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

Section 1. Resolved (if the Senate concur), That section 21 of article 6 of the constitution be amended to read as follows:

§ 21. a. When a vacancy shall occur, otherwise than by expiration of term, in the office of justice of the supreme court, of judge of the county court, of judge of the surrogate's court or judge of the family court outside the city of New York, it shall be filled for [~~a full~~] **the remainder of the** term at the next general election **occurring in an even-numbered year** held not less than three months after such vacancy occurs and, until the vacancy shall be so filled, the governor by and with the advice and consent of the senate, if the senate shall be in session, or, if the senate not be in session, the governor may fill such vacancy by an appointment which shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

b. When a vacancy shall occur, otherwise than by expiration of term, in the office of judge of the court of claims, it shall be filled for the unexpired term in the same manner as an original appointment.

c. When a vacancy shall occur, otherwise than by expiration of term, in the office of judge elected to the city-wide court of civil jurisdiction of the city of New York, it shall be filled for a full term at the next general election held not less than three months after such vacancy occurs and, until the vacancy shall be so filled, the mayor of the city of New York may fill such vacancy by an appointment which shall continue until and including the last day of December next after the election at which the vacancy shall be filled. When a vacancy shall occur, otherwise than by expiration of term on the last day of December of any year, in the office of judge appointed to the family court within the city of New York or the city-wide court of criminal jurisdiction of the city of New York, the mayor of the city of New York shall fill such vacancy by an 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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d. When a vacancy shall occur, otherwise than by expiration of term, in the office of judge of the district court, it shall be filled for [~~a full~~] **the remainder of the** term at the next general election **occurring in an even-numbered year** held not less than three months after such vacancy occurs and, until the vacancy shall be so filled, the board of supervisors or the supervisor or supervisors of the affected district if such district consists of a portion of a county or, in counties with an elected county executive officer, such county executive officer may, subject to confirmation by the board of supervisors or the supervisor or supervisors of such district, fill such vacancy by an appointment which shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Except in counties in the city of New York and except as authorized in section one of article nine of this constitution, registers in counties having registers shall be chosen by the electors of the respective counties once in every [~~three~~] four years in an even-numbered year and whenever the occurring of vacancies shall require; the sheriff and the clerk of each county shall be chosen by the electors once in every [~~three or~~] four years in an even-numbered year as the legislature shall direct. Sheriffs shall hold no other office. They may be required by law to renew their security, from time to time; and in default of giving such new security, their offices shall be deemed vacant. The governor may remove any elective sheriff, county clerk, district attorney or register within the term for which [~~he or she~~] such elective sheriff, county clerk, district attorney or register shall have been elected; but before so doing the governor shall give to such officer a copy of the charges against [~~him or her~~] such elective sheriff, county clerk, district attorney or register and an opportunity of being heard in [~~his or her~~] such elective sheriff, county clerk, district attorney or register's defense. In each county a district attorney shall be chosen by the electors once in every [~~three or~~] four years in an even-numbered year as the legislature shall direct. The clerk of each county in the city of New York shall be appointed, and be subject to removal, by the appellate division of the supreme court in the judicial department in which the county is located. In addition to [~~his or her~~] the powers and duties as clerk of the supreme court, [~~he or she~~] such clerk of the supreme court shall have power to select, draw, summon and empanel grand and petit jurors in the manner and under the conditions now or hereafter prescribed by law, and shall have such other powers and duties as shall be prescribed by the city from time to time by local law.

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