

589

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. BRESLIN, ADAMS, DUANE, KRUEGER, OPPENHEIMER, PERALTA, SAMPSON, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing amendments to sections 5 and 6 of article 4 of the constitution, relating to the filling of vacancies in the office of lieutenant-governor and the powers and duties of such office

1 Section 1. Resolved (if the Assembly concur), That the third undesig-
2 nated paragraph of section 5 of article 4 of the constitution be amended
3 to read as follows:
4 In case the governor is impeached[, is absent from the state or is
5 otherwise unable to discharge the powers and duties of the office of
6 governor], the lieutenant-governor shall act as governor until [the
7 inability shall cease or until] the term of the governor shall expire.
8 WHENEVER THE GOVERNOR TRANSMITS TO THE TEMPORARY PRESIDENT OF THE SENATE
9 AND SPEAKER OF THE ASSEMBLY HIS OR HER WRITTEN DECLARATION THAT HE OR
10 SHE IS UNABLE TO DISCHARGE THE POWERS AND DUTIES OF HIS OR HER OFFICE,
11 AND UNTIL HE OR SHE TRANSMITS TO THEM A WRITTEN DECLARATION TO THE
12 CONTRARY, SUCH POWERS AND DUTIES SHALL BE DISCHARGED BY THE LIEUTENANT-
13 GOVERNOR AS ACTING GOVERNOR. WHENEVER THE LIEUTENANT-GOVERNOR AND A
14 MAJORITY OF EITHER THE PRINCIPAL OFFICERS OF THE EXECUTIVE DEPARTMENT OR
15 OF SUCH OTHER BODY AS THE LEGISLATURE MAY BY LAW PROVIDE TRANSMIT TO THE
16 TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY THEIR
17 WRITTEN DECLARATION THAT THE GOVERNOR IS UNABLE TO DISCHARGE THE POWERS
18 AND DUTIES OF HIS OR HER OFFICE, THE LIEUTENANT-GOVERNOR SHALL IMME-
19 DIATELY ASSUME THE POWERS AND DUTIES OF THE OFFICE AS ACTING GOVERNOR.
20 THEREAFTER, WHEN THE GOVERNOR TRANSMITS TO THE TEMPORARY PRESIDENT OF
21 THE SENATE AND THE SPEAKER OF THE ASSEMBLY HIS OR HER WRITTEN DECLARA-
22 TION THAT NO INABILITY EXISTS, HE OR SHE SHALL RESUME THE POWERS AND
23 DUTIES OF HIS OR HER OFFICE UNLESS THE LIEUTENANT-GOVERNOR AND A MAJORI-
24 TY OF EITHER THE PRINCIPAL OFFICERS OF THE EXECUTIVE DEPARTMENT OR OF

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

LBD89079-01-1

1 SUCH OTHER BODY AS THE LEGISLATURE MAY BY LAW PROVIDE TRANSMIT WITHIN
2 FOUR DAYS TO THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF
3 THE ASSEMBLY THEIR WRITTEN DECLARATION THAT THE GOVERNOR IS UNABLE TO
4 DISCHARGE THE POWERS AND DUTIES OF HIS OR HER OFFICE. THEREUPON THE
5 LEGISLATURE SHALL DECIDE THE ISSUE, ASSEMBLING WITHIN FORTY-EIGHT HOURS
6 FOR THAT PURPOSE IF NOT IN SESSION. IF THE LEGISLATURE, WITHIN
7 TWENTY-ONE DAYS AFTER RECEIPT OF THE LATTER WRITTEN DECLARATION, OR, IF
8 THE LEGISLATURE IS NOT IN SESSION, WITHIN TWENTY-ONE DAYS AFTER THE
9 LEGISLATURE IS REQUIRED TO ASSEMBLE, DETERMINES BY TWO-THIRDS VOTE OF
10 BOTH HOUSES THAT THE GOVERNOR IS UNABLE TO DISCHARGE THE POWERS AND
11 DUTIES OF HIS OR HER OFFICE, THE LIEUTENANT-GOVERNOR SHALL CONTINUE TO
12 DISCHARGE THE SAME AS ACTING GOVERNOR; OTHERWISE, THE GOVERNOR SHALL
13 RESUME THE POWERS AND DUTIES OF HIS OR HER OFFICE.

14 S 2. Resolved (if the Assembly concur), That the third, fourth and
15 fifth undesignated paragraphs of section 6 of article 4 of the constitu-
16 tion be amended to read as follows:

17 In case of vacancy in the offices of both governor and lieutenant-gov-
18 ernor or if both of them shall be impeached[, absent from the state] or
19 otherwise unable to discharge the powers and duties of the office of
20 governor, the temporary president of the senate shall act as governor
21 until the inability shall cease or until a governor shall be elected.

22 In case of vacancy in the office of lieutenant-governor alone, or if
23 the lieutenant-governor shall be [impeached, absent from the state or
24 otherwise] unable to discharge the duties of office, the temporary pres-
25 ident of the senate shall perform all the duties of lieutenant-governor
26 [during] UNTIL such vacancy BE FILLED or DURING THE PENDENCY OF SUCH
27 inability. IN CASE OF THE REMOVAL OF THE LIEUTENANT-GOVERNOR ALONE FROM
28 OFFICE OR OF HIS OR HER DEATH, RESIGNATION, IMPEACHMENT OR ASCENSION TO
29 GOVERNOR, THE OFFICE OF LIEUTENANT-GOVERNOR SHALL BE FILLED FOR THE
30 REMAINDER OF THE TERM BY APPOINTMENT OF THE GOVERNOR, SUBJECT TO CONFIR-
31 MATION OF SUCH APPOINTMENT BY MAJORITY VOTE OF EACH HOUSE OF THE LEGIS-
32 LATURE.

33 If, when the duty of acting as governor devolves upon the temporary
34 president of the senate, there be a vacancy in such office or the tempo-
35 rary president of the senate shall be [absent from the state or other-
36 wise] unable to discharge the duties of governor, the speaker of the
37 assembly shall act as governor during such vacancy or inability.

38 S 3. Resolved (if the Assembly concur), That the foregoing amendment
39 be referred to the first regular legislative session convening after the
40 next succeeding general election of members of the assembly, and, in
41 conformity with section 1 of article 19 of the constitution, be
42 published for 3 months previous to the time of such election.