

# STATE OF NEW YORK

532

2021-2022 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. L. ROSENTHAL, DINOWITZ, GALEF, PAULIN, CAHILL,  
QUART -- Multi-Sponsored by -- M. of A. GOTTFRIED -- read once and  
referred to the Committee on Election Law

AN ACT to amend the election law and the public officers law, in  
relation to creating a special primary election to take place prior to  
a special election and mandating the governor to proclaim all special  
elections within ten days of the vacancy

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

1 Section 1. Section 6-114 of the election law is amended to read as  
2 follows:

3 § 6-114. Party nominations; special election. Party nominations for an  
4 office to be filled at a special election shall be made [~~in the manner~~  
5 ~~prescribed by the rules of the party~~] at a special primary election  
6 pursuant to section 6-161 of this article, at which the candidate  
7 receiving the most votes shall be the nominee of the party.

8 § 2. The election law is amended by adding a new section 6-161 to read  
9 as follows:

10 § 6-161. Special primary elections. 1. The special primary election  
11 shall take place on the first Tuesday occurring at least thirty days but  
12 no more than thirty-six days prior to the special election.

13 2. Designating petitions for a primary nomination shall be subjected  
14 to the same form and rules set out in sections 6-132 and 6-134 of this  
15 article. Designating petitions shall be filed within twelve days of the  
16 date the governor proclaims the need for a special election.

17 3. Notwithstanding section 6-136 of this article, the required amount  
18 of signatures for a designating petition, pursuant to this section,  
19 shall be five hundred for a state senatorial district and two hundred  
20 fifty for an assembly district.

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

LBD00460-01-1

1 4. Petitions for independent nominations shall be filed within fifteen  
2 days of the date the governor proclaims the need for a special election.  
3 Notwithstanding section 6-138 of this article, the required amount of  
4 signatures for a designating petition, pursuant to this section, shall  
5 be one thousand for a state senatorial district and five hundred for an  
6 assembly district.

7 § 3. Subdivisions 1, 3 and 4 of section 42 of the public officers law,  
8 subdivisions 1 and 4 as amended by chapter 5 of the laws of 2019 and  
9 subdivision 3 as amended by chapter 4 of the laws of 2011, are amended  
10 and a new subdivision 4-b is added to read as follows:

11 1. A vacancy occurring three months before the general election in any  
12 year in any office authorized to be filled at a general election, except  
13 in the offices of governor, ~~[or]~~ lieutenant-governor, state senator or  
14 member of assembly, shall be filled at the general election held next  
15 thereafter, unless otherwise provided by the constitution, or unless  
16 previously filled at a special election.

17 3. Upon the failure to elect to any office, except that of governor or  
18 lieutenant-governor, at a general or special election, at which such  
19 office is authorized to be filled, or upon the death or disqualification  
20 of a person elected to office before the commencement of his or her  
21 official term, or upon the occurrence of a vacancy in any elective  
22 office which cannot be filled by appointment for a period extending to  
23 or beyond the next general election at which a person may be elected  
24 thereto, the governor ~~[may in his or her discretion]~~ shall make a proc-  
25 lamation within ten days of the vacancy of a special election to fill  
26 such office, specifying the district or county in which the election is  
27 to be held, and the day thereof, which shall be ~~[not less than seventy~~  
28 ~~nor more than eighty]~~ ninety days or on the first Tuesday following the  
29 ninety days from the date of the proclamation.

30 4. A special election shall not be held to fill a vacancy in the  
31 office of a representative in congress unless such vacancy occurs on or  
32 before the first day of July of the last year of the term of office, or  
33 unless it occurs thereafter and a special session of congress is called  
34 to meet before the next general election, or be called after ~~[three~~  
35 ~~months before the general election in such year, nor to fill a vacancy~~  
36 ~~in the office of state senator or in the office of member of assembly,~~  
37 ~~unless the vacancy occurs before the first day of April of the last year~~  
38 ~~of the term of office, or unless the vacancy occurs in either such~~  
39 ~~office of senator or member of assembly after such first day of April~~  
40 ~~and a special session of the legislature be called to meet between such~~  
41 ~~first day of April and the next general election or be called after~~  
42 ~~three months before the next general election in such year]~~ September  
43 nineteenth of such year. If a special election to fill an office shall  
44 not be held as required by law, the office shall be filled at the next  
45 general election.

46 4-b. If a vacancy occurs in the office of state senator or in the  
47 office of member of assembly between one hundred eighty and ninety days  
48 prior to an annual primary election or if a vacancy occurs between one  
49 hundred eighty and ninety days prior to a general election, the special  
50 election shall be held on the day of the annual primary election or  
51 general election respectively, with the special primary election to be  
52 held on the first Tuesday occurring at least thirty days but no more  
53 than thirty-six days prior to the special election.

54 § 4. If any section of this act or any part thereof shall be adjudged  
55 by any court of competent jurisdiction to be invalid, such judgment

1 shall not affect, impair or invalidate the remainder or any other  
2 section or part thereof.  
3 § 5. This act shall take effect on the first of January next succeed-  
4 ing the date on which it shall have become a law.