

STATE OF NEW YORK

5036--A

2025-2026 Regular Sessions

IN ASSEMBLY

February 11, 2025

Introduced by M. of A. JACOBSON -- read once and referred to the Committee on Election Law -- recommitted to the Committee on Election Law in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 an even-numbered year, in the office of justice of the supreme
5 court, of judge of the county court, of judge of the surrogate's court
6 or judge of the family court outside the city of New York, it shall be
7 filled for a full term at the next general election occurring in an
8 even-numbered year held not less than three months after such vacancy
9 occurs and, until the vacancy shall be so filled, the governor by and
10 with the advice and consent of the senate, if the senate shall be in
11 session, or, if the senate not be in session, the governor may fill such
12 vacancy by an appointment which shall continue until and including the
13 last day of December next after the election at which the vacancy shall
14 be filled.
15 b. When a vacancy shall occur, otherwise than by expiration of term,
16 in the office of judge of the court of claims, it shall be filled for
17 the unexpired term in the same manner as an original appointment.
18 c. When a vacancy shall occur, otherwise than by expiration of term,
19 in the office of judge elected to the city-wide court of civil jurisdic-
20 tion of the city of New York, it shall be filled for a full term at the
21 next general election held not less than three months after such vacancy
22 occurs and, until the vacancy shall be so filled, the mayor of the city
23 of New York may fill such vacancy by an appointment which shall continue

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

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1 until and including the last day of December next after the election at
2 which the vacancy shall be filled. When a vacancy shall occur, otherwise
3 than by expiration of term on the last day of December of any year, in
4 the office of judge appointed to the family court within the city of New
5 York or the city-wide court of criminal jurisdiction of the city of New
6 York, the mayor of the city of New York shall fill such vacancy by an
7 appointment for the unexpired term.

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

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

22 § 9. All elections of judicial officers, other than village judicial
23 officers, shall be elected at the election held on the Tuesday succeed-
24 ing the first Monday in November in an even-numbered year, and the term
25 of every such officer shall expire at the end of an even-numbered year.
26 If the term of an elected judicial officer serving their term as of the
27 effective date of this amendment expires in an odd-numbered year, such
28 judicial office shall be treated as vacant upon the expiration of such
29 term and subject to the vacancy procedures described in section twenty-
30 one of article six of this constitution.

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

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

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

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

49 § 3. The legislature shall provide for filling vacancies in office,
50 and in case of elective officers, no person appointed to fill a vacancy
51 shall hold ~~[his or her]~~ such office by virtue of such appointment longer
52 than the commencement of the political year next succeeding the first
53 ~~[annual]~~ election in an even-numbered year after the happening of the
54 vacancy; provided, however, in the case of a simultaneous vacancy in the
55 offices of governor and lieutenant-governor, such officers shall be
56 elected as required under section six of article four of this constitu-

tion; 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~~

1 ~~or her~~] such elective sheriff, county clerk, district attorney or regis-
2 ter's defense. In each county a district attorney shall be chosen by the
3 electors once in every ~~three or~~ four years in an even-numbered year as
4 the legislature shall direct. The clerk of each county in the city of
5 New York shall be appointed, and be subject to removal, by the appellate
6 division of the supreme court in the judicial department in which the
7 county is located. In addition to ~~his or her~~ the powers and duties as
8 clerk of the supreme court, ~~he or she~~ such clerk of the supreme court
9 shall have power to select, draw, summon and empanel grand and petit
10 jurors in the manner and under the conditions now or hereafter
11 prescribed by law, and shall have such other powers and duties as shall
12 be prescribed by the city from time to time by local law.

13 § 7. Resolved (if the Senate concur), That section 13 of article 13 of
14 the constitution is amended by adding two new subdivisions (d) and (e)
15 to read as follows:

16 (d) If a vacancy in the office of elected sheriff, county clerk,
17 district attorney or register outside the city of New York results in
18 the need for an election in an odd-numbered year after the effective
19 date of this amendment, the sheriff, county clerk, district attorney or
20 register elected at such election shall serve the remainder of the unex-
21 pired term.

22 (e) If the term of an elected sheriff, county clerk, district attorney
23 or register outside of the city of New York serving their term as of the
24 effective date of this amendment expires in an odd-numbered year, the
25 legislature may enact laws which provide for the election of such sher-
26 iff, county clerk, district attorney or register to take place on the
27 Tuesday succeeding the first Monday in November in an odd-numbered year
28 for a term that shall expire as if such official were elected at the
29 previous general election held in an even-numbered year.

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