STATE OF NEW YORK

8028

2021-2022 Regular Sessions

IN ASSEMBLY

June 7, 2021

Introduced by M. of A. WALKER -- read once and referred to the Committee on Election Law

AN ACT to amend the public officers law, in relation to the dates by which the governor may make proclamation of a special election to fill certain offices

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

Section 1. Subdivisions 3 and 4 of section 42 of the public officers law, subdivision 3 as amended by chapter 4 of the laws of 2011 and subdivision 4 as amended by chapter 5 of the laws of 2019, are amended to read as follows:

3. Upon the failure to elect to any office, except that of governor or lieutenant-governor, at a general or special election, at which such office is authorized to be filled, or upon the death or disqualification of a person elected to office before the commencement of his or her official term, or upon the occurrence of a vacancy in any elective office which cannot be filled by appointment for a period extending to or beyond the next general election at which a person may be elected thereto, the governor [~~may in his or her discretion~~] **shall** make proclamation of a special election to fill such office **within ten days of the occurrence of a vacancy**, specifying the district or county in which the election is to be held, and the day thereof, which shall be**: a.** not less than seventy nor more than eighty days from the date of the proclamation **to fill a vacancy in the office of a representative in congress; and b. not less than forty days nor more than fifty days from the date of the proclamation to fill a vacancy in any other office**.

4. **a.** A special election shall not be held to fill a vacancy in the office of a representative in congress unless such vacancy occurs on or before the first day of July of the last year of the term of office, or unless it occurs thereafter and a special session of congress is called

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

LBD11710-02-1

to meet before the next general election, or be called after three months before the general election in such year[~~; nor~~].

b. A special election shall not be held to fill a vacancy in the office of state senator or in the office of member of assembly, unless the vacancy occurs before the first day of April of the last year of the term of office, or unless the vacancy occurs in either such office of senator or member of assembly after such first day of April and a special session of the legislature be called to meet between such first day of April and the next general election or be called after three months before the next general election in such year.

c. A special election shall not be held to fill a vacancy in any other office subject to a proclamation by the governor pursuant to subdivision three of this section unless the vacancy occurs before the first day of April of the last year of the term of office.

d. If a special election to fill an office shall not be held as required by law, the office shall be filled at the next general election.

§ 2. This act shall take effect immediately.