STATE OF NEW YORK

4881

2025-2026 Regular Sessions

IN ASSEMBLY

February 7, 2025

Introduced by M. of A. HEASTIE -- read once and referred to the Committee on Election Law

AN ACT to amend the public officers law, in relation to filling vacancies in elective offices

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

Section 1. Legislative findings. The Legislature finds that New York's current system of filling federal and state elected office vacancies places undue financial and operational burdens on local boards of elections and exacerbates voter confusion and fatigue by asking voters to frequently participate in elections throughout the year, thus resulting in lower voter turnout and decreased participation in the electoral process.

Local boards must comply with state requirements and federal requirements under the Help America Vote Act (HAVA), which include training poll workers to ensure elections remain inclusive and accessible to voters. The unpredictability of holding multiple elections throughout the year may leave local boards unable to fiscally plan for such unexpected expenses. County boards generally have months of preparation ahead of elections given the complexities associated with executing an election - including setting up poll sites, processing voter registrations, and gathering the necessary staff to help run the election. It is therefore an inefficient use of funds to schedule a special election so close to a general election date, causing county boards to reduplicate the significant effort and funding in a short period of time.

Further, voter fatigue occurs when voters are asked to participate in frequent elections throughout the year. In addition, multiple elections can create a process which is confusing or challenging for voters, resulting in lower voter turnout and subsequently a less representative electorate for the people. This is particularly true in congressional elections, which may encompass multiple counties and involve several boards of elections. Ensuring that congressional elections are set to maximize voter turnout is of fundamental importance to the Legislature and a well-functioning elections system.

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

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While vacancies in elected offices can occur at any time, occasionally necessitating additional special elections in unusual times of the year, the Legislature finds it is crucial to ensure efficiencies in elections where possible and maximize voter turnout. For these reasons, the Legislature seeks to create such efficiencies and increase voter turnout by allowing for the combination of special elections with general election dates in state elections when the special election would occur close in time with a general election date already determined by the State Board of Elections. For congressional elections, the Legislature seeks to create such efficiencies and increase voter turnout by allowing for special elections to be combined with a general election. This will prevent the doubling of efforts and the excess expenditure of taxpayer funds as well as ensure that county boards, voters, and candidates are prepared and informed.

§ 2. Subdivision 3 of section 42 of the public officers law, as amended by chapter 164 of the laws of 2022, is amended to read as follows:

3. Upon the failure to elect to any office, except that of governor or lieutenant-governor, at a general or special election, at which such office is authorized to be filled, or upon the death or disqualification of a person elected to office before the commencement of [~~his or her~~] **their** official term, or upon the occurrence of a vacancy in any elective office which cannot be filled by appointment for a period extending to or beyond the next general election at which a person may be elected thereto, the governor shall, unless otherwise provided for by authorized local law, resolution or ordinance, make proclamation of a special election to fill such office within [~~ten~~] **fifteen** days of the occurrence of a vacancy, specifying the district or county in which the election is to be held, and the day thereof, which shall be:

a. not less than seventy nor more than eighty days from the date of the proclamation to fill a vacancy in the office of a representative in congress or for a vacancy in any other office that is not in the state senate or assembly**, provided, however, that if there is a vacancy occurring in the same calendar year as a general election date set pursuant to section 8-100 of the election law, a proclamation may be issued so that the special election may be scheduled on the general election date**; and

b. not less than forty days nor more than fifty days from the date of the proclamation to fill a vacancy in the state senate or assembly, provided, however, that [~~the~~] **if there is a general election date set pursuant to section 8-100 of the election law which is not less than forty nor more than one hundred days from the date the proclamation to fill such vacancy must be issued, a proclamation may be issued so that the special election may be scheduled on the general election date. The** governor may issue a proclamation to fill any subsequent vacancy in the state senate or assembly for the same date as any previously scheduled special election as long as the proclamation is issued at least thirty days before the occurrence of the special election.

c. Nothing in this subdivision shall be construed to require a special election to be consolidated with any already scheduled general election date.

§ 3. This act shall take effect immediately. Notwithstanding any other provision of law, this act shall apply to any vacancy for which a proclamation may be issued under section 42 of the public officers law but has not yet been issued as of the effective date of this act.