

# STATE OF NEW YORK

10538

## IN ASSEMBLY

June 3, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Jacobson) --  
read once and referred to the Committee on Election Law

### CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing amendments to section 21 of article 6, article 13, and section  
6 of article 4 of the constitution, in relation to requiring certain  
elections be held in even-numbered years at the general election

1 Section 1. Resolved (if the Senate concur), That section 21 of article  
2 6 of the constitution be amended to read as follows:  
3 § 21. a. When a vacancy shall occur, otherwise than by expiration of  
4 term, in the office of justice of the supreme court, of judge of the  
5 county court, of judge of the surrogate's court or judge of the family  
6 court outside the city of New York, it shall be filled for [~~a full~~] the  
7 remainder of the term at the next general election occurring in an even-  
8 numbered year held not less than three months after such vacancy occurs  
9 and, until the vacancy shall be so filled, the governor by and with the  
10 advice and consent of the senate, if the senate shall be in session, or,  
11 if the senate not be in session, the governor may fill such vacancy by  
12 an appointment which shall continue until and including the last day of  
13 December next after the election at which the vacancy shall be filled.  
14 b. When a vacancy shall occur, otherwise than by expiration of term,  
15 in the office of judge of the court of claims, it shall be filled for  
16 the unexpired term in the same manner as an original appointment.  
17 c. When a vacancy shall occur, otherwise than by expiration of term,  
18 in the office of judge elected to the city-wide court of civil jurisdic-  
19 tion of the city of New York, it shall be filled for a full term at the  
20 next general election held not less than three months after such vacancy  
21 occurs and, until the vacancy shall be so filled, the mayor of the city  
22 of New York may fill such vacancy by an appointment which shall continue  
23 until and including the last day of December next after the election at  
24 which the vacancy shall be filled. When a vacancy shall occur, otherwise  
25 than by expiration of term on the last day of December of any year, in  
26 the office of judge appointed to the family court within the city of New  
27 York or the city-wide court of criminal jurisdiction of the city of New  
28 York, the mayor of the city of New York shall fill such vacancy by an  
29 appointment for the unexpired term.

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

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1 d. When a vacancy shall occur, otherwise than by expiration of term,  
2 in the office of judge of the district court, it shall be filled for [~~a~~  
3 ~~full~~] the remainder of the term at the next general election occurring  
4 in an even-numbered year held not less than three months after such  
5 vacancy occurs and, until the vacancy shall be so filled, the board of  
6 supervisors or the supervisor or supervisors of the affected district if  
7 such district consists of a portion of a county or, in counties with an  
8 elected county executive officer, such county executive officer may,  
9 subject to confirmation by the board of supervisors or the supervisor or  
10 supervisors of such district, fill such vacancy by an appointment which  
11 shall continue until and including the last day of December next after  
12 the election at which the vacancy shall be filled.

13 § 2. Resolved (if the Senate concur), That article 13 of the constitu-  
14 tion be amended by adding two new sections 9 and 10 to read as follows:

15 § 9. All elections of judicial officers, other than village judicial  
16 officers, shall be elected at the election held on the Tuesday succeed-  
17 ing the first Monday in November in an even-numbered year, and the term  
18 of every such officer shall expire at the end of an even-numbered year.

19 § 10. Notwithstanding any other provision of this constitution, the  
20 legislature may enact laws which provide for the election of an elective  
21 officer of the state or any political subdivision of the state to take  
22 place on the Tuesday succeeding the first Monday in November in an odd-  
23 numbered year for a term which will cause such officer's term to expire  
24 at the end of an even-numbered year.

25 § 3. Resolved (if the Senate concur), That section 8 of article 13 of  
26 the constitution be amended to read as follows:

27 § 8. [~~All~~] Aside from the city of New York, all elections of city  
28 officers, including supervisors, elected in any city or part of a city,  
29 [~~and of county officers elected in any county wholly included in a~~  
30 ~~city,~~] except to fill vacancies, shall be held on the Tuesday succeeding  
31 the first Monday in November in an [~~odd-numbered~~] even-numbered year,  
32 and the term of every such official or officer shall expire at the end  
33 of an [~~odd-numbered~~] even-numbered year. [~~This section shall not apply~~  
34 ~~to elections of any judicial officer.~~]

35 § 4. Resolved (if the Senate concur), That section 3 of article 13 of  
36 the constitution be amended to read as follows:

37 § 3. The legislature shall provide for filling vacancies in office,  
38 and in case of elective officers, no person appointed to fill a vacancy  
39 shall hold [~~his or her~~] such office by virtue of such appointment longer  
40 than the commencement of the political year next succeeding the first  
41 annual election in an even-numbered year after the happening of the  
42 vacancy; provided, however, in the case of a simultaneous vacancy in the  
43 offices of governor and lieutenant-governor, such officers shall be  
44 elected as required under section six of article four of this constitu-  
45 tion; and provided further, however, that nothing contained in this  
46 article shall prohibit the filling of vacancies on boards of education,  
47 including boards of education of community districts in the city school  
48 district of the city of New York, by appointment until the next regular  
49 school district election, whether or not such appointment shall extend  
50 beyond the thirty-first day of December in any year.

51 § 5. Resolved (if the Senate concur), That section 6 of article 4 of  
52 the constitution be amended to read as follows:

53 § 6. The lieutenant-governor shall possess the same qualifications of  
54 eligibility for office as the governor. The lieutenant-governor shall be  
55 the president of the senate but shall have only a casting vote therein.  
56 The lieutenant-governor shall receive for [~~his or her~~] such lieutenant-

1 governor services an annual salary to be fixed by joint resolution of  
2 the senate and assembly.

3 In case of vacancy in the offices of both governor and lieutenant-gov-  
4 ernor, a governor and lieutenant-governor shall be elected for the  
5 remainder of the term [~~at the next general election~~] on the Tuesday  
6 succeeding the first Monday in November happening not less than three  
7 months after both offices shall have become vacant. No election of a  
8 lieutenant-governor shall be had in any event except at the time of  
9 electing a governor.

10 In case of vacancy in the offices of both governor and lieutenant-gov-  
11 ernor or if both of them shall be impeached, absent from the state or  
12 otherwise unable to discharge the powers and duties of the office of  
13 governor, the temporary president of the senate shall act as governor  
14 until the inability shall cease or until a governor shall be elected.

15 In case of vacancy in the office of lieutenant-governor alone, or if  
16 the lieutenant-governor shall be impeached, absent from the state or  
17 otherwise unable to discharge the duties of office, the temporary presi-  
18 dent of the senate shall perform all the duties of lieutenant-governor  
19 during such vacancy or inability.

20 If, when the duty of acting as governor devolves upon the temporary  
21 president of the senate, there be a vacancy in such office or the tempo-  
22 rary president of the senate shall be absent from the state or otherwise  
23 unable to discharge the duties of governor, the speaker of the assembly  
24 shall act as governor during such vacancy or inability.

25 The legislature may provide for the devolution of the duty of acting  
26 as governor in any case not provided for in this article.

27 § 6. Resolved (if the Senate concur), That subdivision (a) of section  
28 13 of article 13 of the constitution be amended to read as follows:

29 (a) Except in counties in the city of New York and except as author-  
30 ized in section one of article nine of this constitution, registers in  
31 counties having registers shall be chosen by the electors of the respec-  
32 tive counties once in every [~~three~~] four years in an even-numbered year  
33 and whenever the occurring of vacancies shall require; the sheriff and  
34 the clerk of each county shall be chosen by the electors once in every  
35 [~~three or~~] four years in an even-numbered year as the legislature shall  
36 direct. Sheriffs shall hold no other office. They may be required by  
37 law to renew their security, from time to time; and in default of giving  
38 such new security, their offices shall be deemed vacant. The governor  
39 may remove any elective sheriff, county clerk, district attorney or  
40 register within the term for which [~~he or she~~] such elective sheriff,  
41 county clerk, district attorney or register shall have been elected; but  
42 before so doing the governor shall give to such officer a copy of the  
43 charges against [~~him or her~~] such elective sheriff, county clerk,  
44 district attorney or register and an opportunity of being heard in [~~his~~  
45 ~~or her~~] such elective sheriff, county clerk, district attorney or regis-  
46 ter's defense. In each county a district attorney shall be chosen by the  
47 electors once in every [~~three or~~] four years in an even-numbered year as  
48 the legislature shall direct. The clerk of each county in the city of  
49 New York shall be appointed, and be subject to removal, by the appellate  
50 division of the supreme court in the judicial department in which the  
51 county is located. In addition to [~~his or her~~] the powers and duties as  
52 clerk of the supreme court, [~~he or she~~] such clerk of the supreme court  
53 shall have power to select, draw, summon and empanel grand and petit  
54 jurors in the manner and under the conditions now or hereafter  
55 prescribed by law, and shall have such other powers and duties as shall  
56 be prescribed by the city from time to time by local law.

1 § 7. Resolved (if the Senate concur), That the foregoing amendments be  
2 referred to the first regular legislative session convening after the  
3 next succeeding general election of members of the assembly, and, in  
4 conformity with section 1 of article 19 of the constitution, be  
5 published for 3 months previous to the time of such election.