Legislation Details (With Text)

File #:	Int 1734-2019 **Version:** *	**Name:**	Requiring nonpartisan special elections to fill vacancies in any elective municipal office, except that of mayor, and allowing the person elected in such special election to serve the remainder of the unexpired term, and to repeal subdivision c of section
Type:	Introduction	**Status:**	Filed (End of Session)
		In control:	Committee on Governmental Operations
On agenda:	9/25/2019		
Enactment date:		**Enactment #:**	

Title: A Local Law to amend the New York city charter, in relation to requiring nonpartisan special elections to fill vacancies in any elective municipal office, except that of mayor, and allowing the person elected in such special election to serve the remainder of the unexpired term, and to repeal subdivision c of section 24, subdivision b of section 25, subdivision e of section 81, section 91 and subdivision c of section 93 of such charter, in relation to filling vacancies in such offices.

Sponsors:

Indexes:

Attachments: 1. Summary of Int. No. 1734, 2. Int. No. 1734, 3. September 25, 2019 - Stated Meeting Agenda with Links to Files, 4. Hearing Transcript - Stated Meeting 9-25-19, 5. Minutes of the Stated Meeting - September 25, 2019

Date	Ver.	Action By	Action	Result
9/25/2019	*	City Council	Introduced by Council	
9/25/2019	*	City Council	Referred to Comm by Council	
12/31/2021	*	City Council	Filed (End of Session)	

Int. No. 1734

By Council Members Powers, Ulrich, Louis, Lander, the Public Advocate (Mr. Williams) and Council Members Kallos, Brannan, Holden, Vallone and Borelli

A Local Law to amend the New York city charter, in relation to requiring nonpartisan special elections to fill vacancies in any elective municipal office, except that of mayor, and allowing the person elected in such special election to serve the remainder of the unexpired term, and to repeal subdivision c of section 24, subdivision b of section 25, subdivision e of section 81, section 91 and subdivision c of section 93 of such charter, in relation to filling vacancies in such offices.

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 24 of the New York city charter, as amended by local law number 27 for the year 2002, is amended to read as follows:

a. The public advocate shall be elected by the electors of the city at the same time and for the same term

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as [in this charter] prescribed for the mayor, except as provided pursuant to subdivision c of this section. A public advocate who resigns or is removed from office prior to the completion of a full term shall be deemed to have served a full term for the purposes of section 1138 [of the charter].

§ 2. Subdivision c of section 24 of the New York city charter is REPEALED and a new subdivision c is added to read as follows:

c. Any vacancy in the office of public advocate shall be filled by popular election in the following manner.

1. Notice. (a) Within three days of the occurrence of a vacancy in the office of public advocate, the mayor shall (i) proclaim the date for the election required by this subdivision; (ii) provide notice of such proclamation to the city clerk and the board of elections; and (iii) publish notice thereof in the City Record.

(b) After the proclamation of the date for an election to be held pursuant this subdivision, the city clerk shall publish notice thereof not less than twice in each week preceding the date of such election in newspapers distributed within the city.

(c) The board of elections shall mail notice of such election to all registered voters within the city.

2. Nominations. All nominations for an election held pursuant to this subdivision shall be by independent nominating petition as set out in article 6 of the election law. A signature on an independent nominating petition made earlier than the date of the proclamation required by paragraph 1 of this subdivision shall not be counted.

3. Holding of special election. (a) Any vacancy shall be filled by special election when the vacancy occurs (i) during the first three years of a term or (ii) in the fourth year of a term if there are more than 90 days between the occurrence of the vacancy and the date of the primary election.

(b) If a vacancy occurs in the fourth year of a term and there are fewer than 90 days between the occurrence of the vacancy and the date of the primary election, the vacancy shall not be filled by special election. In such case, the person elected at the general election in such year for the next succeeding term shall

take office immediately upon qualification and serve the remainder of the unexpired term.

4. Scheduling. A special election to fill a vacancy shall be held on the first Tuesday at least 45 days after the occurrence of the vacancy, provided that the mayor, in the proclamation required by paragraph 1 of this subdivision, may schedule such election for another day no more than 10 days after such Tuesday and no less than 40 days after the proclamation if the mayor determines that rescheduling is necessary to facilitate maximum voter participation; except that:

(a) If the vacancy occurs before September 20 and such first Tuesday is less than 90 days before a regularly scheduled general election or between a primary and a general election, the vacancy shall be filled at a special election that occurs on the same day as such general election;

(b) If the vacancy occurs before September 20 and such first Tuesday is after a regularly scheduled general election, the vacancy shall be filled at a special election that occurs on the same day as such general election;

(c) If the vacancy occurs on or after September 20 and such first Tuesday is less than 30 days after a regularly scheduled general election, the vacancy shall be filled at a special election to be held on the first Tuesday in December in such year; and

(d) If the vacancy occurs during the first three years of a term and such first Tuesday falls 30 or fewer days before a primary election, the vacancy shall be filled at a special election that occurs on the same day as such primary election.

5. Term. A person elected to fill a vacancy pursuant to this subdivision shall take office immediately upon qualification and serve the remainder of the unexpired term.

§ 3. Subdivision b of section 25 of the New York city charter is REPEALED and a new subdivision b is added to read as follows:

b. Any vacancy that may occur among the council members shall be filled by popular election in the following manner.

1. Notice. (a) Within three days of the occurrence of a vacancy in the council, the mayor shall (i) proclaim the date for the election required by this subdivision; (ii) provide notice of such proclamation to the city clerk and the board of elections; and (iii) publish notice thereof in the City Record.

(b) After the proclamation of the date for an election to be held pursuant this subdivision, the city clerk shall publish notice thereof not less than twice in each week preceding the date of such election in newspapers distributed within the city.

(c) The board of elections shall mail notice of such election to all registered voters within the district in which the election is to be held.

2. Nominations. All nominations for an election held pursuant to this subdivision shall be by independent nominating petition as set out in article 6 of the election law. A signature on an independent nominating petition made earlier than the date of the proclamation required by paragraph 1 of this subdivision shall not be counted.

3. Holding of special election. (a) Any vacancy shall be filled by special election when the vacancy occurs (i) during the first three years of a four-year term; (ii) in the first year of a two-year term; (iii) in the fourth year of a four-year term if there are more than 90 days between the occurrence of the vacancy and the date of the primary election; or (iv) in the second year of a two-year term if there are more than 90 days between the occurrence of the vacancy and the date of the primary election.

(b) If a vacancy occurs in the last year of a term and there are fewer than 90 days between the occurrence of the vacancy and the date of the primary election, the vacancy shall not be filled by special election. In such case, the person elected at the general election in such year for the next succeeding term shall take office immediately upon qualification and serve the remainder of the unexpired term.

4. Scheduling. A special election to fill a vacancy shall be held on the first Tuesday at least 45 days after the occurrence of the vacancy, provided that the mayor, in the proclamation required by paragraph 1 of this subdivision, may schedule such election for another day no more than 10 days after such Tuesday and no less

than 40 days after the proclamation if the mayor determines that rescheduling is necessary to facilitate maximum voter participation; except that:

(a) If the vacancy occurs before September 20 and such first Tuesday is between a primary and a general election or is less than 90 days before a regularly scheduled general election, the vacancy shall be filled at a special election that occurs on the same day as such general election;

(b) If the vacancy occurs before September 20 and such first Tuesday is after a regularly scheduled general election, the vacancy shall be filled at a special election that occurs on the same day as such general election;

(c) If the vacancy occurs on or after September 20 and such first Tuesday is less than 30 days after a regularly scheduled general election, the vacancy shall be filled at a special election to be held on the first Tuesday in December in such year; and

(d) If the vacancy occurs during the first three years of a four-year term or the first year of a two-year term and such first Tuesday falls 30 or fewer days before a primary election, the vacancy shall be filled at a special election that occurs on the same day as such primary election.

5. Term. A person elected to fill a vacancy pursuant to this subdivision shall take office immediately upon qualification and serve the remainder of the unexpired term.

§ 4. Subdivision b of section 81 of the New York city charter, as amended by local law number 27 for the year 2002, is amended to read as follows:

b. The borough president shall be elected by the electors of the borough at the same time and for the same term as [in this charter] prescribed for the mayor, except as provided pursuant to subdivision e of this section. A borough president who resigns or is removed from office prior to the completion of a full term shall be deemed to have served a full term for the purposes of section 1138 [of the charter].

§ 5. Subdivision e of section 81 of the New York city charter is REPEALED and a new subdivision e is added to read as follows:

e. Any vacancy in the office of a borough president shall be filled by popular election in the manner set out in this subdivision. Until a successor is elected, the deputy borough president or the executive assistant, in the order of priority specified by the borough president pursuant to subdivision 1 of section 82, shall act as borough president.

1. Notice. (a) Within three days of the occurrence of a vacancy in the office of a borough president, the mayor shall (i) proclaim the date for the election required by this subdivision; (ii) provide notice of such proclamation to the city clerk and the board of elections; and (iii) publish notice thereof in the City Record.

(b) After the proclamation of the date for an election to be held pursuant this subdivision, the city clerk shall publish notice thereof not less than twice in each week preceding the date of such election in newspapers distributed within the city.

(c) The board of elections shall mail notice of such election to all registered voters within the appropriate borough.

2. Nominations. All nominations for an election held pursuant to this subdivision shall be by independent nominating petition as set out in article 6 of the election law. A signature on an independent nominating petition made earlier than the date of the proclamation required by paragraph 1 of this subdivision shall not be counted.

3. Holding of special election. (a) Any vacancy shall be filled by special election when the vacancy occurs (i) during the first three years of a term or (ii) in the fourth year of a term if there are more than 90 days between the occurrence of the vacancy and the date of the primary election.

(b) If a vacancy occurs in the fourth year of a term and there are fewer than 90 days between the occurrence of the vacancy and the date of the primary election, the vacancy shall not be filled by special election. In such case, the person elected at the general election in such year for the next succeeding term shall take office immediately upon qualification and serve the remainder of the unexpired term.

4. Scheduling. A special election to fill a vacancy shall be held on the first Tuesday at least 45 days after

the occurrence of the vacancy, provided that the mayor, in the proclamation required by paragraph 1 of this subdivision, may schedule such election for another day no more than 10 days after such Tuesday and no less than 40 days after the proclamation if the mayor determines that rescheduling is necessary to facilitate maximum voter participation; except that:

(a) If the vacancy occurs before September 20 and such first Tuesday is less than 90 days before a regularly scheduled general election or between a primary and a general election, the vacancy shall be filled at a special election that occurs on the same day as such general election;

(b) If the vacancy occurs before September 20 and such first Tuesday is after a regularly scheduled general election, the vacancy shall be filled at a special election that occurs on the same day as such general election;

(c) If the vacancy occurs on or after September 20 and such first Tuesday is less than 30 days after a regularly scheduled general election, the vacancy shall be filled at a special election to be held on the first Tuesday in December in such year; and

(d) If the vacancy occurs during the first three years of a term and such first Tuesday falls 30 or fewer days before a primary election, the vacancy shall be filled at a special election that occurs on the same day as such primary election.

5. Term. A person elected to fill a vacancy pursuant to this subdivision shall take office immediately upon qualification and serve the remainder of the unexpired term.

§ 6. Section 91 of the New York city charter is REPEALED and a new section 91 is added to read as follows:

§ 91. Election; term; salary; vacancy.

a. The comptroller shall be elected by the electors of the city at the same time and for the same terms as prescribed for the mayor, except as provided pursuant to subdivision d of this section.

b. A comptroller who resigns or is removed from office prior to completion of a full term shall be

deemed to have served a full term for purposes of section 1138.

c. The salary of the comptroller shall be $209,050 per year.

d. Any vacancy in the office of the comptroller shall be filled by popular election in the manner set out in this subdivision.

1. Succession in interim. The first deputy comptroller shall act as comptroller in the event of a vacancy in the office until a successor is elected; whenever the comptroller is prevented from attending to the duties of the office because of sickness, absence from the city or suspension from office; or while the comptroller is acting as mayor. If the first deputy comptroller is unable to act as comptroller because of illness or absence, the second deputy comptroller shall act as comptroller. If the second deputy comptroller is unable to act as comptroller because of illness or absence, the third deputy comptroller shall act as comptroller.

2. Notice. (a) Within three days of the occurrence of a vacancy in the office of the comptroller, the mayor shall (i) proclaim the date for the election required by this subdivision; (ii) provide notice of such proclamation to the city clerk and the board of elections; and (iii) publish notice thereof in the City Record.

(b) After the proclamation of the date for an election to be held pursuant this subdivision, the city clerk shall publish notice thereof not less than twice in each week preceding the date of such election in newspapers distributed within the city.

(c) The board of elections shall mail notice of such election to all registered voters within the city.

3. Nominations. All nominations for an election held pursuant to this subdivision shall be by independent nominating petition as set out in article 6 of the election law. A signature on an independent nominating petition made earlier than the date of the proclamation required by paragraph 2 of this subdivision shall not be counted.

4. Holding of special election. (a) Any vacancy shall be filled by special election when the vacancy occurs (i) during the first three years of a term or (ii) in the fourth year of a term if there are more than 90 days between the occurrence of the vacancy and the date of the primary election.

(b) If a vacancy occurs in the fourth year of a term and there are fewer than 90 days between the occurrence of the vacancy and the date of the primary election, the vacancy shall not be filled by special election. In such case, the person elected at the general election in such year for the next succeeding term shall take office immediately upon qualification and serve the remainder of the unexpired term.

5. Scheduling. A special election to fill a vacancy shall be held on the first Tuesday at least 45 days after the occurrence of the vacancy, provided that the mayor, in the proclamation required by paragraph 2 of this subdivision, may schedule such election for another day no more than 10 days after such Tuesday and no less than 40 days after the proclamation if the mayor determines that rescheduling is necessary to facilitate maximum voter participation; except that:

(a) If the vacancy occurs before September 20 and such first Tuesday is less than 90 days before a regularly scheduled general election or between a primary and a general election, the vacancy shall be filled at a special election that occurs on the same day as such general election;

(b) If the vacancy occurs before September 20 and such first Tuesday is after a regularly scheduled general election, the vacancy shall be filled at a special election that occurs on the same day as such general election;

(c) If the vacancy occurs on or after September 20 and such first Tuesday is less than 30 days after a regularly scheduled general election, the vacancy shall be filled at a special election to be held on the first Tuesday in December in such year; and

(d) If the vacancy occurs during the first three years of a term and such first Tuesday falls 30 or fewer days before a primary election, the vacancy shall be filled at a special election that occurs on the same day as such primary election.

6. Term. A person elected to fill a vacancy pursuant to this subdivision shall take office immediately upon qualification and serve the remainder of the unexpired term.

§ 7. Subdivision c of section 94 of the New York city charter is REPEALED.

§ 8. This local law takes effect immediately after it is submitted for the approval of the qualified electors of the

city at the next general election held after its enactment and is approved by a majority of such electors voting thereon.

SJG
LS # 9956/11481
8/20/19