

SPONSOR: Sen. Sokola & Rep. Longhurst

Sens. Townsend, Lockman, Hocker, Pettyjohn, Buckson, Hansen, Huxtable, Lawson, Richardson, Wilson; Reps.

Released: 04/18/2024 05:46 PM

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:

1 Section 1. Amend § 102, Title 14 of the Delaware Code by making deletions as shown by strike through and 2 insertions as shown by underline as follows: 3 § 102. Secretary; Deputy, Associate and Assistant Secretaries; Acting Secretary; appointment. 4 (a) The administrator and head of the Department shall be is the Secretary of Education, who shall the Department 5 of Education ("Secretary"), who must be a graduate of an accredited college and shall must have not less than 5 years' 6 experience in teaching and administration, with experience in each such category. 7 (1) The Secretary shall be appointed by the Governor, with the advice and consent of the Senate, and shall 8 serve at the pleasure of the Governor. The Secretary is appointed, confirmed, and holds office as provided in § 10 of 9 Article III of the Delaware Constitution. 10 (2) The Secretary shall is to be paid a-an annual salary as determined by the General Assembly in the annual 11 Appropriations Act. appropriations act. 12 (3) The Secretary of Education shall become a bona fide resident of the State within 6 months after the 13 Secretary's appointment; provided, however, that upon good cause shown, the Governor may grant an additional 14 extension of 6 months. must obtain and retain residency in this State as provided in § 10 of Article III of the Delaware 15 Constitution. 16 Section 2. Amend § 122, Title 20 of the Delaware Code by making deletions as shown by strike through and 17 insertions as shown by underline as follows: § 122. Adjutant General; appointment; qualifications. 18 19 (a) The Governor shall appoint an Adjutant General, with the advice and consent of the Senate, who shall hold 20 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.

21

22	Section 3. Amend § 123, Title 20 of the Delaware Code by making deletions as shown by strike through and
23	insertions as shown by underline as follows:
24	§ 123. Adjutant General — Powers and duties.
25	The Adjutant General shall be responsible to the Commander in Chief for carrying out the policies of the
26	Commander in Chief and shall issue orders in the Commander in Chief's name. To accomplish this end the Adjutant
27	General shall have the following duties and the powers necessary to effectuate the same:
28	(8) Shall receive an annual salary as appropriated by the General Assembly. as determined by the General
29	Assembly in the annual appropriations act.
30	Section 4. Amend § 6302A, Title 29 of the Delaware Code by making deletions as shown by strike through and
31	insertions as shown by underline as follows:
32	§ 6302A. Director; appointment; salary; bond; employees and assistants.
33	(a) There shall be a Director of the Office of Management and Budget, hereinafter referred to in this chapter as
34	"Director," to be appointed by and to serve at the pleasure of the Governor, with the advice and consent of the Senate. The
35	administrator and head of the Office is the Director of the Office of Management and Budget ("Director").
36	(1) The Director is appointed, confirmed, and holds office as provided in § 10 of Article III of the Delaware
37	Constitution.
38	(2) The Director shall is to be paid a salary established by the Governor within the limitation of the funds
39	appropriated therefore. an annual salary as determined by the General Assembly in the annual appropriations act.
40	(3) The Director shall be paid a salary established by the Governor within the limitation of the funds
41	appropriated therefore. must obtain and retain residency in this State as provided in § 10 of Article III of the Delaware
42	Constitution.
43	Section 5. Amend § 7902, Title 29 of the Delaware Code by making deletions as shown by strike through and
44	insertions as shown by underline as follows:
45	§ 7902. Secretary; Deputy Secretary; division directors; Acting Secretary; appointment.
46	(a) The administrator and head of the Department shall be is the Secretary of the Department of Health and Social
47	Services, who shall Services ("Secretary"), who must be a person qualified by training and experience to perform the duties
48	of the office.
49	(1) The Secretary shall be appointed by the Governor, with the advice and consent of the Senate, and shall
50	serve at the pleasure of the Governor. The Secretary is appointed, confirmed, and holds office as provided in § 10 of
51	Article III of the Delaware Constitution.

32	(2) The Secretary shan is to be part an annual safary not in excess of \$34,000. as determined by the General
53	Assembly in the annual appropriations act.
54	(3) The Secretary of the Department of Health and Social Services shall become a bona fide resident of the
55	State within 6 months after his or her appointment; provided, however, that upon good cause shown, the Governor may
56	grant an additional extension of 6 months. After becoming a resident of the State, the Secretary shall continuously be
57	resident of the State as long as he or she retains the office. Failure to obtain or retain such residency shall be an
58	automatic resignation from said office. must obtain and retain residency in this State as provided in § 10 of Article II
59	of the Delaware Constitution.
60	Section 6. Amend § 8002, Title 29 of the Delaware Code by making deletions as shown by strike through and
61	insertions as shown by underline as follows:
62	§ 8002. Secretary; division directors; Acting Secretary; appointment.
63	(a) The administrator and head of the Department shall be is the Secretary of the Department of Natural Resource
54	and Environmental Control, who shall Control ("Secretary"), who must be a person qualified by training and experience to
65	perform the duties of the office.
66	(1) The Secretary shall be appointed by the Governor, with the advice and consent of the Senate and shall
67	serve at the pleasure of the Governor. The Secretary is appointed, confirmed, and holds office as provided in § 10 o
68	Article III of the Delaware Constitution.
69	(2) The Secretary shall is to be paid an annual salary not in excess of \$34,000. as determined by the General
70	Assembly in the annual appropriations act.
71	(3) The Secretary of the Department of Natural Resources and Environmental Control shall become a bond
72	fide resident of the State within 6 months after his or her appointment; provided, however, that upon good cause
73	shown, the Governor may grant an additional extension of 6 months. After becoming a resident of the State, the
74	Secretary shall continuously be a resident of the State as long as he or she retains the office. Failure to obtain or retain
75	such residency shall be an automatic resignation from said office. must obtain and retain residency in this State a
76	provided in § 10 of Article III of the Delaware Constitution.
77	Section 7. Amend § 8102, Title 29 of the Delaware Code by making deletions as shown by strike through and
78	insertions as shown by underline as follows:
79	§ 8102. Secretary; Deputy Secretary; Acting Secretary; appointment.

80	(a) The administrator and head of the Department shall be is the Secretary of the Department of Agriculture, who
81	shall Agriculture ("Secretary"), who must be a person qualified by training and experience to perform the duties of the
82	office.
83	(1) The Secretary shall be appointed by the Governor, with the advice and consent of the Senate, and shall
84	serve at the pleasure of the Governor. The Secretary is appointed, confirmed, and holds office as provided in § 10 of
85	Article III of the Delaware Constitution.
86	(2) The Secretary shall is to be paid an annual salary not in excess of \$25,000. as determined by the General
87	Assembly in the annual appropriations act.
88	(3) The Secretary of the Department of Agriculture shall become a bona fide resident of the State within 6
89	months after his or her appointment; provided, however, that upon good cause shown, the Governor may grant an
90	additional extension of 6 months. After becoming a resident of the State, the Secretary shall continuously be a resident
91	of the State as long as he or she retains the office. Failure to obtain or retain such residency shall be an automatic
92	resignation from said office. must obtain and retain residency in this State as provided in § 10 of Article III of the
93	Delaware Constitution.
94	Section 8. Amend § 8202, Title 29 of the Delaware Code by making deletions as shown by strike through and
95	insertions as shown by underline as follows:
96	§ 8202. Secretary; division directors; Acting Secretary; appointment.
97	(a) The administrator and head of the Department shall-be is the Secretary of the Department of Safety and
98	Homeland Security, who shall Security ("Secretary"), who must be a person qualified by training and experience to perform
99	the duties of the office and preference shall be given to a resident of this State provided that such person is acceptable and
100	equally qualified. office.
101	(1) The Secretary shall be appointed by the Governor, with the advice and consent of the Senate, and shall
102	serve at the pleasure of the Governor and The Secretary is appointed, confirmed, and holds office as provided in § 10
103	of Article III of the Delaware Constitution.
104	(2) shall receive a The Secretary is to receive an annual salary to be determined by the Governor and specified
105	in the Annual Operating Budget. as determined by the General Assembly in the annual appropriations act.
106	(3) The Secretary of the Department of Safety and Homeland Security shall become a bona fide resident of the
107	State within 6 months after his or her appointment; provided, however, that upon good cause shown, the Governor may
108	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

Released: 04/18/2024 05:46 PM

109

110	automatic resignation from said office. The Secretary of the Department of Safety and Homeland Security shall have
111	the power to appoint directors of divisions within the Department upon the written approval of the Governor. The
112	division directors shall have the powers, duties and functions in the administration of their respective divisions as
113	authorized by the Secretary. must obtain and retain residency in this State as provided in § 10 of Article III of the
114	Delaware Constitution.
115	(4) The Secretary of the Department of Safety and Homeland Security shall have the power to may appoint
116	directors of divisions within the Department upon on the written approval of the Governor. The division directors shall
117	have the powers, duties duties, and functions in the administration of their respective divisions as authorized by the
118	Secretary.
119	Section 9. Amend § 8302, Title 29 of the Delaware Code by making deletions as shown by strike through and
120	insertions as shown by underline as follows:
121	§ 8302. Secretary; division directors; Acting Secretary; appointment.
122	(a) The administrator and head of the Department shall be is the Secretary of the Department of Finance, who shall
123	Finance ("Secretary"), who must be a person qualified by training and experience to perform the duties of the office, and
124	preference shall be given to a resident of this State provided that such person is acceptable and equally qualified. office.
125	(1) The Secretary shall be appointed by the Governor, with the advice and consent of the Senate, and shall
126	serve at the pleasure of the Governor. The Secretary is appointed, confirmed, and holds office as provided in § 10 of
127	Article III of the Delaware Constitution.
128	(2) The Secretary shall is to be paid an annual salary not in excess of \$34,000. as determined by the General
129	Assembly in the annual appropriations act.
130	(3) The Secretary of the Department of Finance shall become a bona fide resident of the State within 6 months
131	after his or her appointment; provided, however, that upon good cause shown, the Governor may grant an additional
132	extension of 6 months. After becoming a resident of the State, the Secretary shall continuously be a resident of the
133	State as long as he or she retains the office. Failure to obtain or retain such residency shall serve to terminate said
134	office. must obtain and retain residency in this State as provided in § 10 of Article III of the Delaware Constitution.
135	Section 10. Amend § 8403, Title 29 of the Delaware Code by making deletions as shown by strike through and
136	insertions as shown by underline as follows:
137	§ 8403. Secretary; Deputy Secretary; division directors; Acting Secretary; appointment.
138	(a)(1) The administrator and head of the Department shall be is the Secretary of the Department of Transportation,
139	who shall Transportation ("Secretary"), who must be a person qualified by training and experience to perform the duties of

140	the office and preference shall be given to a resident of this State provided that such person is acceptable and equally
141	qualified. office.
142	a. The Secretary shall be appointed by the Governor, with the advice and consent of the Senate, and shall
143	serve at the pleasure of the Governor. The Secretary is appointed, confirmed, and holds office as provided in § 10
144	of Article III of the Delaware Constitution.
145	b. The Secretary shall is to be paid an annual salary not in excess of \$34,000. as determined by the
146	General Assembly in the annual appropriations act.
147	c. The Secretary of the Department of Finance shall become a bona fide resident of the State within 6
148	months after his or her appointment; provided, however, that upon good cause shown, the Governor may grant ar
149	additional extension of 6 months. After becoming a resident of the State, the Secretary shall continuously be a
150	resident of the State as long as he or she retains the office. Failure to obtain or retain such residency shall serve to
151	terminate said office. must obtain and retain residency in this State as provided in § 10 of Article III of the
152	Delaware Constitution.
153	Section 11. Amend § 8502, Title 29 of the Delaware Code by making deletions as shown by strike through and
154	insertions as shown by underline as follows:
155	§ 8502. Secretary; division directors; Acting Secretary; appointment.
156	(a) The administrator and head of the Department shall be is the Secretary of the Department of Labor, who shall
157	Labor ("Secretary"), who must be a person qualified by training and experience to perform the duties of the office, and
158	preference shall be given to a resident of this State provided that such person is acceptable and equally qualified. office.
159	(1) The Secretary shall be appointed by the Governor, with the advice and consent of the Senate, and shall
160	serve at the pleasure of the Governor. The Secretary is appointed, confirmed, and holds office as provided in § 10 or
161	Article III of the Delaware Constitution.
162	(2) The Secretary shall is to be paid an annual salary not in excess of \$28,000. as determined by the General
163	Assembly in the annual appropriations act.
164	(3) The Secretary of the Department of Labor shall become a bona fide resident of the State within 6 months
165	after his or her appointment; provided, however, that upon good cause shown, the Governor may grant an additional
166	extension of 6 months. After becoming a resident of the State, the Secretary shall continuously be a resident of the
167	State as long as he or she retains the office. Failure to obtain or retain such residency shall serve to terminate said
168	office. must obtain and retain residency in this State as provided in § 10 of Article III of the Delaware Constitution.

169	Section 12. Amend § 8603, Title 29 of the Delaware Code by making deletions as shown by strike through and
170	insertions as shown by underline as follows:
171	§ 8603. Housing Director.
172	(a) The administrator and head of DSHA shall be is the Housing Director. Director, who must be a person
173	qualified by training and experience to perform the duties of the office.
174	(1) The Housing Director shall be appointed by the Governor, with the advice and consent of the Senate, and
175	shall serve at the Governor's pleasure. The Housing Director is appointed, confirmed, and holds office as provided in §
176	10 of Article III of the Delaware Constitution.
177	The Housing Director shall be a person qualified by training and experience to perform the duties of the
178	office, and preference shall be given to a resident of this State, provided that resident is acceptable and equally
179	qualified. If the Housing Director is not a resident of Delaware at the time of appointment to the position, the Director
180	must become a resident within 6 months of appointment.
181	(2) The Housing Director shall is to be paid an annual salary established by the Governor within the limitation
182	of the funds appropriated therefor. as determined by the General Assembly in the annual appropriations act.
183	(3) The Housing Director must obtain and retain residency in this State as provided in § 10 of Article III of the
184	Delaware Constitution.
185	Section 13. Amend § 8702, Title 29 of the Delaware Code by making deletions as shown by strike through and
186	insertions as shown by underline as follows:
187	§ 8702. Secretary; division directors; Acting Secretary; appointment.
188	(a) The administrator and head of the Department shall be is the Secretary of State and preference shall be given to
189	a resident of this State provided that such person is acceptable and equally qualified. State ("Secretary").
190	(1) The Secretary of State shall be appointed by the Governor is appointed, confirmed, and holds office as
191	provided in the Constitution and § 10 of Article III of the Delaware Constitution.
192	(2) shall The Secretary is to be paid an annual salary not in excess of \$25,000. as determined by the General
193	Assembly in the annual appropriations act.
194	(3) The Secretary must obtain and retain residency in this State as provided in § 10 of Article III of the
195	Delaware Constitution.
196	Section 14. Amend § 8902, Title 29 of the Delaware Code by making deletions as shown by strike through and
197	insertions as shown by underline as follows:

198	§ 8902. Appointment, qualifications, etc., of Commissioner; Deputy Commissioner; bureau chiefs; Acting
199	Commissioner.
200	(a) The administrator and head of the Department shall be is the Commissioner of the Department of Correction
201	who shall Correction ("Commissioner"), who must be a person qualified by training and experience to perform the duties of
202	the office.
203	(1) The Commissioner shall be appointed by the Governor, with the advice and consent of the Senate, and
204	shall serve at the pleasure of the Governor. The Commissioner is appointed, confirmed, and holds office as provided in
205	§ 10 of Article III of the Delaware Constitution.
206	(2) The Commissioner shall is to be paid an annual salary as approved by the General Assembly. as
207	determined by the General Assembly in the annual appropriations act.
208	(3) The Commissioner of the Department of Correction shall become a bona fide resident of the State within 6
209	months after his or her appointment; provided, however, that upon good cause shown, the Governor may grant ar
210	additional extension of 6 months. After becoming a resident of the State, the Commissioner of the Department of
211	Correction shall continuously be a resident of the State as long as he or she retains the office. Failure to obtain or retain
212	such residency shall serve to terminate said office. must obtain and retain residency in this State as provided in § 10 or
213	Article III of the Delaware Constitution.
214	Section 15. Amend § 9004, Title 29 of the Delaware Code by making deletions as shown by strike through and
215	insertions as shown by underline as follows:
216	§ 9004. Secretary; Division Directors; Acting Secretary; Deputy Secretary.
217	(a) The administrator and head of the Department shall be is the Secretary of the Department of Services for
218	Children, Youth and Their Families, who shall Families ("Secretary"), who must be a person qualified by training and
219	experience to perform the duties of this office.
220	(1) The Secretary shall be appointed by the Governor, with the advice and consent of the Senate, and shall
221	serve at the pleasure of the Governor and The Secretary is appointed, confirmed, and holds office as provided in § 10
222	of Article III of the Delaware Constitution.
223	(2) The Secretary is to receive a an annual salary to be determined by the Governor. as determined by the
224	General Assembly in the annual appropriations act.
225	(3) The Secretary of the Department of Services for Children, Youth and Their Families shall become a bond
226	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

Released: 04/18/2024 05:46 PM

227

228	Secretary shall continuously be a resident of the State as long as he or she retains the office. Failure to obtain or retain
229	such residency shall serve to terminate said office. must obtain and retain residency in this State as provided in § 10 of
230	Article III of the Delaware Constitution.
231	Section 16. Amend § 9007C, Title 29 of the Delaware Code by making deletions as shown by strike through and
232	insertions as shown by underline as follows:
233	§ 9007C. Chief Information Officer.
234	(a) The Administrator administrator and head of the Department shall be the is this State's CIO.
235	(1) The CIO shall be appointed by the Governor, with the advice and consent of the Senate, shall serve at the
236	pleasure of the Governor, and The CIO is appointed, confirmed, and holds office as provided in § 10 of Article III of
237	the Delaware Constitution.
238	(2) The CIO is to receive a an annual salary to be determined by the Governor and specified in the annual
239	Operating Budget. as determined by the General Assembly in the annual appropriations act.
240	(3) The CIO must obtain and retain residency in this State as provided in § 10 of Article III of the Delaware
241	Constitution.
242	Section 17. Amend § 9002D, Title 29 of the Delaware Code by making deletions as shown by strike through and
243	insertions as shown by underline as follows:
244	§ 9002D. Secretary; appointment; salary; employees and assistants.
245	(a) There shall be a Secretary of the Department of Human Resources, hereinafter referred to in this chapter as
246	"Secretary," The administrator and head of the Department is the Secretary of the Department of Human Resources
247	("Secretary").
248	(1) to be appointed by and to serve at the pleasure of the Governor, with the advice and consent of the Senate.
249	The Secretary is appointed, confirmed, and holds office as provided in § 10 of Article III of the Delaware Constitution.
250	(2) The Secretary shall is to be paid a an annual salary established by the Governor within the limitation of the
251	funds appropriated therefor. as determined by the General Assembly in the annual appropriations act.
252	(3) The Secretary must obtain and retain residency in this State as provided in § 10 of Article III of the
253	Delaware Constitution.
254	Section 18. Amend § 2301, Title 29 of the Delaware Code by making deletions as shown by strike through and
255	insertions as shown by underline as follows:
256	§ 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