

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:

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

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

20 4. a. A special election shall not be held to fill a vacancy in the
21 office of a representative in congress unless such vacancy occurs on or
22 before the first day of July of the last year of the term of office, or
23 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

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

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

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

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

18 § 2. This act shall take effect immediately.