

# STATE OF NEW YORK

6868

2017-2018 Regular Sessions

## IN SENATE

September 6, 2017

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

AN ACT to amend the election law, in relation to providing for the reopening of a petitioning period to fill vacancies due to the declination of a designation or nomination for reasons other than death or serious illness

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

1 Section 1. Subdivisions 1 and 2 of section 6-146 of the election law,  
2 subdivision 2 as amended by chapter 234 of the laws of 1976, are amended  
3 and a new subdivision 2-a is added to read as follows:

4 1. A person designated as a candidate for nomination or for party  
5 position, or nominated for an office, otherwise than at a primary  
6 election, may, in a certificate signed and acknowledged by him, and  
7 filed as provided in this article, decline the designation or nomination  
8 not later than fifty-seven days before a primary election, or at any  
9 time if such declination is due to death or serious illness; provided,  
10 however, that, if designated or nominated for a public office other than  
11 a judicial office by a party of which he is not a duly enrolled member,  
12 or if designated or nominated for a public office other than a judicial  
13 office by more than one party or independent body or by an independent  
14 body alone, such person shall, in a certificate signed and acknowledged  
15 by him, and filed as provided in this article, accept the designation or  
16 nomination as a candidate of each such party or independent body other  
17 than that of the party of which he is an enrolled member, otherwise such  
18 designation or nomination shall be null and void.

19 2. If [~~any~~] a designation or nomination is declined due to death or  
20 serious illness, the officer or board to whom or which notification  
21 thereof is given shall forthwith inform by mail or otherwise the commit-  
22 tee authorized to fill the vacancy, that the designation or nomination  
23 has been declined, and if such declination is filed with the state board

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

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1 of elections after such board has given official notice, pursuant to the  
2 provisions of this chapter, to the several boards of elections that the  
3 name of the candidate filing such declination is to appear on a ballot,  
4 such board also shall give immediate notice by mail or otherwise that  
5 such designation or nomination has been declined, to the several boards  
6 of elections which prepare the official ballots for election districts  
7 affected by such declination.

8 2-a. If a designation or nomination is declined for reasons other than  
9 death or serious illness, the officer or board to whom or which notifi-  
10 cation thereof is given shall provide notice to the appropriate commit-  
11 tee and boards of elections in accordance with subdivision two of this  
12 section. The petitioning period for designation or nomination of a new  
13 candidate shall be reopened for a period of seven days and shall be  
14 closed no later than forty-nine days before a primary election.

15 § 2. The section heading and subdivisions 1, 2 and 3 of section 6-148  
16 of the election law, subdivision 1 as amended by chapter 373 of the laws  
17 of 1978 and subdivision 3 as amended by chapter 234 of the laws of 1976,  
18 are amended to read as follows:

19 Nomination and designation; filling vacancies due to death, serious  
20 illness or disqualification. 1. A vacancy in a designation or nomination  
21 caused by [~~declination, where a declination is permitted by this arti-~~  
22 ~~cle, or by~~] the death, serious illness or disqualification of the candi-  
23 date[~~, or by a tie vote at a primary,~~] may be filled by the making and  
24 filing of a certificate, setting forth the fact and cause of the vacan-  
25 cy, the title of the office, the name of the original candidate, if any,  
26 and the name and address of the candidate newly designated or nominated.

27 2. A vacancy in a designation or independent nomination, or in a party  
28 nomination made otherwise than at a primary, due to death, serious  
29 illness or disqualification may be filled by a majority of the committee  
30 to fill vacancies shown upon the face of the petition or certificate of  
31 the designation or nomination in which the vacancy occurs.

32 3. A vacancy in a nomination made at a primary[~~, or by a tie vote~~  
33 ~~thereat,~~] due to death, serious illness or disqualification may be  
34 filled by a majority of the members, of the party committee or commit-  
35 tees last elected in the political subdivision in which the vacancy  
36 occurs, present at a meeting at which there is a quorum, or by a majori-  
37 ty of such other committee as the rules of the party may provide.

38 § 3. The election law is amended by adding a new section 6-149 to read  
39 as follows:

40 § 6-149. Nomination; vacancy caused by reasons other than death, seri-  
41 ous illness or disqualification. A vacancy in a designation or nomi-  
42 nation caused by declination for reasons other than death, serious  
43 illness or disqualification shall be filled by the reopening of a peti-  
44 tioning period for designation or nomination of a new candidate for  
45 seven days and closing such petitioning period no later than forty-nine  
46 days before a primary election.

47 § 4. This act shall take effect immediately.