

# STATE OF NEW YORK

708

2021-2022 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. CAHILL -- Multi-Sponsored by -- M. of A. BENEDETTO, COLTON, CUSICK, GALEF, GOTTFRIED, GUNTHER, LUPARDO, PAULIN, PEOPLES-STOKES, L. ROSENTHAL, THIELE -- 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:

1 Section 1. Section 41 of the public officers law, as amended by chap-  
2 ter 91 of the laws of 1928, is amended to read as follows:

3 § 41. Vacancies [~~filled by legislature~~] in the office of comptroller  
4 or attorney-general. When a vacancy occurs or exists[~~, other than by~~  
5 ~~removal,~~] in the office of comptroller or attorney-general, [~~or a resig-~~  
6 ~~nation of either such officer to take effect at any future day shall~~  
7 ~~have been made while the legislature is in session, the two houses ther-~~  
8 ~~eof, by joint ballot, shall appoint a person to fill such actual or~~  
9 ~~prospective vacancy] the governor may in his or her discretion make  
10 proclamation of a special election to fill such office, specifying the  
11 date of such election, which shall be not less than forty-five nor more  
12 than sixty days from the date of the proclamation.~~

13 § 2. Subdivision 4-a of section 42 of the public officers law, as  
14 amended by chapter 373 of the laws of 1978, is amended to read as  
15 follows:

16 4-a. If a vacancy occurs in the office of United States senator from  
17 this state [~~in any even numbered calendar year on or after the fifty-~~  
18 ~~ninth day prior to the annual primary election, or thereafter during~~  
19 ~~said even numbered year, the governor shall make a temporary appointment~~  
20 ~~to fill such vacancy until the third day of January in the year follow-~~  
21 ~~ing the next even numbered calendar year. If such vacancy occurs in any~~  
22 ~~even numbered calendar year on or before the sixtieth day prior to an~~

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

LBD01609-01-1

1 ~~annual primary election, the governor shall make a temporary appointment~~  
2 ~~to fill such vacancy until the third day of January in the next calendar~~  
3 ~~year. If a vacancy occurs in the office of United States senator from~~  
4 ~~this state in any odd numbered calendar year, the governor shall make a~~  
5 ~~temporary appointment to fill such vacancy until the third day of Janu-~~  
6 ~~ary in the next odd numbered calendar year. Such an appointment shall~~  
7 ~~be evidenced by a certificate of the governor which shall be filed in~~  
8 ~~the office of the state board of elections. At the time for filing such~~  
9 ~~certificate],~~ the governor may in his or her discretion, make proclama-  
10 tion of a special election to fill such office, specifying the date of  
11 such election, which shall not be less than forty-five nor more than  
12 sixty days from the date of such proclamation. The governor shall issue  
13 and file in the office of the state board of elections a writ of  
14 election directing the election of a United States senator to fill such  
15 vacancy for the unexpired term at the general election next preceding  
16 the expiration for the term of such [~~appointment~~] special election.  
17 § 3. This act shall take effect on the same date as a concurrent  
18 resolution entitled "CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY  
19 proposing an amendment to section 1 of article 5 of the constitution, in  
20 relation to providing for special elections to fill the offices of comp-  
21 troller and attorney-general", takes effect.