of Education, ~~who shall~~ the Department of Education ("Secretary"), who ~~must~~ must be a graduate of an accredited college and ~~shall~~ must have not less than 5 years' experience in teaching and administration, with experience in each such category.

~~(1) The Secretary shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve at the pleasure of the Governor.~~ The Secretary is appointed, confirmed, and holds office as provided in § 10 of Article III of the Delaware Constitution.

~~(2) The Secretary shall~~ is to be paid ~~a-an annual~~ salary as determined by the General Assembly in the annual Appropriations Act. appropriations act.

~~(3) The Secretary of Education shall become a bona fide resident of the State within 6 months after the Secretary's appointment; provided, however, that upon good cause shown, the Governor may grant an additional extension of 6 months.~~ must obtain and retain residency in this State as provided in § 10 of Article III of the Delaware Constitution.

Section 2. Amend § 122, Title 20 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 122. Adjutant General; appointment; qualifications.

(a) ~~The Governor shall appoint an Adjutant General, with the advice and consent of the Senate, who shall hold office at the pleasure of the Governor.~~ The Adjutant General is appointed, confirmed, and holds office as provided in § 10 of Article III of the Delaware Constitution.

Section 3. Amend § 123, Title 20 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 123. Adjutant General — Powers and duties.

The Adjutant General shall be responsible to the Commander in Chief for carrying out the policies of the Commander in Chief and shall issue orders in the Commander in Chief's name. To accomplish this end the Adjutant General shall have the following duties and the powers necessary to effectuate the same:

(8) Shall receive an annual salary ~~as appropriated by the General Assembly.~~ as determined by the General Assembly in the annual appropriations act.

Section 4. Amend § 6302A, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6302A. Director; appointment; salary; bond; employees and assistants.

(a) ~~There shall be a Director of the Office of Management and Budget, hereinafter referred to in this chapter as "Director," to be appointed by and to serve at the pleasure of the Governor, with the advice and consent of the Senate. The administrator and head of the Office is the Director of the Office of Management and Budget ("Director").~~

(1) The Director is appointed, confirmed, and holds office as provided in § 10 of Article III of the Delaware Constitution.

(2) The Director shall is to be paid a salary established by the Governor within the limitation of the funds appropriated therefore. an annual salary as determined by the General Assembly in the annual appropriations act.

(3) The Director shall be paid a salary established by the Governor within the limitation of the funds appropriated therefore. must obtain and retain residency in this State as provided in § 10 of Article III of the Delaware Constitution.

Section 5. Amend § 7902, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7902. Secretary; Deputy Secretary; division directors; Acting Secretary; appointment.

(a) The administrator and head of the Department ~~shall be~~ is the Secretary of the Department of Health and Social Services, ~~who shall~~ Services ("Secretary"), who must be a person qualified by training and experience to perform the duties of the office.

(1) The Secretary shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve at the pleasure of the Governor. The Secretary is appointed, confirmed, and holds office as provided in § 10 of Article III of the Delaware Constitution.

(2) The Secretary ~~shall is to~~ be paid an annual salary ~~not in excess of \$34,000. as determined by the General Assembly in the annual appropriations act.~~

(3) The Secretary ~~of the Department of Health and Social Services shall become a bona fide resident of the State within 6 months after his or her appointment; provided, however, that upon good cause shown, the Governor may grant an additional extension of 6 months. After becoming a resident of the State, the Secretary shall continuously be a resident of the State as long as he or she retains the office. Failure to obtain or retain such residency shall be an automatic resignation from said office.~~ must obtain and retain residency in this State as provided in § 10 of Article III of the Delaware Constitution.

Section 6. Amend § 8002, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8002. Secretary; division directors; Acting Secretary; appointment.

(a) The administrator and head of the Department ~~shall be is~~ the Secretary of the Department of Natural Resources and Environmental Control, ~~who shall Control~~ (“Secretary”), who must be a person qualified by training and experience to perform the duties of the office.

~~(1) The Secretary shall be appointed by the Governor, with the advice and consent of the Senate and shall serve at the pleasure of the Governor.~~ The Secretary is appointed, confirmed, and holds office as provided in § 10 of Article III of the Delaware Constitution.

(2) The Secretary ~~shall is to~~ be paid an annual salary ~~not in excess of \$34,000. as determined by the General Assembly in the annual appropriations act.~~

(3) The Secretary ~~of the Department of Natural Resources and Environmental Control shall become a bona fide resident of the State within 6 months after his or her appointment; provided, however, that upon good cause shown, the Governor may grant an additional extension of 6 months. After becoming a resident of the State, the Secretary shall continuously be a resident of the State as long as he or she retains the office. Failure to obtain or retain such residency shall be an automatic resignation from said office.~~ must obtain and retain residency in this State as provided in § 10 of Article III of the Delaware Constitution.

Section 7. Amend § 8102, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8102. Secretary; Deputy Secretary; Acting Secretary; appointment.

(a) The administrator and head of the Department ~~shall be~~ is the Secretary of the Department of Agriculture, who ~~shall~~ Agriculture ("Secretary"), who must be a person qualified by training and experience to perform the duties of the office.

(1) ~~The Secretary shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve at the pleasure of the Governor.~~ The Secretary is appointed, confirmed, and holds office as provided in § 10 of Article III of the Delaware Constitution.

(2) The Secretary ~~shall~~ is to be paid an annual salary ~~not in excess of \$25,000.~~ as determined by the General Assembly in the annual appropriations act.

(3) ~~The Secretary of the Department of Agriculture shall become a bona fide resident of the State within 6 months after his or her appointment; provided, however, that upon good cause shown, the Governor may grant an additional extension of 6 months. After becoming a resident of the State, the Secretary shall continuously be a resident of the State as long as he or she retains the office. Failure to obtain or retain such residency shall be an automatic resignation from said office.~~ must obtain and retain residency in this State as provided in § 10 of Article III of the Delaware Constitution.

Section 8. Amend § 8202, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8202. Secretary; division directors; Acting Secretary; appointment.

(a) The administrator and head of the Department ~~shall be~~ is the Secretary of the Department of Safety and Homeland Security, who ~~shall~~ Security ("Secretary"), who must be a person qualified by training and experience to perform the duties of the office and preference shall be given to a resident of this State provided that such person is acceptable and ~~equally qualified.~~ office.

(1) ~~The Secretary shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve at the pleasure of the Governor and~~ The Secretary is appointed, confirmed, and holds office as provided in § 10 of Article III of the Delaware Constitution.

(2) ~~shall receive a~~ The Secretary is to receive an annual salary to be determined by the Governor and specified in the Annual Operating Budget. as determined by the General Assembly in the annual appropriations act.

(3) ~~The Secretary of the Department of Safety and Homeland Security shall become a bona fide resident of the State within 6 months after his or her appointment; provided, however, that upon good cause shown, the Governor may grant an additional extension of 6 months. After becoming a resident of the State, the Secretary shall continuously be a resident of the State as long as the Secretary retains the office. Failure to obtain or retain such residency shall be an~~

automatic resignation from said office. The Secretary of the Department of Safety and Homeland Security shall have the power to appoint directors of divisions within the Department upon the written approval of the Governor. The division directors shall have the powers, duties and functions in the administration of their respective divisions as authorized by the Secretary. must obtain and retain residency in this State as provided in § 10 of Article III of the Delaware Constitution.

(4) The Secretary of the Department of Safety and Homeland Security shall have the power to may appoint directors of divisions within the Department ~~upon~~ on the written approval of the Governor. The division directors shall have the powers, ~~duties~~ duties, and functions in the administration of their respective divisions as authorized by the Secretary.

Section 9. Amend § 8302, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8302. Secretary; division directors; Acting Secretary; appointment.

(a) The administrator and head of the Department ~~shall be~~ is the Secretary of the Department of Finance, ~~who shall Finance ("Secretary"), who must be a person qualified by training and experience to perform the duties of the office, and preference shall be given to a resident of this State provided that such person is acceptable and equally qualified. office.~~

(1) ~~The Secretary shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve at the pleasure of the Governor. The Secretary is appointed, confirmed, and holds office as provided in § 10 of Article III of the Delaware Constitution.~~

(2) The Secretary ~~shall~~ is to be paid an annual salary ~~not in excess of \$34,000. as determined by the General Assembly in the annual appropriations act.~~

(3) The Secretary of the Department of Finance ~~shall become a bona fide resident of the State within 6 months after his or her appointment; provided, however, that upon good cause shown, the Governor may grant an additional extension of 6 months. After becoming a resident of the State, the Secretary shall continuously be a resident of the State as long as he or she retains the office. Failure to obtain or retain such residency shall serve to terminate said office. must obtain and retain residency in this State as provided in § 10 of Article III of the Delaware Constitution.~~

Section 10. Amend § 8403, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8403. Secretary; Deputy Secretary; division directors; Acting Secretary; appointment.

(a)(1) The administrator and head of the Department ~~shall be~~ is the Secretary of the Department of Transportation, ~~who shall Transportation ("Secretary"), who must be a person qualified by training and experience to perform the duties of~~

the office and preference shall be given to a resident of this State provided that such person is acceptable and equally qualified. office.

a. ~~The Secretary shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve at the pleasure of the Governor. The Secretary is appointed, confirmed, and holds office as provided in § 10 of Article III of the Delaware Constitution.~~

b. The Secretary shall is to be paid an annual salary not in excess of \$34,000. as determined by the General Assembly in the annual appropriations act.

c. ~~The Secretary of the Department of Finance shall become a bona fide resident of the State within 6 months after his or her appointment; provided, however, that upon good cause shown, the Governor may grant an additional extension of 6 months. After becoming a resident of the State, the Secretary shall continuously be a resident of the State as long as he or she retains the office. Failure to obtain or retain such residency shall serve to terminate said office. must obtain and retain residency in this State as provided in § 10 of Article III of the Delaware Constitution.~~

Section 11. Amend § 8502, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8502. Secretary; division directors; Acting Secretary; appointment.

(a) The administrator and head of the Department ~~shall be~~ is the Secretary of the Department of Labor, ~~who shall Labor (“Secretary”), who must be a person qualified by training and experience to perform the duties of the office, and preference shall be given to a resident of this State provided that such person is acceptable and equally qualified. office.~~

(1) ~~The Secretary shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve at the pleasure of the Governor. The Secretary is appointed, confirmed, and holds office as provided in § 10 of Article III of the Delaware Constitution.~~

(2) The Secretary shall is to be paid an annual salary not in excess of \$28,000. as determined by the General Assembly in the annual appropriations act.

(3) ~~The Secretary of the Department of Labor shall become a bona fide resident of the State within 6 months after his or her appointment; provided, however, that upon good cause shown, the Governor may grant an additional extension of 6 months. After becoming a resident of the State, the Secretary shall continuously be a resident of the State as long as he or she retains the office. Failure to obtain or retain such residency shall serve to terminate said office. must obtain and retain residency in this State as provided in § 10 of Article III of the Delaware Constitution.~~

Section 12. Amend § 8603, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8603. Housing Director.

(a) The administrator and head of DSHA ~~shall be~~ is the Housing ~~Director.~~ Director, who must be a person qualified by training and experience to perform the duties of the office.

(1) ~~The Housing Director shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve at the Governor's pleasure.~~ The Housing Director is appointed, confirmed, and holds office as provided in § 10 of Article III of the Delaware Constitution.

~~The Housing Director shall be a person qualified by training and experience to perform the duties of the office, and preference shall be given to a resident of this State, provided that resident is acceptable and equally qualified. If the Housing Director is not a resident of Delaware at the time of appointment to the position, the Director must become a resident within 6 months of appointment.~~

(2) ~~The Housing Director shall~~ is to be paid an annual salary ~~established by the Governor within the limitation of the funds appropriated therefor.~~ as determined by the General Assembly in the annual appropriations act.

(3) The Housing Director must obtain and retain residency in this State as provided in § 10 of Article III of the Delaware Constitution.

Section 13. Amend § 8702, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8702. Secretary; division directors; Acting Secretary; appointment.

(a) The administrator and head of the Department ~~shall be~~ is the Secretary of State ~~and preference shall be given to a resident of this State provided that such person is acceptable and equally qualified.~~ State ("Secretary").

(1) ~~The Secretary of State shall be appointed by the Governor~~ is appointed, confirmed, and holds office as provided in the Constitution and § 10 of Article III of the Delaware Constitution.

(2) ~~shall~~ The Secretary is to be paid an annual salary ~~not in excess of \$25,000.~~ as determined by the General Assembly in the annual appropriations act.

(3) The Secretary must obtain and retain residency in this State as provided in § 10 of Article III of the Delaware Constitution.

Section 14. Amend § 8902, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8902. Appointment, qualifications, etc., of Commissioner; Deputy Commissioner; bureau chiefs; Acting Commissioner.

(a) The administrator and head of the Department ~~shall be~~ is the Commissioner of the Department of ~~Correction,~~
~~who shall~~ Correction (“Commissioner”), who must be a person qualified by training and experience to perform the duties of
the office.

(1) ~~The Commissioner shall be appointed by the Governor, with the advice and consent of the Senate, and~~
~~shall serve at the pleasure of the Governor. The Commissioner is appointed, confirmed, and holds office as provided in~~
§ 10 of Article III of the Delaware Constitution.

(2) The Commissioner ~~shall~~ is to be paid an annual salary ~~as approved by the General Assembly, as~~
determined by the General Assembly in the annual appropriations act.

(3) ~~The Commissioner of the Department of Correction shall become a bona fide resident of the State within 6~~
~~months after his or her appointment; provided, however, that upon good cause shown, the Governor may grant an~~
~~additional extension of 6 months. After becoming a resident of the State, the Commissioner of the Department of~~
~~Correction shall continuously be a resident of the State as long as he or she retains the office. Failure to obtain or retain~~
~~such residency shall serve to terminate said office.~~ must obtain and retain residency in this State as provided in § 10 of
Article III of the Delaware Constitution.

Section 15. Amend § 9004, Title 29 of the Delaware Code by making deletions as shown by strike through and
insertions as shown by underline as follows:

§ 9004. Secretary; Division Directors; Acting Secretary; Deputy Secretary.

(a) The administrator and head of the Department ~~shall be~~ is the Secretary of the Department of Services for
Children, Youth and Their Families, ~~who shall~~ Families (“Secretary”), who must be a person qualified by training and
experience to perform the duties of this office.

(1) ~~The Secretary shall be appointed by the Governor, with the advice and consent of the Senate, and shall~~
~~serve at the pleasure of the Governor and The Secretary is appointed, confirmed, and holds office as provided in § 10~~
of Article III of the Delaware Constitution.

(2) ~~The Secretary is to receive a an annual salary to be determined by the Governor, as determined by the~~
General Assembly in the annual appropriations act.

(3) ~~The Secretary of the Department of Services for Children, Youth and Their Families shall become a bona~~
~~fide resident of the State within 6 months after his or her appointment; provided, however, that upon good cause~~
~~shown, the Governor may grant an additional extension of 6 months. After becoming a resident of the State, the~~

Secretary shall continuously be a resident of the State as long as he or she retains the office. Failure to obtain or retain such residency shall serve to terminate said office. must obtain and retain residency in this State as provided in § 10 of Article III of the Delaware Constitution.

Section 16. Amend § 9007C, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 9007C. Chief Information Officer.

(a) The ~~Administrator~~ administrator and head of the Department ~~shall be the~~ is this State's CIO.

(1) The CIO shall be appointed by the Governor, with the advice and consent of the Senate, shall serve at the pleasure of the Governor, and The CIO is appointed, confirmed, and holds office as provided in § 10 of Article III of the Delaware Constitution.

(2) The CIO is to receive a an annual salary to be determined by the Governor and specified in the annual Operating Budget, as determined by the General Assembly in the annual appropriations act.

(3) The CIO must obtain and retain residency in this State as provided in § 10 of Article III of the Delaware Constitution.

Section 17. Amend § 9002D, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 9002D. Secretary; appointment; salary; employees and assistants.

(a) ~~There shall be a Secretary of the Department of Human Resources, hereinafter referred to in this chapter as "Secretary,"~~ The administrator and head of the Department is the Secretary of the Department of Human Resources ("Secretary").

(1) to be appointed by and to serve at the pleasure of the Governor, with the advice and consent of the Senate. The Secretary is appointed, confirmed, and holds office as provided in § 10 of Article III of the Delaware Constitution.

(2) The Secretary shall is to be paid a-an annual salary established by the Governor within the limitation of the funds appropriated therefor, as determined by the General Assembly in the annual appropriations act.

(3) The Secretary must obtain and retain residency in this State as provided in § 10 of Article III of the Delaware Constitution.

Section 18. Amend § 2301, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2301. Salary.

257 The Secretary of State ~~shall receive as full compensation for all services a salary of \$15,000 per annum. is to be~~
258 ~~paid an annual salary as determined by the General Assembly in the annual appropriations act.~~

259 Section 19. Amend § 4001, Title 31 of the Delaware Code by making deletions as shown by strike through and
260 insertions as shown by underline as follows:

261 § 4001. Definitions.

262 As used in this chapter, unless a different meaning appears from the context:

263 (17) “Housing Director” means the Housing Director ~~appointed pursuant to~~ described in § 8603 of Title 29.

264 Section 20. This Act takes effect on the date of final passage of an act of the 153rd General Assembly concurring
265 in the amendments to the Delaware Constitution proposed by Senate Bill No. 15 of the 152nd General Assembly. The
266 Director of the Division of Research shall provide written notice to the Registrar of Regulations that the contingency in this
267 Section has been fulfilled. The Registrar shall publish the notice in the Register of Regulations.

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 implements the process of aligning the end of the term of each of the members of the Governor’s cabinet with the end of the Governor’s term by designating the principal officer of each executive department who is subject to the amendments to § 10 of Article III of the Delaware Constitution proposed by Senate Bill No. 15. The General Assembly’s intent in making this change is to require each member of the Governor’s cabinet to be reconfirmed by the Senate at the beginning of each term of a Governor.

 This Act also makes the following consistent:

 (1) The method of determining the annual salary of members of the Governor’s cabinet, by providing that the General Assembly is to set the salary in the annual appropriations act, thereby conforming the Delaware Code to current practice.

 (2) The preference for members of the Governor’s cabinet being residents of this State on appointment, by removing from the Delaware Code the preference for residency for the Secretary of the Department of Safety and Homeland Security, the Secretary of the Department of Finance, the Secretary of the Department of Transportation, the Secretary of Labor, the Housing Director of the Delaware State Housing Authority, and the Secretary of the Department of State.

 Residency requirements for members of the Governor’s cabinet are being removed from the Delaware Code by this Act and replaced with a notation that residency requirements are as provided in the Delaware Constitution. Residency requirements for members of the Governor’s cabinet will now be consistent, requiring the members to be residents of this State within at most 1 year after appointment and to remain residents of this State or be deemed resigned from office.

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

 Because the next General Assembly must concur in the proposed amendment to the Delaware Constitution, this Act does not take effect until the passage of the second leg of the constitutional amendment in the 153rd General Assembly.

 Author: Senator Sokola