S T A T E O F N E W Y O R K

9868

I N A S S E M B L Y

February 4, 2010

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

AN ACT to amend the election law and the public officers law, in relation to the procedure to fill vacancies for representatives in Congress

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

Section 1. Section 12-300 of the election law, as amended by chapter 234 of the laws of 1976, is amended to read as follows:

S 12-300. Representatives in congress; election of. 1. Representatives in the house of representatives of the congress of the United States shall be chosen in the several congressional districts at the general election held in every even-numbered year. Elections to fill a vacancy for an unexpired term shall be held as provided in [the public officers law] SUBDIVISION TWO OF THIS SECTION.

2. A VACANCY IN THE OFFICE OF REPRESENTATIVE IN CONGRESS SHALL BE FILLED BY POPULAR ELECTION IN THE FOLLOWING MANNER:

(A) WITHIN THREE DAYS OF THE OCCURRENCE OF A VACANCY, THE GOVERNOR SHALL MAKE PROCLAMATION OF A SPECIAL NON-PARTISAN ELECTION TO FILL SUCH OFFICE, SPECIFYING THE DISTRICT IN WHICH THE ELECTION IS TO BE HELD, AND THE DAY THEREOF, WHICH SHALL BE FORTY-FIVE DAYS FROM THE DATE OF THE PROCLAMATION.

(B) ALL NOMINATIONS FOR ELECTIONS TO FILL VACANCIES HELD PURSUANT TO THIS SUBDIVISION SHALL BE BY INDEPENDENT NOMINATING PETITION, SUCH PETITIONS TO BE SUBJECT TO THE PROVISIONS OF ARTICLE SIX OF THIS CHAPTER PERTAINING TO INDEPENDENT NOMINATIONS EXCEPT AS IS OTHERWISE SET FORTH IN THIS SUBDIVISION. THE SHEETS OF THE INDEPENDENT NOMINATING PETITION SHALL SET FORTH IN EVERY INSTANCE THE NAME OF THE SIGNER, HIS OR HER RESIDENCE ADDRESS, TOWN OR CITY (EXCEPT IN THE CITY OF NEW YORK, THE COUNTY), AND THE DATE THE SIGNATURE IS FIXED. SUCH PETITION SHALL BE REQUIRED TO CONTAIN A DESIGNATED NUMBER OF SIGNATURES WHICH SHALL BE THE LESSER OF FIVE PERCENT OF VOTES CAST IN THE LAST PRECEDING GUBERNATORIAL ELECTION. A SIGNATURE ON AN INDEPENDENT NOMINATING PETITION MADE EARLIER

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

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THAN THE DATE OF THE PROCLAMATION REQUIRED BY PARAGRAPH (A) OF THIS SUBDIVISION SHALL NOT BE COUNTED.

(C) ALL NOMINATING PETITIONS FILED PURSUANT TO THIS SUBDIVISION SHALL BE FILED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 6-144 OF THIS CHAPTER WITHIN FIFTEEN DAYS AFTER THE DATE OF THE GOVERNOR'S PROCLAMATION AS DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVISION.

(D) A PERSON ELECTED TO FILL A VACANCY AT AN ELECTION HELD PURSUANT TO THIS SUBDIVISION SHALL TAKE OFFICE IMMEDIATELY UPON QUALIFICATION AND SERVE FOR THE REMAINDER OF THE UNEXPIRED TERM.

S 2. Subdivision 4 of section 42 of the public officers law, as amended by chapter 317 of the laws of 1954, is amended to read as follows:

4. A special election shall not be held to fill a vacancy in the office of [a representative in congress unless such vacancy occurs on or before the first day of July of the last year of the term of office, or unless it occurs thereafter and a special session of congress is called to meet before the next general election, or be called after September nineteenth of such year; nor to fill a vacancy in the office of] state senator or in the office of member of assembly, unless the vacancy occurs before the first day of April of the last year of the term of office, or unless the vacancy occurs in either such office of senator or member of assembly after such first day of April and a special session of the legislature be called to meet between such first day of April and the next general election or be called after September nineteenth in such year. If a special election to fill an office shall not be held as required by law, the office shall be filled at the next general election.

S 3. This act shall take effect immediately.