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

4350

2011-2012 Regular Sessions

I N A S S E M B L Y

February 3, 2011

Introduced by M. of A. CAHILL, BENEDETTO, BING, BRENNAN, CUSICK, GALEF, GOTTFRIED, GUNTHER, JAFFEE, JEFFRIES, LUPARDO, MAGEE, MAISEL, ORTIZ, PEOPLES-STOKES, REILLY, GABRYSZAK, KAVANAGH, CAMARA, SPANO, THIELE, PAULIN, MOLINARO, CROUCH, TOBACCO, CORWIN, SAYWARD -- Multi-Sponsored by -- M. of A. COLTON, DUPREY, LANCMAN, LAVINE, P. LOPEZ, MILLMAN, RAIA, ROSENTHAL, SCHIMEL, 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:

Section 1. Section 41 of the public officers law, as amended by chapter 91 of the laws of 1928, is amended to read as follows:

S 41. Vacancies [filled by legislature] IN THE OFFICE OF COMPTROLLER OR ATTORNEY-GENERAL. When a vacancy occurs or exists[, other than by removal,] in the office of comptroller or attorney-general, [or a resignation of either such officer to take effect at any future day shall have been made while the legislature is in session, the two houses thereof, by joint ballot, shall appoint a person to fill such actual or prospective vacancy] THE GOVERNOR MAY IN HIS OR HER DISCRETION MAKE PROCLAMATION OF A SPECIAL ELECTION TO FILL SUCH OFFICE, SPECIFYING THE DATE OF SUCH ELECTION, WHICH SHALL BE NOT LESS THAN FORTY-FIVE NOR MORE THAN SIXTY DAYS FROM THE DATE OF THE PROCLAMATION.

S 2. Subdivision 4-a of section 42 of the public officers law, as amended by chapter 373 of the laws of 1978, is amended to read as follows:

4-a. If a vacancy occurs in the office of United States senator from this state [in any even numbered calendar year on or after the fifty-ninth day prior to the annual primary election, or thereafter during said even numbered year, the governor shall make a temporary appointment to fill such vacancy until the third day of January in the year follow-

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

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

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