STATE OF NEW YORK

8785

IN ASSEMBLY

January 12, 2022

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

AN ACT to amend the public officers law and the election law, in relation to special elections to fill vacancies in the state senate and assembly

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

Section 1. Subdivision 3 of section 42 of the public officers law, as amended by a chapter of the laws of 2021, amending the public officers law relating to the dates by which the governor may make proclamation of a special election to fill certain offices, as proposed in legislative bills numbers S. 7227 and A. 8028, is 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 shall**, unless otherwise provided for by authorized local law, resolution or ordinance,** 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 **or for a vacancy in any other office that is not in the state senate or assembly**; 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~~] **the state senate or assembly, provided, however, that the governor may issue a proclamation to fill any subsequent vacancy in the state senate or assembly for the same date as any previously scheduled special election as long as the proclamation is issued at least thirty days before the occurrence of the special election**.

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

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§ 2. Subdivision 1 of section 4-112 of the election law, as amended by chapter 5 of the laws of 2019, is amended to read as follows:

1. The state board of elections, not later than fifty-five days before a general election, [~~or~~] fifty-three days before a special election, **or twenty-four days before a special election held pursuant to paragraph b of subdivision three of section forty-two of the public officers law,** shall certify to each county board of elections the name and residence of each candidate nominated in any valid certificate filed with it or by the returns canvassed by it, the title of the office for which nominated; the name of the party or body specified of which he or she is a candidate; [~~the emblem chosen to distinguish the candidates of the party or body;~~] and a notation as to whether or not any litigation is pending concerning the candidacy. Upon the completion of any such litigation, the state board of elections shall forthwith notify the appropriate county boards of elections of the results of such litigation.

§ 3. Section 4-114 of the election law, as amended by chapter 5 of the laws of 2019, is amended to read as follows:

§ 4-114. Determination of candidates and questions; county board of elections. The county board of elections, not later than the fifty-fourth day before the day of a primary or general election, [~~or~~] the fifty-third day before a special election, **or twenty-four days before a special election held pursuant to paragraph b of subdivision three of section forty-two of the public officers law,** shall determine the candidates duly nominated for public office and the questions that shall appear on the ballot within the jurisdiction of that board of elections.

§ 4. Subdivision 3 of section 6-120 of the election law, as amended by chapter 226 of the laws of 1982, is amended to read as follows:

3. The members of the party committee representing the political subdivision of the office for which a designation or nomination is to be made, unless the rules of the party provide for another committee, in which case the members of such other committee, and except as hereinafter in this subdivision provided with respect to certain offices in the city of New York, may, by a majority vote of those present at such meeting provided a quorum is present, authorize the designation or nomination of a person as candidate for any office who is not enrolled as a member of such party as provided in this section. In the event that such designation or nomination is for an office to be filled by all the voters of the city of New York, such authorization must be by a majority vote of those present at a joint meeting of the executive committees of each of the county committees of the party within the city of New York, provided a quorum is present at such meeting. The certificate of authorization shall be filed not later than four days after the last day to file the designating petition, certificate of nomination or certificate of substitution to which such authorization relates**, provided, however, such certificate shall be filed not later than nine days following the issuance of a proclamation of a special election held pursuant to paragraph b of subdivision three of section forty-two of the public officers law**. The certificate of authorization shall be signed and acknowledged by the presiding officer and the secretary of the meeting at which such authorization was given.

§ 5. Subdivision 3 of section 6-154 of the election law is amended to read as follows:

3. **Written objections to any certificate of nomination or to a certificate of acceptance, a certificate of authorization, a certificate of declination or a certificate of substitution relating to a special election held pursuant to paragraph b of subdivision three of section**

forty-two of the public officers law may be filed by any voter registered to vote for such public office. Such objections shall be filed with the officer or board with whom the original certificate is filed within one day after the filing of the certificate to which objection is made, or within one day after the last day to file such a certificate, if no such certificate is filed. When such objections are filed, specifications of the grounds of the objections shall be filed within three days thereafter with the same officer or board and if specifications are not timely filed, the objections shall be null and void.

4. When a determination is made that a certificate or petition is insufficient, such officer or board shall give notice of the determination forthwith by mail to each candidate named in the petition or certificate, and, if the determination is made upon specified objections, the objector shall be notified.

§ 6. Subdivision 6 of section 6-158 of the election law, as amended by chapter 290 of the laws of 2019, is amended to read as follows:

6. (a) A certificate of a party nomination made other than at the primary election for an office to be filled at the time of a general election shall be filed not later than thirty days after the June primary election, (b) except that a certificate of nomination for an office which becomes vacant after the seventh day preceding such primary election shall be filed not later than thirty days after the primary election or ten days after the creation of such vacancy, whichever is later, and (c) except, further, that a certificate of party nomination of candidates for elector of president and vice-president of the United States shall be filed not later than seventy-three days after the June primary election, and (d) except still further that a certificate of party nomination made at a judicial district convention shall be filed not later than the day after the last day to hold such convention and the minutes of such convention, duly certified by the chairman and secretary, shall be filed within seventy-two hours after adjournment of the convention. A certificate of party nomination for an office to be filled at a special election shall be filed not later than ten days following the issuance of a proclamation of such election, provided, however, such certificate shall be filed not later than seven days following the issuance of a proclamation for a special election held pursuant to paragraph b of subdivision three of section forty-two of the public officers law.

§ 7. Subdivision 6 of section 6-158 of the election law, as amended by chapter 5 of the laws of 2019, is amended to read as follows:

6. (a) A certificate of a party nomination made other than at the primary election for an office to be filled at the time of a general election shall be filed not later than thirty days after the primary election, (b) except that a certificate of nomination for an office which becomes vacant after the seventh day preceding such primary election shall be filed not later than thirty days after the primary election or ten days after the creation of such vacancy, whichever is later, and (c) except, further, that a certificate of party nomination of candidates for elector of president and vice-president of the United States shall be filed not later than seventy-four days after the primary election, and (d) except still further that a certificate of party nomination made at a judicial district convention shall be filed not later than the day after the last day to hold such convention and the minutes of such convention, duly certified by the chairman and secretary, shall be filed within seventy-two hours after adjournment of the convention. A certificate of party nomination for an office to be filled at a special

election shall be filed not later than ten days following the issuance of a proclamation of such election**, provided, however, such certificate shall be filed not later than seven days following the issuance of a proclamation for a special election held pursuant to paragraph b of subdivision three of section forty-two of the public officers law**.

§ 8. Subdivisions 7, 8, 9, 11 and 12 of section 6-158 of the election law, subdivision 8 as amended by chapter 703 of the laws of 1982 and subdivisions 9, 11 and 12 as amended by chapter 5 of the laws of 2019, are amended to read as follows:

7. A certificate of acceptance or declination of a party nomination made other than at a primary election for an office to be filled at the time of a general election shall be filed not later than the third day after the last day to file the certificate of such party nomination. A certificate of acceptance or declination of a party nomination for an office to be filled at a special election shall be filed not later than twelve days following the issuance of a proclamation of such election**, provided however, such certificate shall be filed not later than nine days following the issuance of a proclamation of a special election held pursuant to paragraph b of subdivision three of section forty-two of the public officers law**.

8. A certificate to fill a vacancy caused by a declination of a party nomination for an office to be filled at the time of a general election shall be filed not later than four days after the last day to file such declination, except that if such nomination was made at the primary election, such certificate shall be filed not later than ten days after the last day to file such declination. A certificate to fill a vacancy caused by a declination of a party nomination for an office to be filled at a special election shall be filed not later than fourteen days following the issuance of a proclamation of such election**, provided however, such certificate shall be filed not later than eleven days following the issuance of a proclamation of a special election held pursuant to paragraph b of subdivision three of section forty-two of the public officers law**. A certificate to fill a vacancy in a nomination caused by death or disqualification shall be filed not later than ten days after such death or disqualification or four days before the election, whichever is earlier.

9. A petition for an independent nomination for an office to be filled at the time of a general election shall be filed not earlier than twenty-four weeks and not later than twenty-three weeks preceding such election. A petition for an independent nomination for an office to be filled at a special election shall be filed not later than twelve days following the issuance of a proclamation of such election**, provided however, such certificate shall be filed not later than nine days following the issuance of a proclamation of a special election held pursuant to paragraph b of subdivision three of section forty-two of the public officers law**.

11. A certificate of acceptance or declination of an independent nomination for an office to be filled at the time of a general election shall be filed not later than the third day after the twenty-third Tuesday preceding such election except that a candidate who files such a certificate of acceptance for an office for which there have been filed certificates or petitions designating more than one candidate for the nomination of any party, may thereafter file a certificate of declination not later than the third day after the primary election. A certificate of acceptance or declination of an independent nomination for an office to be filled at a special election shall be filed not later than

fourteen days following the issuance of a proclamation of such election**, provided however, such certificate shall be filed not later than eleven days following the issuance of a proclamation of a special election held pursuant to paragraph b of subdivision three of section forty-two of the public officers law**.

12. A certificate to fill a vacancy caused by a declination of an independent nomination for an office to be filled at the time of a general election shall be filed not later than the sixth day after the twenty-third Tuesday preceding such election. A certificate to fill a vacancy caused by a declination of an independent nomination for an office to be filled at a special election shall be filed not later than sixteen days following the issuance of a proclamation of such election**, provided however, such certificate shall be filed not later than thirteen days following the issuance of a proclamation of a special election held pursuant to paragraph b of subdivision three of section forty-two of the public officers law**.

§ 9. Paragraph (e) of subdivision 4 of section 8-600 of the election law, as added by chapter 6 of the laws of 2019, is amended to read as follows:

(e) Early voting polling places and their hours of operation for early voting at a general election shall be designated by May first of each year pursuant to subdivision one of section 4-104 of this chapter. Notwithstanding the provisions of subdivision one of section 4-104 of this chapter early voting polling places and their hours of operation for early voting for: (i) a primary or special election shall be made not later than forty-five days before such primary or special election; [~~and~~] (ii) **thirty days before a special election held pursuant to paragraph b of subdivision three of section forty-two of the public officers law; and (iii)** a run-off primary pursuant to subdivision one of section 6-162 of this chapter shall be made as soon as practicable.

§ 10. Paragraph (a) of subdivision 1 of section 10-108 of the election law, as amended by chapter 5 of the laws of 2019, is amended to read as follows:

(a) Ballots for military voters shall be mailed or otherwise distributed by the board of elections, in accordance with the preferred method of transmission designated by the voter pursuant to section 10-107 of this article, as soon as practicable but in any event not later than forty-six days before a primary or general election**; twenty-five days before** a New York city community school board district or city of Buffalo school district election; fourteen days before a village election conducted by the board of elections; [~~and~~] forty-five days before a special election**; and twenty-three days before a special election held pursuant to paragraph b of subdivision three of section forty-two of the public officers law**. A voter who submits a military ballot application shall be entitled to a military ballot thereafter for each subsequent election through and including the next two regularly scheduled general elections held in even numbered years, including any run-offs which may occur; provided, however, such application shall not be valid for any election held within seven days after its receipt. Ballots shall also be mailed to any qualified military voter who is already registered and who requests such military ballot from such board of elections in a letter, which is signed by the voter and received by the board of elections not later than the seventh day before the election for which the ballot is requested and which states the address where the voter is registered and the address to which the ballot is to be mailed. The board of elections shall enclose with such ballot a form

of application for military ballot. In the case of a primary election, the board shall deliver only the ballot of the party with which the military voter is enrolled according to the military voter's registration records. In the event a primary election is uncontested in the military voter's election district for all offices or positions except the party position of member of the ward, town, city or county committee, no ballot shall be delivered to such military voter for such election; and the military voter shall be advised of the reason why he or she will not receive a ballot.

§ 11. Subdivision 2 of section 16-102 of the election law, as amended by chapter 79 of the laws of 1992, is amended to read as follows:

2. A proceeding with respect to a petition shall be instituted within fourteen days after the last day to file the petition, or within three business days after the officer or board with whom or which such petition was filed, makes a determination of invalidity with respect to such petition, whichever is later; except that a proceeding with respect to a petition for a village election or [~~an independent~~] **a** nomination for a special election shall be instituted within seven days after the last day to file the **certificate or** petition for such village election or [~~independent~~] nomination or within three business days after the officer or board with whom or which such **certificate or** petition was filed, makes a determination of invalidity with respect to such **certificate or** petition, whichever is later. A proceeding with respect to a primary, convention, meeting of a party committee, or caucus shall be instituted within ten days after the holding of such primary or convention or the filing of the certificate of nominations made at such caucus or meeting of a party committee.

§ 12. This act shall take effect immediately, provided, however, that:

(a) section one of this act shall take effect on the same date and in the same manner as a chapter of the laws of 2021 amending the public officers law relating to the dates by which the governor may make proclamation of a special election to fill certain offices, as proposed in legislative bills numbers S. 7227 and A. 8028, takes effect; and

(b) the amendments to subdivision 6 of section 6-158 of the election law made by section six of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 8 of chapter 290 of the laws of 2019, as amended, when upon such date the provisions of section seven of this act shall take effect.