

# 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:

1 Section 1. Subdivision 3 of section 42 of the public officers law, as  
2 amended by a chapter of the laws of 2021, amending the public officers  
3 law relating to the dates by which the governor may make proclamation of  
4 a special election to fill certain offices, as proposed in legislative  
5 bills numbers S. 7227 and A. 8028, is amended to read as follows:

6 3. Upon the failure to elect to any office, except that of governor or  
7 lieutenant-governor, at a general or special election, at which such  
8 office is authorized to be filled, or upon the death or disqualification  
9 of a person elected to office before the commencement of his or her  
10 official term, or upon the occurrence of a vacancy in any elective  
11 office which cannot be filled by appointment for a period extending to  
12 or beyond the next general election at which a person may be elected  
13 thereto, the governor shall, unless otherwise provided for by authorized  
14 local law, resolution or ordinance, make proclamation of a special  
15 election to fill such office within ten days of the occurrence of a  
16 vacancy, specifying the district or county in which the election is to  
17 be held, and the day thereof, which shall be: a. not less than seventy  
18 nor more than eighty days from the date of the proclamation to fill a  
19 vacancy in the office of a representative in congress or for a vacancy  
20 in any other office that is not in the state senate or assembly; and b.  
21 not less than forty days nor more than fifty days from the date of the  
22 proclamation to fill a vacancy in [~~any other office~~] the state senate or  
23 assembly, provided, however, that the governor may issue a proclamation  
24 to fill any subsequent vacancy in the state senate or assembly for the  
25 same date as any previously scheduled special election as long as the  
26 proclamation is issued at least thirty days before the occurrence of the  
27 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

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

19 12. A certificate to fill a vacancy caused by a declination of an  
20 independent nomination for an office to be filled at the time of a  
21 general election shall be filed not later than the sixth day after the  
22 twenty-third Tuesday preceding such election. A certificate to fill a  
23 vacancy caused by a declination of an independent nomination for an  
24 office to be filled at a special election shall be filed not later than  
25 sixteen days following the issuance of a proclamation of such election,  
26 provided however, such certificate shall be filed not later than thir-  
27 teen days following the issuance of a proclamation of a special election  
28 held pursuant to paragraph b of subdivision three of section forty-two  
29 of the public officers law.

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

33 (e) Early voting polling places and their hours of operation for early  
34 voting at a general election shall be designated by May first of each  
35 year pursuant to subdivision one of section 4-104 of this chapter.  
36 Notwithstanding the provisions of subdivision one of section 4-104 of  
37 this chapter early voting polling places and their hours of operation  
38 for early voting for: (i) a primary or special election shall be made  
39 not later than forty-five days before such primary or special election;  
40 ~~[and]~~ (ii) thirty days before a special election held pursuant to para-  
41 graph b of subdivision three of section forty-two of the public officers  
42 law; and (iii) a run-off primary pursuant to subdivision one of section  
43 6-162 of this chapter shall be made as soon as practicable.

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

47 (a) Ballots for military voters shall be mailed or otherwise distrib-  
48 uted by the board of elections, in accordance with the preferred method  
49 of transmission designated by the voter pursuant to section 10-107 of  
50 this article, as soon as practicable but in any event not later than  
51 forty-six days before a primary or general election; twenty-five days  
52 before a New York city community school board district or city of  
53 Buffalo school district election; fourteen days before a village  
54 election conducted by the board of elections; ~~[and]~~ forty-five days  
55 before a special election; and twenty-three days before a special  
56 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

1 of application for military ballot. In the case of a primary election,  
2 the board shall deliver only the ballot of the party with which the  
3 military voter is enrolled according to the military voter's registra-  
4 tion records. In the event a primary election is uncontested in the  
5 military voter's election district for all offices or positions except  
6 the party position of member of the ward, town, city or county commit-  
7 tee, no ballot shall be delivered to such military voter for such  
8 election; and the military voter shall be advised of the reason why he  
9 or she will not receive a ballot.

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

12 2. A proceeding with respect to a petition shall be instituted within  
13 fourteen days after the last day to file the petition, or within three  
14 business days after the officer or board with whom or which such peti-  
15 tion was filed, makes a determination of invalidity with respect to such  
16 petition, whichever is later; except that a proceeding with respect to a  
17 petition for a village election or ~~[an-independent]~~ a nomination for a  
18 special election shall be instituted within seven days after the last  
19 day to file the certificate or petition for such village election or  
20 ~~[independent]~~ nomination or within three business days after the officer  
21 or board with whom or which such certificate or petition was filed,  
22 makes a determination of invalidity with respect to such certificate or  
23 petition, whichever is later. A proceeding with respect to a primary,  
24 convention, meeting of a party committee, or caucus shall be instituted  
25 within ten days after the holding of such primary or convention or the  
26 filing of the certificate of nominations made at such caucus or meeting  
27 of a party committee.

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

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

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