

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:

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 OR HER DISCRETION MAKE
10 PROCLAMATION OF A SPECIAL ELECTION TO FILL SUCH OFFICE, SPECIFYING THE
11 DATE OF SUCH ELECTION, WHICH SHALL BE NOT LESS THAN FORTY-FIVE NOR MORE
12 THAN 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
20 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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1 ing the next even numbered calendar year. If such vacancy occurs in any
2 even numbered calendar year on or before the sixtieth day prior to an
3 annual primary election, the governor shall make a temporary appointment
4 to fill such vacancy until the third day of January in the next calendar
5 year. If a vacancy occurs in the office of United States senator from
6 this state in any odd numbered calendar year, the governor shall make a
7 temporary appointment to fill such vacancy until the third day of Janu-
8 ary in the next odd numbered calendar year. Such an appointment shall
9 be evidenced by a certificate of the governor which shall be filed in
10 the office of the state board of elections. At the time for filing such
11 certificate], the GOVERNOR MAY IN HIS OR HER DISCRETION, MAKE PROCLAMA-
12 TION OF A SPECIAL ELECTION TO FILL SUCH OFFICE, SPECIFYING THE DATE OF
13 SUCH ELECTION, WHICH SHALL NOT BE LESS THAN FORTY-FIVE NOR MORE THAN
14 SIXTY DAYS FROM THE DATE OF SUCH PROCLAMATION. THE governor shall issue
15 and file in the office of the state board of elections a writ of
16 election directing the election of a United States senator to fill such
17 vacancy for the unexpired term at the general election next preceding
18 the expiration for the term of such [appointment] SPECIAL ELECTION.
19 S 3. This act shall take effect on the same date as a concurrent
20 resolution entitled "CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY
21 proposing an amendment to section 1 of article 5 of the constitution, in
22 relation to providing for special elections to fill the offices of comp-
23 troller and attorney-general", takes effect.