

STATE OF NEW YORK

10908

IN ASSEMBLY

August 17, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Perry) --
read once and referred to the Committee on Cities

AN ACT to amend the general city law, the New York city charter and the administrative code of the city of New York, in relation to providing that the office of police commissioner in cities with a population of one hundred thousand or more is an elected office

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

1 Section 1. The general city law is amended by adding a new section
2 18-e to read as follows:

3 § 18-e. Election of police commissioner. 1. The office of police
4 commissioner, in every city with a population of greater than one
5 hundred thousand but less than one million, shall be an elected office.
6 The office of police commissioner shall be elected at the general
7 election in the year two thousand twenty and every fourth year thereaft-
8 er. The police commissioner shall hold office for a term of four years
9 commencing on the first day of January after each such election and
10 shall not serve for more than two full terms in such office. The police
11 commissioner may be removed or suspended in the same manner as the mayor
12 of the city would be removed or suspended.

13 2. (a) Any vacancy in the office of police commissioner shall be
14 filled by popular election, in the manner set forth in this subdivision.
15 In the event of a vacancy in the office of police commissioner until an
16 interim or permanent successor is first elected, or whenever by reason
17 of sickness, absence from the city or suspension from office, the police
18 commissioner shall be prevented from attending to the duties of the
19 office, an interim police commissioner shall be appointed by the mayor.

20 (b) Within three days of the occurrence of a vacancy in the office of
21 police commissioner, the mayor shall proclaim the date for the election
22 or elections required by this subdivision, provide notice of such proc-
23 lamation to the city clerk and the board of elections and publish notice
24 thereof. After the proclamation of the date for an election to be held
25 pursuant to paragraphs (e) and (f) of this subdivision, the city clerk
26 shall publish notice thereof not less than twice in each week preceding

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

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1 the date of such election in newspapers distributed within the city, and
2 the board of elections shall mail notice of such election to all regis-
3 tered voters within the city.

4 (c) If a vacancy occurs during the first three years of the term, a
5 general election to fill the vacancy for the remainder of the unexpired
6 term shall be held in the year in which the vacancy occurs, unless the
7 vacancy occurs after the last day on which an occurring vacancy may be
8 filled at the general election in that same year with party nominations
9 of candidates for such election being made at a primary election, as
10 provided in section 6-116 of the election law. If such a vacancy occurs
11 in any year after such last day, it shall be filled for the remainder of
12 the unexpired term at the general election in the following year
13 provided, however, that no general election to fill a vacancy shall be
14 held in the last year of the term, except as provided in paragraph (j)
15 of this subdivision. Party nominations of candidates for a general
16 election to fill a vacancy for the remainder of the unexpired term shall
17 be made at a primary election, except as provided in paragraph (f) of
18 this subdivision.

19 (d) If a special or general election to fill the vacancy on an interim
20 basis has not been previously held pursuant to paragraphs (e), (g), (h)
21 and (i) of this subdivision, the person elected to fill the vacancy for
22 the remainder of the unexpired term at a general election shall take
23 office immediately upon qualification and shall serve until the term
24 expires. If a special or general election to fill the vacancy on an
25 interim basis has been previously held, the person elected to fill the
26 vacancy for the remainder of the unexpired term at a general election
27 shall take office on January first of the year following such general
28 election and shall serve until the term expires.

29 (e) If a vacancy occurs during the first three years of the term and
30 on or before the last day in the third year of the term on which an
31 occurring vacancy may be filled for the remainder of the unexpired term
32 at a general election with party nominations of candidates for such
33 election being made at a primary election, as provided in section 6-116
34 of the election law, a special or general election to fill the vacancy
35 on an interim basis shall be held, unless the vacancy occurs less than
36 ninety days before the next primary election at which party nominations
37 for a general election to fill the vacancy may be made and on or before
38 the last day on which an occurring vacancy may be filled for the remain-
39 der of the unexpired term at the general election in the same year in
40 which the vacancy occurs with party nominations of candidates for such
41 election being made at a primary election, as provided in section 6-116
42 of the election law.

43 (f) If a vacancy occurs after the last day in the third year of the
44 term on which an occurring vacancy may be filled for the remainder of
45 the unexpired term at a general election in each year with party nomi-
46 nations of candidates for such election being made at a primary
47 election, as provided in section 6-116 of the election law, but not less
48 than ninety days before the date of the primary election in the fourth
49 year of such term, a special or general election to fill such vacancy
50 for the remainder of the unexpired term shall be held.

51 (g) Elections held pursuant to paragraph (e) or (f) of this subdivi-
52 sion shall be scheduled in the following manner: A special election to
53 fill the vacancy shall be held on the first Tuesday at least eighty days
54 after the occurrence of the vacancy, provided that the mayor, in the
55 proclamation required by paragraph (b) of this subdivision, may schedule
56 such election for another day no more than ten days after such Tuesday

1 and not less than seventy-five days after such proclamation if the mayor
2 determines that such rescheduling is necessary to facilitate maximum
3 voter participation; except that:

4 (i) if the vacancy occurs before August seventeenth in any year and
5 the first Tuesday at least eighty days after the occurrence of the
6 vacancy is less than ninety days before a regularly scheduled general
7 election, the vacancy shall be filled at such general election;

8 (ii) if the vacancy occurs before August seventeenth in any year and
9 the first Tuesday at least eighty days after the occurrence of the
10 vacancy is after a regularly scheduled general election, the vacancy
11 shall be filled at such general election; and

12 (iii) if the vacancy occurs on or after August seventeenth in any year
13 and the first Tuesday at least eighty days after the occurrence of the
14 vacancy is after, but less than thirty days after, a regularly scheduled
15 general election, the vacancy shall be filled at a special election to
16 be held on the first Tuesday in December in such year.

17 (h) All nominations for elections to fill vacancies held pursuant to
18 paragraphs (e) and (f) of this subdivision shall be by independent nomi-
19 nating petition. A signature on an independent nominating petition made
20 earlier than the date of the proclamation required by paragraph (b) of
21 this subdivision shall not be counted.

22 (i) A person elected to fill a vacancy in the office of the police
23 commissioner at an election held pursuant to paragraph (e) of this
24 subdivision shall take office immediately upon qualification and serve
25 until December thirty-first of the year in which the vacancy is filled
26 for the remainder of the unexpired term pursuant to paragraph (c) of
27 this subdivision. A person elected to fill a vacancy in the office of
28 the police commissioner at an election held pursuant to paragraph (f) of
29 this subdivision shall take office immediately upon qualification and
30 serve until the term expires.

31 (j) If a vacancy occurs less than ninety days before the date of the
32 primary election in the last year of the term, the person elected at the
33 general election in such year for the next succeeding term shall take
34 office immediately upon qualification and fill the vacancy for the
35 remainder of the unexpired term.

36 § 2. Section 431 of the New York city charter is amended to read as
37 follows:

38 § 431. Department; commissioner. a. There shall be a police depart-
39 ment the head of which shall be the police commissioner who shall be
40 ~~[appointed by the mayor and shall, unless sooner removed, hold office~~
41 ~~for a term of five years.~~

42 ~~b. Whenever in the judgment of the mayor or the governor the public~~
43 ~~interests shall so require, the commissioner may be removed from office~~
44 ~~by either, and shall be ineligible for reappointment thereto.~~

45 ~~c. Whenever a vacancy shall occur in the office of police commission-~~
46 ~~er, a police commissioner shall be appointed by the mayor within ten~~
47 ~~days thereafter]~~ electd at the general election in the year two thou-
48 sand twenty and every fourth year thereafter. The police commissioner
49 shall hold office for a term of four years commencing on the first day
50 of January after each such election. A police commissioner who resigns
51 or is removed from office prior to the completion of a full term shall
52 be deemed to have held that office for a full term for purposes of
53 section eleven hundred thirty-eight of the charter.

54 b. Any vacancy in the office of police commissioner shall be filled by
55 popular election, in the manner set forth in this subdivision. In the
56 event of a vacancy in the office of police commissioner until an interim

1 or permanent successor is first elected, or whenever by reason of sick-
2 ness, absence from the city or suspension from office, the police
3 commissioner shall be prevented from attending to the duties of the
4 office, an interim police commissioner shall be appointed by the mayor.

5 1. Within three days of the occurrence of a vacancy in the office of
6 police commissioner, the mayor shall proclaim the date for the election
7 or elections required by this subdivision, provide notice of such proc-
8 lamation to the city clerk and the board of elections and publish notice
9 thereof in the City Record. After the proclamation of the date for an
10 election to be held pursuant to paragraphs four and five of this subdi-
11 vision, the city clerk shall publish notice thereof not less than twice
12 in each week preceding the date of such election in newspapers distrib-
13 uted within the city, and the board of elections shall mail notice of
14 such election to all registered voters within the city.

15 2. If a vacancy occurs during the first three years of the term, a
16 general election to fill the vacancy for the remainder of the unexpired
17 term shall be held in the year in which the vacancy occurs, unless the
18 vacancy occurs after the last day on which an occurring vacancy may be
19 filled at the general election in that same year with party nominations
20 of candidates for such election being made at a primary election, as
21 provided in section 6-116 of the election law. If such a vacancy occurs
22 in any year after such last day, it shall be filled for the remainder of
23 the unexpired term at the general election in the following year
24 provided, however, that no general election to fill a vacancy shall be
25 held in the last year of the term, except as provided in paragraph nine
26 of this subdivision. Party nominations of candidates for a general
27 election to fill a vacancy for the remainder of the unexpired term shall
28 be made at a primary election, except as provided in paragraph five of
29 this subdivision.

30 3. If a special or general election to fill the vacancy on an interim
31 basis has not been previously held pursuant to paragraphs four, six,
32 seven and eight of this subdivision, the person elected to fill the
33 vacancy for the remainder of the unexpired term at a general election
34 shall take office immediately upon qualification and shall serve until
35 the term expires. If a special or general election to fill the vacancy
36 on an interim basis has been previously held, the person elected to fill
37 the vacancy for the remainder of the unexpired term at a general
38 election shall take office on January first of the year following such
39 general election and shall serve until the term expires.

40 4. If a vacancy occurs during the first three years of the term and on
41 or before the last day in the third year of the term on which an occur-
42 ring vacancy may be filled for the remainder of the unexpired term at a
43 general election with party nominations of candidates for such election
44 being made at a primary election, as provided in section 6-116 of the
45 election law, a special or general election to fill the vacancy on an
46 interim basis shall be held, unless the vacancy occurs less than ninety
47 days before the next primary election at which party nominations for a
48 general election to fill the vacancy may be made and on or before the
49 last day on which an occurring vacancy may be filled for the remainder
50 of the unexpired term at the general election in the same year in which
51 the vacancy occurs with party nominations of candidates for such
52 election being made at a primary election, as provided in section 6-116
53 of the election law.

54 5. If a vacancy occurs after the last day in the third year of the
55 term on which an occurring vacancy may be filled for the remainder of
56 the unexpired term at a general election in each year with party nomi-

1 nations of candidates for such election being made at a primary
2 election, as provided in section 6-116 of the election law, but not less
3 than ninety days before the date of the primary election in the fourth
4 year of such term, a special or general election to fill such vacancy
5 for the remainder of the unexpired term shall be held.

6 6. Elections held pursuant to paragraph four or five of this subdivi-
7 sion shall be scheduled in the following manner: A special election to
8 fill the vacancy shall be held on the first Tuesday at least eighty days
9 after the occurrence of the vacancy, provided that the mayor, in the
10 proclamation required by paragraph one of this subdivision, may schedule
11 such election for another day no more than ten days after such Tuesday
12 and not less than seventy-five days after such proclamation if the mayor
13 determines that such rescheduling is necessary to facilitate maximum
14 voter participation; except that

15 (a) if the vacancy occurs before August seventeenth in any year and
16 the first Tuesday at least eighty days after the occurrence of the
17 vacancy is less than ninety days before a regularly scheduled general
18 election, the vacancy shall be filled at such general election;

19 (b) if the vacancy occurs before August seventeenth in any year and
20 the first Tuesday at least eighty days after the occurrence of the
21 vacancy is after a regularly scheduled general election, the vacancy
22 shall be filled at such general election; and

23 (c) if the vacancy occurs on or after August seventeenth in any year
24 and the first Tuesday at least eighty days after the occurrence of the
25 vacancy is after, but less than thirty days after, a regularly scheduled
26 general election, the vacancy shall be filled at a special election to
27 be held on the first Tuesday in December in such year.

28 7. All nominations for elections to fill vacancies held pursuant to
29 paragraphs four and five of this subdivision shall be by independent
30 nominating petition. A signature on an independent nominating petition
31 made earlier than the date of the proclamation required by paragraph one
32 of this subdivision shall not be counted.

33 8. A person elected to fill a vacancy in the office of the police
34 commissioner at an election held pursuant to paragraph four of this
35 subdivision shall take office immediately upon qualification and serve
36 until December thirty-first of the year in which the vacancy is filled
37 for the remainder of the unexpired term pursuant to paragraph two of
38 this subdivision. A person elected to fill a vacancy in the office of
39 the police commissioner at an election held pursuant to paragraph five
40 of this subdivision shall take office immediately upon qualification and
41 serve until the term expires.

42 9. If a vacancy occurs less than ninety days before the date of the
43 primary election in the last year of the term, the person elected at the
44 general election in such year for the next succeeding term shall take
45 office immediately upon qualification and fill the vacancy for the
46 remainder of the unexpired term.

47 § 3. The New York city charter is amended by adding a new section
48 431-a to read as follows:

49 § 431-a. Removal of police commissioner. The police commissioner may
50 be removed or suspended in the same manner as provided in this charter
51 with respect to the mayor.

52 § 4. Section 1138 of the New York city charter, as amended by section
53 1 of question 1 of local law number 60 of the city of New York for the
54 year 2010, is amended to read as follows:

55 § 1138. Term Limits. a. Notwithstanding any provision to the contrary
56 contained in this charter, no person shall be eligible to be elected to

1 or serve in the office of mayor, public advocate, comptroller, borough
2 president ~~[or]~~, council member or police commissioner if that person had
3 previously held such office for two or more consecutive full terms,
4 unless one full term or more has elapsed since that person last held
5 such office.

6 b. Notwithstanding any other provision to the contrary, no local law
7 may be enacted by the city council, including but not limited to amend-
8 ment of the provisions of this chapter, if such local law would alter or
9 permit alteration of the term limit set forth in this section as such
10 limit applies to any person then serving in the office of mayor, public
11 advocate, comptroller, borough president ~~[or]~~, council member or police
12 commissioner.

13 c. Severability. If any provision of this section, or any provision of
14 paragraph one of subdivision ~~[k]~~ (k) of section eleven hundred fifty-two
15 of this charter relating to the application of this section, shall be
16 held invalid or ineffective in whole or in part or inapplicable to any
17 person or situation, such holding shall not affect, impair or invalidate
18 the remainder of this section and such paragraph, and all other
19 provisions thereof shall nevertheless be separately and fully effective
20 and the application of any such provision to other persons or situations
21 shall not be affected.

22 § 5. The opening paragraph of section 14-102 of the administrative
23 code of the city of New York is amended to read as follows:

24 Until otherwise provided by the ~~[mayor, upon the recommendation of~~
25 ~~the]~~ police commissioner, the police force in the police department,
26 shall consist of the following ranks of members, to wit:

27 § 6. This act shall take effect immediately.