# STATE OF NEW YORK

10847

# IN ASSEMBLY

May 23, 2018

Introduced by M. of A. MALLIOTAKIS -- 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:

§ 41. Vacancies [~~filled by legislature~~] **in the office of comptroller or attorney-general**. **1.** 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 shall, within sixty days of such vacancy occurring, set the date for a special election to fill such office. The date set for the special election shall be no sooner than forty-five days or later than sixty days from the proclamation of the governor establishing the election to fill the vacancy in the office of the comptroller or attorney-general. Provided, however, that if a vacancy in the office of comptroller or attorney-general occurs in the same calendar year as the next regularly scheduled general election at which the comptroller and attorney-general are to be chosen, no special election shall be called**.

**2. a. In the event a vacancy occurs in the office of the comptroller, the first deputy comptroller shall exercise the powers and duties of the office of the comptroller until such time as a special election is held to elect a new comptroller. In the event a vacancy occurs in the office of the comptroller in the same calendar year as the next regularly scheduled general election at which such office is up for election, the powers and duties of the office of the comptroller shall be exercised by the first deputy comptroller for the remaining unexpired term of office.**

**b. In the event a vacancy occurs in the office of the attorney-general, the solicitor general shall exercise the powers and duties of the**

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

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**office of the attorney-general until such time as a special election is held to elect a new attorney-general. In the event a vacancy occurs in the office of the attorney-general in the same calendar year as the next regularly scheduled general election at which such office is up for election, the powers and duties of the office of the attorney-general shall be exercised by the solicitor general for the remaining unexpired term of office.**

§ 2. This act shall take effect on the same date as a "CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY proposing an amendment to section 1 of article 5 of the constitution, in relation to filling vacancies in the office of comptroller or attorney-general" takes effect.