STATE OF NEW YORK

9575

IN SENATE

May 16, 2024

Introduced by Sen. SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the public officers law, in relation to the appointment of a lieutenant-governor and the line of succession and establishes the committee on gubernatorial disability; and to repeal article 1-A of the New York state defense emergency act of 1951 relating thereto

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

Section 1. Section 43 of the public officers law, as renumbered by chapter 649 of the laws of 1922, is amended to read as follows:

§ 43. Filling other vacancies. **1.** If a vacancy shall occur, otherwise than by expiration of term, with no provision of law for filling the same, if the office be elective, the governor shall appoint a person to execute the duties thereof until the vacancy shall be filled by an election. But if the term of such officer shall expire with the calendar year in which the appointment shall be made, or if the office be appointive, the appointee shall hold for the residue of the term.

2. a. In the case of a vacancy in the office of the lieutenant-governor other than by expiration of the term of office, the governor shall, within sixty days from the date of creation of the vacancy, nominate an individual to hold the office of lieutenant-governor for the remainder of the term. This individual shall be required to satisfy the qualifications of eligibility for office as the governor. The governor shall convey the nomination to the temporary president of the senate and the speaker of the assembly and shall make public the nomination. The nominee shall take office upon confirmation by a vote in each house of the legislature by a majority of all members elected to such house taken within sixty days of receiving the nomination. If either house of the legislature shall vote to reject the nomination within said time period, the nomination shall be deemed rejected and the governor shall have thirty days from the date of the first vote of rejection to nominate another individual to serve as lieutenant-governor, who shall then be subject to the confirmation procedure described in this paragraph except

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

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that the legislature shall have thirty days rather than sixty days to act. If the legislature fails to either confirm or reject any nomination for lieutenant-governor within sixty days of receiving the first nomination or thirty days for any subsequent nomination to fill a specific vacancy, the nominee shall assume the office of lieutenant-governor.

b. During the sixty-day and thirty-day periods, the governor shall have the power to withdraw a nomination for a replacement lieutenant governor. If a governor withdraws a nomination in either time period, then the next time period shall not commence, unless the withdrawal power has already been exercised once. Where the governor exercises the withdrawal power in the first and only instance the governor shall have the same amount of time as the governor previously had to nominate another candidate, and the legislature shall have the same amount of time as previously conferred to confirm or reject the nomination. If a governor chooses to withdraw a nominee and nominate a new person, any change in nomination thereafter shall result in the next time period or replacement mechanism commencing.

c. If the legislature rejects the governor's nominations in both the sixty-day and thirty-day time periods, then the governor shall immediately have power to appoint a lieutenant-governor from the following list: comptroller, attorney general, and the heads of executive departments who have been confirmed by the legislature for their current position, excluding acting heads of executive departments.

d. The governor may not appoint anyone for lieutenant governor who was previously nominated and rejected by the legislature during the sixty-day and thirty-day time period.

e. When the governor appoints a lieutenant governor from the aforementioned list of officials, the chosen candidate shall immediately resign from such official's former position should such official choose to accept the appointment and shall not simultaneously serve in more than one government office.

f. If the governor shall not nominate an individual to hold the office of lieutenant-governor within sixty days of the creation of the vacancy or within thirty days of the rejection of a nomination by a house of the legislature, the legislature shall fill the position in accordance with the procedure provided by law for filling vacancies in the office of the attorney general and comptroller.

§ 2. The public officers law is amended by adding two new sections 44 and 45 to read as follows:

§ 44. Persons eligible to succeed governor. 1. For the purposes of sections six and nine of article IV of the constitution, if the office of governor becomes vacant or if the governor shall be impeached or otherwise unable to discharge the powers and duties of the office of the governor, and each of the lieutenant governor, the temporary president of the senate, and the speaker of the assembly is either unable to act as governor or their office is vacant, then the officer of the state who is highest in order of the following list shall act as governor until the earlier of the cessation of the vacancy or inability of the governor or lieutenant-governor or until a new governor shall be elected: comptroller, attorney general, and secretary of state, provided that such officer otherwise meets the criteria set forth in the constitution to serve as governor. To be able to act as governor, an official on this list must have been confirmed by the senate or elected by the voters to lead their respective department.

2. Whenever any officer listed in subdivision one of this section shall act as governor, that officer shall be required to vacate that

officer's prior position. Notwithstanding the foregoing, if any officer listed in subdivision one of this section shall act as governor in the case of impeachment of the governor or in the case the governor is unable to discharge the powers and duties of the office, that officer shall not be required to vacate that officer's prior position unless otherwise required by this subdivision, but that person shall not be permitted to discharge any powers and duties of that officer's prior position until that person no longer holds the office of governor. However, if any officer acts as governor beyond sixty consecutive days, that officer shall then be required to vacate that officer's prior position, and such vacation shall not render that officer ineligible to continue to act as governor.

3. Any officer listed in subdivision one of this section may decline to act as governor, thus making them unable to act as governor. In the event any officer listed in subdivision one of this section is unable to act as governor or does not possess the same qualifications of eligibility for office as the governor, the officer next highest in order who does meet the qualifications of eligibility shall act as governor until the earlier of the cessation of the vacancy or inability of the governor or lieutenant-governor or the election of a new governor.

4. Any official acting as governor under this section shall discharge all the powers and duties of the office of governor as if the individual had been elected governor.

§ 45. Committee on gubernatorial disability. 1. There shall be a committee on gubernatorial disability, consisting of the lieutenant-governor, attorney general, comptroller, and heads of the following departments and offices, provided they have been confirmed by the senate for the commissioner position:

a. division of criminal justice services.

b. department of health.

c. division of human rights.

d. department of labor.

e. office of mental hygiene.

f. department of state.

2. The committee on gubernatorial disability shall perform the functions set forth in article IV, section 9 of the state constitution.

§ 3. Article 1-A of the New York state defense emergency act, as added by chapter 343 of the laws of 1959, is REPEALED.

§ 4. This act shall take effect on the same date as a "CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY proposing an amendment to article 4 and article 6 of the constitution, in relation to the filling of vacancies in the office of lieutenant-governor or governor and the powers and duties of such offices" takes effect, in accordance with section 1 of article 19 of the constitution.