

4723

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. LEIBELL -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

AN ACT to amend the New York state defense emergency act, in relation to persons eligible to succeed the governor; and to amend the public officers law, in relation to filling interim vacancies in the state legislature due to a disaster

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

1 Section 1. Section 5 of chapter 784 of the laws of 1951, constituting
2 the New York state defense emergency act, as amended by chapter 420 of
3 the laws of 1968, is amended to read as follows:
4 S 5. Persons eligible to succeed governor. If, as a result of an
5 attack or a natural or peacetime disaster, the office of governor
6 becomes vacant and each of the lieutenant governor, the temporary presi-
7 dent of the senate and the speaker of the assembly is unable to
8 discharge the powers and duties of the office of governor or is absent
9 from the state, then the officer of the state who is (a) highest in
10 order of the following list, (b) not otherwise unable to discharge such
11 powers and duties, and (c) not absent from the state, shall act as
12 governor: attorney general, comptroller, commissioner of transporta-
13 tion, commissioner of health, commissioner of [commerce] ECONOMIC DEVEL-
14 OPMENT, [industrial] commissioner OF LABOR, chairman of the public
15 service commission, [secertary] SECRETARY of state, COMMISSIONER OF
16 ENVIRONMENTAL CONSERVATION, COMMISSIONER OF EDUCATION, COMMISSIONER OF
17 INSURANCE, COMMISSIONER OF TAXATION AND FINANCE, COMMISSIONER OF THE
18 OFFICE OF CHILDREN AND FAMILY SERVICES, COMMISSIONER OF THE OFFICE OF
19 TEMPORARY AND DISABILITY ASSISTANCE, COMMISSIONER OF CORRECTIONAL
20 SERVICES, COMMISSIONER OF AGRICULTURE AND MARKETS, COMMISSIONER OF
21 MENTAL HEALTH, COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL, COMMIS-
22 SIONER OF MOTOR VEHICLES, COMMISSIONER OF THE OFFICE OF GENERAL

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

LBD11081-01-9

1 SERVICES, COMMISSIONER OF THE STATE OFFICE OF PARKS, RECREATION AND
2 HISTORIC PRESERVATION, COMMISSIONER OF MENTAL RETARDATION AND DEVELOP-
3 MENTAL DISABILITIES, COMMISSIONER OF THE OFFICE OF ALCOHOLISM AND
4 SUBSTANCE ABUSE SERVICES.

5 S 2. The public officers law is amended by adding a new section 42-a
6 to read as follows:

7 S 42-A. FILLING INTERIM VACANCIES IN THE STATE LEGISLATURE DUE TO A
8 DISASTER. IF, AS A RESULT OF AN ATTACK OR A NATURAL OR PEACETIME DISAS-
9 TER, EITHER HOUSE OF THE STATE LEGISLATURE IS UNABLE TO ACHIEVE A
10 QUORUM, INTERIM VACANCIES IN THE STATE LEGISLATURE SHALL BE FILLED AS
11 FOLLOWS:

12 1. INTERIM VACANCIES IN THE SENATE SHALL BE FILLED BY THE GOVERNOR AND
13 SHALL BE FOR A TERM WHICH SHALL EXPIRE WHEN A SUCCESSOR IS ELECTED AT A
14 SPECIAL ELECTION. THE PERSON CHOSEN BY THE GOVERNOR TO FILL A SENATE
15 SEAT ON AN INTERIM BASIS PURSUANT TO THIS SECTION SHALL BE A MEMBER OF
16 THE SAME POLITICAL PARTY AS THE SENATOR HE OR SHE IS SERVING IN PLACE
17 OF. SUCH SPECIAL ELECTION SHALL BE HELD NOT MORE THAN NINETY DAYS FROM
18 THE DATE OF THE CREATION OF THE VACANCY; AND

19 2. INTERIM VACANCIES IN THE ASSEMBLY SHALL BE FILLED BY A VOTE OF THE
20 GOVERNING BODY, AS SUCH TERM IS DEFINED IN PARAGRAPH (C) OF SUBDIVISION
21 ONE OF SECTION EIGHTEEN OF THIS CHAPTER, OF THE COUNTY CONTAINING THE
22 LARGEST PERCENTAGE OF THE POPULATION OF SUCH ASSEMBLY DISTRICT AND SHALL
23 BE FOR A TERM WHICH SHALL EXPIRE WHEN A SUCCESSOR IS ELECTED AT A
24 SPECIAL ELECTION. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVI-
25 SION, INTERIM VACANCIES IN ASSEMBLY DISTRICTS WHOLLY CONTAINED WITHIN
26 THE BOUNDARIES OF A CITY SHALL BE FILLED BY A VOTE OF SUCH CITY'S
27 GOVERNING BODY AND SHALL BE FOR A TERM WHICH SHALL EXPIRE WHEN A SUCCE-
28 SSOR IS ELECTED AT A SPECIAL ELECTION. THE PERSON CHOSEN BY A VOTE OF THE
29 GOVERNING BODY TO FILL AN ASSEMBLY SEAT ON AN INTERIM BASIS PURSUANT TO
30 THIS SECTION SHALL BE A MEMBER OF THE SAME POLITICAL PARTY AS THE ASSEM-
31 BLY MEMBER HE OR SHE IS SERVING IN PLACE OF. SUCH SPECIAL ELECTION
32 SHALL BE HELD NOT MORE THAN NINETY DAYS FROM THE DATE OF THE CREATION OF
33 THE VACANCY.

34 S 3. This act shall take effect immediately.