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2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. CAHILL, BENEDETTO, BING, BRENNAN, CUSICK, DelMONTE, EDDINGTON, GALEF, GIANARIS, GOTTFRIED, GUNTHER, JAFFEE, JEFFRIES, KOON, LUPARDO, MAGEE, MAISEL, ORTIZ, PEOPLES, POWELL, REILLY, STIRPE, GABRYSZAK, KAVANAGH, CAMARA, P. RIVERA -- Multi-Sponsored by -- M. of A. COLTON, HYER-SPENCER, LANCMAN, LAVINE, ROSENTHAL, SWEENEY -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the public officers law, in relation to vacancies in the office of comptroller or attorney-general

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 41 of the public officers law, as amended by chap-
2 ter 91 of the laws of 1928, is amended to read as follows:
3 S 41. Vacancies [filled by legislature] IN THE OFFICE OF COMPTROLLER
4 OR ATTORNEY-GENERAL. When a vacancy occurs or exists[, other than by
5 removal,] in the office of comptroller or attorney-general, [or a resig-
6 nation of either such officer to take effect at any future day shall
7 have been made while the legislature is in session, the two houses ther-
8 eof, by joint ballot, shall appoint a person to fill such actual or
9 prospective vacancy] THE GOVERNOR MAY IN HIS DISCRETION MAKE PROCLAMA-
10 TION OF A SPECIAL ELECTION TO FILL SUCH OFFICE, SPECIFYING THE DATE OF
11 SUCH ELECTION, WHICH SHALL BE NOT LESS THAN FORTY-FIVE NOR MORE THAN
12 SIXTY DAYS FROM THE DATE OF THE PROCLAMATION.
13 S 2. Subdivision 4-a of section 42 of the public officers law, as
14 amended by chapter 373 of the laws of 1978, is amended to read as
15 follows:
16 4-a. If a vacancy occurs in the office of United States senator from
17 this state [in any even numbered calendar year on or after the fifty-
18 ninth day prior to the annual primary election, or thereafter during
19 said even numbered year, the governor shall make a temporary appointment

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

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1 to fill such vacancy until the third day of January in the year follow-
2 ing the next even numbered calendar year. If such vacancy occurs in any
3 even numbered calendar year on or before the sixtieth day prior to an
4 annual primary election, the governor shall make a temporary appointment
5 to fill such vacancy until the third day of January in the next calendar
6 year. If a vacancy occurs in the office of United States senator from
7 this state in any odd numbered calendar year, the governor shall make a
8 temporary appointment to fill such vacancy until the third day of Janu-
9 ary in the next odd numbered calendar year. Such an appointment shall
10 be evidenced by a certificate of the governor which shall be filed in
11 the office of the state board of elections. At the time for filing such
12 certificate], the GOVERNOR MAY IN HIS OR HER DISCRETION, MAKE PROCLAMA-
13 TION OF A SPECIAL ELECTION TO FILL SUCH OFFICE, SPECIFYING THE DATE OF
14 SUCH ELECTION, WHICH SHALL NOT BE LESS THAN FORTY-FIVE NOR MORE THAN
15 SIXTY DAYS FROM THE DATE OF SUCH PROCLAMATION. THE governor shall issue
16 and file in the office of the state board of elections a writ of
17 election directing the election of a United States senator to fill such
18 vacancy for the unexpired term at the general election next preceding
19 the expiration for the term of such [appointment] SPECIAL ELECTION.

20 S 3. This act shall take effect on the same date as a concurrent
21 resolution entitled "CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY
22 proposing an amendment to section 1 of article 5 of the constitution, in
23 relation to providing for special elections to fill the offices of comp-
24 troller and attorney-general", takes effect.