

# STATE OF NEW YORK

1860

2023-2024 Regular Sessions

## IN ASSEMBLY

January 23, 2023

Introduced by M. of A. L. ROSENTHAL, DINOWITZ, PAULIN, EPSTEIN -- read once and referred to the Committee on Election Law

AN ACT to amend the election law and the public officers law, in relation to creating a special primary election to take place prior to a special election and mandating the governor to proclaim all special elections within ten days of the vacancy

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

Section 1. Section 6-114 of the election law is amended to read as follows:

§ 6-114. Party nominations; special election. Party nominations for an office to be filled at a special election shall be made [~~in the manner prescribed by the rules of the party~~] at a special primary election pursuant to section 6-161 of this article, at which the candidate receiving the most votes shall be the nominee of the party.

§ 2. The election law is amended by adding a new section 6-161 to read as follows:

§ 6-161. Special primary elections. 1. The special primary election shall take place on the first Tuesday occurring at least thirty days but no more than thirty-six days prior to the special election.

2. Designating petitions for a primary nomination shall be subjected to the same form and rules set out in sections 6-132 and 6-134 of this article. Designating petitions shall be filed within twelve days of the date the governor proclaims the need for a special election.

3. Notwithstanding section 6-136 of this article, the required amount of signatures for a designating petition, pursuant to this section, shall be five hundred for a state senatorial district and two hundred fifty for an assembly district.

4. Petitions for independent nominations shall be filed within fifteen days of the date the governor proclaims the need for a special election. Notwithstanding section 6-138 of this article, the required amount of

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

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1 signatures for a designating petition, pursuant to this section, shall  
2 be one thousand for a state senatorial district and five hundred for an  
3 assembly district.

4 § 3. Subdivisions 1, 3 and 4 of section 42 of the public officers law,  
5 subdivision 1 as amended by chapter 5 of the laws of 2019, subdivision 3  
6 as amended by chapter 164 of the laws of 2022 and subdivision 4 as  
7 amended by chapter 320 of the laws of 2021, are amended and a new subdi-  
8 vision 4-b is added to read as follows:

9 1. A vacancy occurring three months before the general election in any  
10 year in any office authorized to be filled at a general election, except  
11 in the offices of governor [~~or~~], lieutenant-governor, state senator or  
12 member of assembly, shall be filled at the general election held next  
13 thereafter, unless otherwise provided by the constitution, or unless  
14 previously filled at a special election.

15 3. Upon the failure to elect to any office, except that of governor or  
16 lieutenant-governor, at a general or special election, at which such  
17 office is authorized to be filled, or upon the death or disqualification  
18 of a person elected to office before the commencement of his or her  
19 official term, or upon the occurrence of a vacancy in any elective  
20 office which cannot be filled by appointment for a period extending to  
21 or beyond the next general election at which a person may be elected  
22 thereto, the governor shall, unless otherwise provided for by authorized  
23 local law, resolution or ordinance, make proclamation of a special  
24 election to fill such office within ten days of the occurrence of a  
25 vacancy, specifying the district or county in which the election is to  
26 be held, and the day thereof, which shall be: a. [~~not less than seventy~~  
27 ~~nor more than eighty~~] ninety days or on the first Tuesday following the  
28 ninety days from the date of the proclamation to fill a vacancy in the  
29 office of a representative in congress or for a vacancy in any other  
30 office that is not in the state senate or assembly; and b. not less  
31 than forty days nor more than fifty days from the date of the proclama-  
32 tion to fill a vacancy in the state senate or assembly, provided, howev-  
33 er, that the governor may issue a proclamation to fill any subsequent  
34 vacancy in the state senate or assembly for the same date as any previ-  
35 ously scheduled special election as long as the proclamation is issued  
36 at least thirty days before the occurrence of the special election.

37 4. a. A special election shall not be held to fill a vacancy in the  
38 office of a representative in congress unless such vacancy occurs on or  
39 before the first day of July of the last year of the term of office, or  
40 unless it occurs thereafter and a special session of congress is called  
41 to meet before the next general election, or be called after [~~three~~  
42 ~~months before the general election in such year.~~

43 ~~b. A special election shall not be held to fill a vacancy in the~~  
44 ~~office of state senator or in the office of member of assembly, unless~~  
45 ~~the vacancy occurs before the first day of April of the last year of the~~  
46 ~~term of office, or unless the vacancy occurs in either such office of~~  
47 ~~senator or member of assembly after such first day of April and a~~  
48 ~~special session of the legislature be called to meet between such first~~  
49 ~~day of April and the next general election or be called after three~~  
50 ~~months before the next general election in such year.~~

51 ~~c. A special election shall not be held to fill a vacancy in any other~~  
52 ~~office subject to a proclamation by the governor pursuant to subdivision~~  
53 ~~three of this section unless the vacancy occurs before the first day of~~  
54 ~~April of the last year of the term of office]~~ September nineteenth of  
55 such year.

1     ~~[d-]~~ b. If a special election to fill an office shall not be held as  
2 required by law, the office shall be filled at the next general  
3 election.

4     4-b. If a vacancy occurs in the office of state senator or in the  
5 office of member of assembly between one hundred eighty and ninety days  
6 prior to an annual primary election or if a vacancy occurs between one  
7 hundred eighty and ninety days prior to a general election, the special  
8 election shall be held on the day of the annual primary election or  
9 general election respectively, with the special primary election to be  
10 held on the first Tuesday occurring at least thirty days but no more  
11 than thirty-six days prior to the special election.

12     § 4. If any section of this act or any part thereof shall be adjudged  
13 by any court of competent jurisdiction to be invalid, such judgment  
14 shall not affect, impair or invalidate the remainder or any other  
15 section or part thereof.

16     § 5. This act shall take effect on the first of January next succeed-  
17 ing the date on which it shall have become a law.