

STATE OF NEW YORK

2040

2017-2018 Regular Sessions

IN SENATE

January 11, 2017

Introduced by Sen. AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the public officers law and the election law, in relation to elections to fill vacancies in the office of state senator or in the office of member of assembly

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 3 of section 42 of the public officers law, as
2 amended by chapter 4 of the laws of 2011, is amended to read as follows:

3 3. Upon the failure to elect to any office, except that of governor or
4 lieutenant-governor, at a general or special election, at which such
5 office is authorized to be filled, or upon the death or disqualification
6 of a person elected to office before the commencement of his or her
7 official term, or upon the occurrence of a vacancy in any elective
8 office which cannot be filled by appointment for a period extending to
9 or beyond the next general election at which a person may be elected
10 thereto, the governor may in his or her discretion make proclamation of
11 a special election to fill such office, specifying the district or coun-
12 ty in which the election is to be held, and the day thereof, which shall
13 be not less than seventy nor more than eighty days from the date of the
14 proclamation; provided, however, within seven days of the occurrence of
15 a vacancy in the office of state senator or in the office of member of
16 assembly, the governor shall make proclamation of a special election to
17 fill such office specifying the district in which the election is to be
18 held, and the day thereof, which shall be not less than seventy nor more
19 than eighty days from the date of the proclamation.

20 § 2. Section 6-116 of the election law, as amended by chapter 373 of
21 the laws of 1978, is amended to read as follows:

22 § 6-116. Party nominations; election to fill a vacancy. 1. A party
23 nomination of a candidate for election to fill a vacancy in an elective

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

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1 office required to be filled at the next general election, occurring
2 after seven days before the last day for circulating designating
3 petitions or after the holding of the meeting or convention to nominate
4 or designate candidates for such, shall be made, after the day of the
5 primary election, by a majority vote of a quorum of the state committee
6 if the vacancy occurs in an office to be filled by all voters of the
7 state, and otherwise by a majority vote of a quorum of the members of a
8 county committee or committees last elected in the political subdivision
9 in which such vacancy is to be filled, or by a majority of such other
10 committee as the rules of the party may provide. A certificate of nomi-
11 nation shall be filed as provided for [~~herein~~] in this article.

12 2. Notwithstanding the provisions of subdivision one of this section,
13 a vacancy in the office of state senator or in the office of member of
14 assembly required to be filled at the next general election shall be
15 filled by special non-partisan election. All nominations for elections
16 to fill vacancies held pursuant to this subdivision shall be by inde-
17 pendent nominating petition, such petitions to be subject to the
18 provisions of this article pertaining to independent nominations except
19 as is otherwise set forth in this subdivision. Such petition shall be
20 required to contain a designated number of signatures which shall be the
21 lesser of five percent of votes cast in the last preceding gubernatorial
22 election in the district or:

23 (a) two thousand signatures per petition for the office of state
24 senator; and

25 (b) one thousand signatures per petition for the office of member of
26 assembly.

27 No signature on an independent nominating petition made earlier than
28 the date of the proclamation calling the special election shall be
29 counted.

30 § 3. This act shall take effect immediately.