

STATE OF NEW YORK

1632

2021-2022 Regular Sessions

IN ASSEMBLY

January 11, 2021

Introduced by M. of A. PERRY -- read once and referred to the Committee on Cities

AN ACT to amend the general city law, the New York city charter and the administrative code of the city of New York, in relation to providing that the office of police commissioner in cities with a population of one hundred thousand or more is an elected office

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The general city law is amended by adding a new section
2 18-e to read as follows:

3 § 18-e. Election of police commissioner. 1. The office of police
4 commissioner, in every city with a population of greater than one
5 hundred thousand but less than one million, shall be an elected office.
6 The office of police commissioner shall be elected at the general
7 election in the year two thousand twenty-two and every fourth year ther-
8 eafter. The police commissioner shall hold office for a term of four
9 years commencing on the first day of January after each such election
10 and shall not serve for more than two full terms in such office. The
11 police commissioner may be removed or suspended in the same manner as
12 the mayor of the city would be removed or suspended.

13 2. (a) Any vacancy in the office of police commissioner shall be
14 filled by popular election, in the manner set forth in this subdivision.
15 In the event of a vacancy in the office of police commissioner until an
16 interim or permanent successor is first elected, or whenever by reason
17 of sickness, absence from the city or suspension from office, the police
18 commissioner shall be prevented from attending to the duties of the
19 office, an interim police commissioner shall be appointed by the mayor.

20 (b) Within three days of the occurrence of a vacancy in the office of
21 police commissioner, the mayor shall proclaim the date for the election
22 or elections required by this subdivision, provide notice of such proc-
23 lamation to the city clerk and the board of elections and publish notice

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

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1 thereof. After the proclamation of the date for an election to be held
2 pursuant to paragraphs (e) and (f) of this subdivision, the city clerk
3 shall publish notice thereof not less than twice in each week preceding
4 the date of such election in newspapers distributed within the city, and
5 the board of elections shall mail notice of such election to all regis-
6 tered voters within the city.

7 (c) If a vacancy occurs during the first three years of the term, a
8 general election to fill the vacancy for the remainder of the unexpired
9 term shall be held in the year in which the vacancy occurs, unless the
10 vacancy occurs after the last day on which an occurring vacancy may be
11 filled at the general election in that same year with party nominations
12 of candidates for such election being made at a primary election, as
13 provided in section 6-116 of the election law. If such a vacancy occurs
14 in any year after such last day, it shall be filled for the remainder of
15 the unexpired term at the general election in the following year
16 provided, however, that no general election to fill a vacancy shall be
17 held in the last year of the term, except as provided in paragraph (j)
18 of this subdivision. Party nominations of candidates for a general
19 election to fill a vacancy for the remainder of the unexpired term shall
20 be made at a primary election, except as provided in paragraph (f) of
21 this subdivision.

22 (d) If a special or general election to fill the vacancy on an interim
23 basis has not been previously held pursuant to paragraphs (e), (g), (h)
24 and (i) of this subdivision, the person elected to fill the vacancy for
25 the remainder of the unexpired term at a general election shall take
26 office immediately upon qualification and shall serve until the term
27 expires. If a special or general election to fill the vacancy on an
28 interim basis has been previously held, the person elected to fill the
29 vacancy for the remainder of the unexpired term at a general election
30 shall take office on January first of the year following such general
31 election and shall serve until the term expires.

32 (e) If a vacancy occurs during the first three years of the term and
33 on or before the last day in the third year of the term on which an
34 occurring vacancy may be filled for the remainder of the unexpired term
35 at a general election with party nominations of candidates for such
36 election being made at a primary election, as provided in section 6-116
37 of the election law, a special or general election to fill the vacancy
38 on an interim basis shall be held, unless the vacancy occurs less than
39 ninety days before the next primary election at which party nominations
40 for a general election to fill the vacancy may be made and on or before
41 the last day on which an occurring vacancy may be filled for the remain-
42 der of the unexpired term at the general election in the same year in
43 which the vacancy occurs with party nominations of candidates for such
44 election being made at a primary election, as provided in section 6-116
45 of the election law.

46 (f) If a vacancy occurs after the last day in the third year of the
47 term on which an occurring vacancy may be filled for the remainder of
48 the unexpired term at a general election in each year with party nomi-
49 nations of candidates for such election being made at a primary
50 election, as provided in section 6-116 of the election law, but not less
51 than ninety days before the date of the primary election in the fourth
52 year of such term, a special or general election to fill such vacancy
53 for the remainder of the unexpired term shall be held.

54 (g) Elections held pursuant to paragraph (e) or (f) of this subdivi-
55 sion shall be scheduled in the following manner: A special election to
56 fill the vacancy shall be held on the first Tuesday at least eighty days

1 after the occurrence of the vacancy, provided that the mayor, in the
2 proclamation required by paragraph (b) of this subdivision, may schedule
3 such election for another day no more than ten days after such Tuesday
4 and not less than seventy-five days after such proclamation if the mayor
5 determines that such rescheduling is necessary to facilitate maximum
6 voter participation; except that:

7 (i) if the vacancy occurs before August seventeenth in any year and
8 the first Tuesday at least eighty days after the occurrence of the
9 vacancy is less than ninety days before a regularly scheduled general
10 election, the vacancy shall be filled at such general election;

11 (ii) if the vacancy occurs before August seventeenth in any year and
12 the first Tuesday at least eighty days after the occurrence of the
13 vacancy is after a regularly scheduled general election, the vacancy
14 shall be filled at such general election; and

15 (iii) if the vacancy occurs on or after August seventeenth in any year
16 and the first Tuesday at least eighty days after the occurrence of the
17 vacancy is after, but less than thirty days after, a regularly scheduled
18 general election, the vacancy shall be filled at a special election to
19 be held on the first Tuesday in December in such year.

20 (h) All nominations for elections to fill vacancies held pursuant to
21 paragraphs (e) and (f) of this subdivision shall be by independent nomi-
22 nating petition. A signature on an independent nominating petition made
23 earlier than the date of the proclamation required by paragraph (b) of
24 this subdivision shall not be counted.

25 (i) A person elected to fill a vacancy in the office of the police
26 commissioner at an election held pursuant to paragraph (e) of this
27 subdivision shall take office immediately upon qualification and serve
28 until December thirty-first of the year in which the vacancy is filled
29 for the remainder of the unexpired term pursuant to paragraph (c) of
30 this subdivision. A person elected to fill a vacancy in the office of
31 the police commissioner at an election held pursuant to paragraph (f) of
32 this subdivision shall take office immediately upon qualification and
33 serve until the term expires.

34 (j) If a vacancy occurs less than ninety days before the date of the
35 primary election in the last year of the term, the person elected at the
36 general election in such year for the next succeeding term shall take
37 office immediately upon qualification and fill the vacancy for the
38 remainder of the unexpired term.

39 § 2. Section 431 of the New York city charter is amended to read as
40 follows:

41 § 431. Department; commissioner. a. There shall be a police depart-
42 ment the head of which shall be the police commissioner who shall be
43 [~~appointed by the mayor and shall, unless sooner removed, hold office~~
44 ~~for a term of five years.~~

45 ~~b. Whenever in the judgment of the mayor or the governor the public~~
46 ~~interests shall so require, the commissioner may be removed from office~~
47 ~~by either, and shall be ineligible for reappointment thereto.~~

48 ~~c. Whenever a vacancy shall occur in the office of police commission-~~
49 ~~er, a police commissioner shall be appointed by the mayor within ten~~
50 ~~days thereafter]~~ elected at the general election in the year two thou-
51 sand twenty-two and every fourth year thereafter. The police commission-
52 er shall hold office for a term of four years commencing on the first
53 day of January after each such election. A police commissioner who
54 resigns or is removed from office prior to the completion of a full term
55 shall be deemed to have held that office for a full term for purposes of
56 section eleven hundred thirty-eight of the charter.

1 b. Any vacancy in the office of police commissioner shall be filled by
2 popular election, in the manner set forth in this subdivision. In the
3 event of a vacancy in the office of police commissioner until an interim
4 or permanent successor is first elected, or whenever by reason of sick-
5 ness, absence from the city or suspension from office, the police
6 commissioner shall be prevented from attending to the duties of the
7 office, an interim police commissioner shall be appointed by the mayor.

8 1. Within three days of the occurrence of a vacancy in the office of
9 police commissioner, the mayor shall proclaim the date for the election
10 or elections required by this subdivision, provide notice of such proc-
11 lamation to the city clerk and the board of elections and publish notice
12 thereof in the City Record. After the proclamation of the date for an
13 election to be held pursuant to paragraphs four and five of this subdi-
14 vision, the city clerk shall publish notice thereof not less than twice
15 in each week preceding the date of such election in newspapers distrib-
16 uted within the city, and the board of elections shall mail notice of
17 such election to all registered voters within the city.

18 2. If a vacancy occurs during the first three years of the term, a
19 general election to fill the vacancy for the remainder of the unexpired
20 term shall be held in the year in which the vacancy occurs, unless the
21 vacancy occurs after the last day on which an occurring vacancy may be
22 filled at the general election in that same year with party nominations
23 of candidates for such election being made at a primary election, as
24 provided in section 6-116 of the election law. If such a vacancy occurs
25 in any year after such last day, it shall be filled for the remainder of
26 the unexpired term at the general election in the following year
27 provided, however, that no general election to fill a vacancy shall be
28 held in the last year of the term, except as provided in paragraph nine
29 of this subdivision. Party nominations of candidates for a general
30 election to fill a vacancy for the remainder of the unexpired term shall
31 be made at a primary election, except as provided in paragraph five of
32 this subdivision.

33 3. If a special or general election to fill the vacancy on an interim
34 basis has not been previously held pursuant to paragraphs four, six,
35 seven and eight of this subdivision, the person elected to fill the
36 vacancy for the remainder of the unexpired term at a general election
37 shall take office immediately upon qualification and shall serve until
38 the term expires. If a special or general election to fill the vacancy
39 on an interim basis has been previously held, the person elected to fill
40 the vacancy for the remainder of the unexpired term at a general
41 election shall take office on January first of the year following such
42 general election and shall serve until the term expires.

43 4. If a vacancy occurs during the first three years of the term and on
44 or before the last day in the third year of the term on which an occur-
45 ring vacancy may be filled for the remainder of the unexpired term at a
46 general election with party nominations of candidates for such election
47 being made at a primary election, as provided in section 6-116 of the
48 election law, a special or general election to fill the vacancy on an
49 interim basis shall be held, unless the vacancy occurs less than ninety
50 days before the next primary election at which party nominations for a
51 general election to fill the vacancy may be made and on or before the
52 last day on which an occurring vacancy may be filled for the remainder
53 of the unexpired term at the general election in the same year in which
54 the vacancy occurs with party nominations of candidates for such
55 election being made at a primary election, as provided in section 6-116
56 of the election law.

1 5. If a vacancy occurs after the last day in the third year of the
2 term on which an occurring vacancy may be filled for the remainder of
3 the unexpired term at a general election in each year with party nomi-
4 nations of candidates for such election being made at a primary
5 election, as provided in section 6-116 of the election law, but not less
6 than ninety days before the date of the primary election in the fourth
7 year of such term, a special or general election to fill such vacancy
8 for the remainder of the unexpired term shall be held.

9 6. Elections held pursuant to paragraph four or five of this subdivi-
10 sion shall be scheduled in the following manner: A special election to
11 fill the vacancy shall be held on the first Tuesday at least eighty days
12 after the occurrence of the vacancy, provided that the mayor, in the
13 proclamation required by paragraph one of this subdivision, may schedule
14 such election for another day no more than ten days after such Tuesday
15 and not less than seventy-five days after such proclamation if the mayor
16 determines that such rescheduling is necessary to facilitate maximum
17 voter participation; except that

18 (a) if the vacancy occurs before August seventeenth in any year and
19 the first Tuesday at least eighty days after the occurrence of the
20 vacancy is less than ninety days before a regularly scheduled general
21 election, the vacancy shall be filled at such general election;

22 (b) if the vacancy occurs before August seventeenth in any year and
23 the first Tuesday at least eighty days after the occurrence of the
24 vacancy is after a regularly scheduled general election, the vacancy
25 shall be filled at such general election; and

26 (c) if the vacancy occurs on or after August seventeenth in any year
27 and the first Tuesday at least eighty days after the occurrence of the
28 vacancy is after, but less than thirty days after, a regularly scheduled
29 general election, the vacancy shall be filled at a special election to
30 be held on the first Tuesday in December in such year.

31 7. All nominations for elections to fill vacancies held pursuant to
32 paragraphs four and five of this subdivision shall be by independent
33 nominating petition. A signature on an independent nominating petition
34 made earlier than the date of the proclamation required by paragraph one
35 of this subdivision shall not be counted.

36 8. A person elected to fill a vacancy in the office of the police
37 commissioner at an election held pursuant to paragraph four of this
38 subdivision shall take office immediately upon qualification and serve
39 until December thirty-first of the year in which the vacancy is filled
40 for the remainder of the unexpired term pursuant to paragraph two of
41 this subdivision. A person elected to fill a vacancy in the office of
42 the police commissioner at an election held pursuant to paragraph five
43 of this subdivision shall take office immediately upon qualification and
44 serve until the term expires.

45 9. If a vacancy occurs less than ninety days before the date of the
46 primary election in the last year of the term, the person elected at the
47 general election in such year for the next succeeding term shall take
48 office immediately upon qualification and fill the vacancy for the
49 remainder of the unexpired term.

50 § 3. The New York city charter is amended by adding a new section
51 431-a to read as follows:

52 § 431-a. Removal of police commissioner. The police commissioner may
53 be removed or suspended in the same manner as provided in this charter
54 with respect to the mayor.

1 § 4. Section 1138 of the New York city charter, as amended by section
2 1 of question 1 of local law number 60 of the city of New York for the
3 year 2010, is amended to read as follows:

4 § 1138. Term Limits. a. Notwithstanding any provision to the contrary
5 contained in this charter, no person shall be eligible to be elected to
6 or serve in the office of mayor, public advocate, comptroller, borough
7 president ~~[or]~~, council member or police commissioner if that person had
8 previously held such office for two or more consecutive full terms,
9 unless one full term or more has elapsed since that person last held
10 such office.

11 b. Notwithstanding any other provision to the contrary, no local law
12 may be enacted by the city council, including but not limited to amend-
13 ment of the provisions of this chapter, if such local law would alter or
14 permit alteration of the term limit set forth in this section as such
15 limit applies to any person then serving in the office of mayor, public
16 advocate, comptroller, borough president ~~[or]~~, council member or police
17 commissioner.

18 c. Severability. If any provision of this section, or any provision of
19 paragraph one of subdivision ~~[k]~~ (k) of section eleven hundred fifty-two
20 of this charter relating to the application of this section, shall be
21 held invalid or ineffective in whole or in part or inapplicable to any
22 person or situation, such holding shall not affect, impair or invalidate
23 the remainder of this section and such paragraph, and all other
24 provisions thereof shall nevertheless be separately and fully effective
25 and the application of any such provision to other persons or situations
26 shall not be affected.

27 § 5. The opening paragraph of section 14-102 of the administrative
28 code of the city of New York is amended to read as follows:

29 Until otherwise provided by the ~~[mayor, upon the recommendation of~~
30 ~~the]~~ police commissioner, the police force in the police department,
31 shall consist of the following ranks of members, to wit:

32 § 6. This act shall take effect immediately.