

5055--A

Cal. No. 780

2011-2012 Regular Sessions

I N   S E N A T E

May 3, 2011

---

Introduced by Sens. MARTINS, JOHNSON -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the town law, in relation to the types of voting machines used in certain elections; and providing for the repeal of certain provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 212 of the town law, as amended by chapter 421 of  
2     the laws of 2008, is amended to read as follows:  
3     S 212. Annual election and notice thereof. The district commissioners  
4     of such improvement district shall publish at the expense of the  
5     district the notice of each election of improvement district commission-  
6     ers held pursuant to this article. Such notice shall be published at  
7     least once in one or more newspapers having general circulation in the  
8     district and the first publication thereof shall be at least twenty days  
9     before the day of such election. The notice of annual election shall  
10    specify the time when and the place or places where such election shall  
11    be held and the hours during which the polls will be open for the  
12    receipt of ballots. Notice of such election shall also be posted on the  
13    websites of the district and the town in which the district is located,  
14    if such websites are maintained, on the signboard of the town, and  
15    conspicuously posted in three or more designated public locations within  
16    the district, on or about the day on which such notice is published.  
17    Such election shall be held at a suitable place or places within the  
18    district designated by the district commissioners and the polls shall  
19    remain open from six o'clock in the evening until nine o'clock in the  
20    evening and such additional consecutive hours prior thereto as the  
21    district commissioners may determine and specify in the notice of such

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

LBD10730-05-1

1 election. The board of commissioners of such district shall designate  
2 for each district election not less than two nor more than four resident  
3 taxpayers to act as election inspectors and ballot clerks for each  
4 designated polling place. The board of commissioners shall fix the  
5 compensation of such election inspectors and ballot clerks in an amount  
6 not to exceed ten dollars per hour each for every hour or part thereof  
7 of such service and such compensation shall be a charge against the  
8 district. The board of commissioners shall cause to be prepared the  
9 ballots for all elections, and may authorize the use of voting machines  
10 [approved by the secretary of state], INCLUDING LEVER VOTING MACHINES,  
11 at any annual or special election of the district. WHEN USING VOTING  
12 MACHINES AS DESCRIBED IN ARTICLE SEVEN OF THE ELECTION LAW, SUCH VOTING  
13 MACHINES SHALL BE USED in accordance with THE PROVISIONS CONTAINED IN  
14 article nine of the election law. PROVIDED, HOWEVER, THAT NOTHING IN  
15 THIS SECTION SHALL BE CONSTRUED TO REQUIRE THE BOARD OF ELECTIONS TO  
16 MAINTAIN THE CARE, CUSTODY OR CONTROL OF LEVER VOTING MACHINES. After  
17 the polls shall have been closed at any election, the election inspec-  
18 tors and ballot clerks at each polling place shall immediately canvass  
19 the ballots cast and shall publicly announce the result of the vote at  
20 that polling place. Within twenty-four hours the chairman of the board  
21 of commissioners, election inspectors and ballot clerks shall execute  
22 and file a certificate of the result of the canvass with the board of  
23 commissioners of the improvement district and with the clerk of the town  
24 in which said district is located.

25 S 2. Subdivision 29 of section 176 of the town law, as added by chap-  
26 ter 568 of the laws of 1949, is amended to read as follows:

27 29. May authorize the use of voting machines, INCLUDING LEVER VOTING  
28 MACHINES, at any annual or special election held within the fire  
29 district [and]. WHEN USING VOTING MACHINES AS DESCRIBED IN ARTICLE SEVEN  
30 OF THE ELECTION LAW, such voting [machine] MACHINES shall be used in  
31 accordance with the provisions contained in article nine of the election  
32 law. PROVIDED, HOWEVER, THAT NOTHING IN THIS SECTION SHALL BE CONSTRUED  
33 TO REQUIRE THE BOARD OF ELECTIONS TO MAINTAIN THE CARE, CUSTODY OR  
34 CONTROL OF LEVER VOTING MACHINES.

35 S 3. Section 212 of the town law, as amended by chapter 421 of the  
36 laws of 2008, is amended to read as follows:

37 S 212. Annual election and notice thereof. The district commissioners  
38 of such improvement district shall publish at the expense of the  
39 district the notice of each election of improvement district commission-  
40 ers held pursuant to this article. Such notice shall be published at  
41 least once in one or more newspapers having general circulation in the  
42 district and the first publication thereof shall be at least twenty days  
43 before the day of such election. The notice of annual election shall  
44 specify the time when and the place or places where such election shall  
45 be held and the hours during which the polls will be open for the  
46 receipt of ballots. Notice of such election shall also be posted on the  
47 websites of the district and the town in which the district is located,  
48 if such websites are maintained, on the signboard of the town, and  
49 conspicuously posted in three or more designated public locations within  
50 the district, on or about the day on which such notice is published.  
51 Such election shall be held at a suitable place or places within the  
52 district designated by the district commissioners and the polls shall  
53 remain open from six o'clock in the evening until nine o'clock in the  
54 evening and such additional consecutive hours prior thereto as the  
55 district commissioners may determine and specify in the notice of such  
56 election. The board of commissioners of such district shall designate

1 for each district election not less than two nor more than four resident  
2 taxpayers to act as election inspectors and ballot clerks for each  
3 designated polling place. The board of commissioners shall fix the  
4 compensation of such election inspectors and ballot clerks in an amount  
5 not to exceed ten dollars per hour each for every hour or part thereof  
6 of such service and such compensation shall be a charge against the  
7 district. The board of commissioners shall cause to be prepared the  
8 ballots for all elections, and may authorize the use of voting machines  
9 [approved by the secretary of state] at any annual or special election  
10 of the district in accordance with article nine of the election law.  
11 After the polls shall have been closed at any election, the election  
12 inspectors and ballot clerks at each polling place shall immediately  
13 canvass the ballots cast and shall publicly announce the result of the  
14 vote at that polling place. Within twenty-four hours the chairman of the  
15 board of commissioners, election inspectors and ballot clerks shall  
16 execute and file a certificate of the result of the canvass with the  
17 board of commissioners of the improvement district and with the clerk of  
18 the town in which said district is located.

19 S 4. Subdivisions 12 and 13 of section 213-b of the town law, as added  
20 by chapter 400 of the laws of 1985, are amended to read as follows:

21 12. If the inspectors of election shall have received an envelope, and  
22 upon opening the same no ballot shall be found therein, the inspectors  
23 shall make a memorandum showing that the ballot is missing. When the  
24 casting of absentee voters' ballots shall have been completed, the  
25 inspectors shall ascertain the number of such ballots which have been  
26 deposited in the ballot box by deducting from the number of envelopes  
27 opened the number of missing ballots, and shall make a separate return  
28 thereof in duplicate. The number of absentee voters' ballots deposited  
29 in the ballot box shall be added to the number of other ballots deposit-  
30 ed in the ballot box in order to determine the number of all ballots to  
31 be accounted for in the ballot box. Such ballots shall then be counted  
32 or canvassed by the inspectors of election along with the other ballots  
33 cast at such district election, or, where voting machines are used, AS  
34 PROVIDED IN SECTION TWO HUNDRED TWELVE OF THIS ARTICLE, shall be added  
35 to the votes recorded on such machines.

36 13. The provisions of this section shall apply to absentee ballots at  
37 improvement district elections, notwithstanding any other provision of  
38 law. The provisions of any other law as they relate to improvement  
39 district elections not inconsistent herewith shall apply to the conduct  
40 of such elections. PROVIDED, HOWEVER, THAT NOTHING IN THIS SECTION SHALL  
41 BE CONSTRUED TO REQUIRE THE BOARD OF ELECTIONS TO MAINTAIN THE CARE,  
42 CUSTODY OR CONTROL OF LEVER VOTING MACHINES.

43 S 5. Subdivisions 4 and 12 of section 175-b of the town law, as  
44 amended by chapter 401 of the laws of 1996, are amended to read as  
45 follows:

46 4. Ballots for absentee voters shall be, as nearly as practicable, in  
47 the same form as those to be voted at the district election; if the vote  
48 at such election shall be by ballot, the absentee ballot shall conform  
49 to that part of the regular ballot which relates to the election of  
50 district members; if the vote of such election shall be by voting  
51 machine, PURSUANT TO SUBDIVISION TWENTY-NINE OF SECTION ONE HUNDRED  
52 SEVENTY-SIX OF THIS ARTICLE, the absentee ballot shall [conform as  
53 closely as possible to the manner in which the names of the candidates  
54 appear on the voting machines, except that the absentee ballot shall  
55 also contain a space for a write-in or write-ins] BE, AS NEARLY PRACTI-  
56 CABLE, IN THE SAME FORM AS THOSE TO BE VOTED IN THE DISTRICT ON ELECTION

1 DAY AND SHALL CONTAIN A SPACE FOR A WRITE-IN OR WRITE-INS. On the back  
2 of such absentee ballots shall be printed the words "Official Ballot,  
3 Absentee Voter," followed by the words "For Officers of fire district."

4 12. If the election inspectors shall have received an envelope, and  
5 upon opening the same no ballot shall be found therein, the election  
6 inspectors shall make a memorandum showing that the ballot is missing.  
7 When the casting of absentee voters' ballots shall have been completed,  
8 the election inspectors shall ascertain the number of such ballots which  
9 have been deposited in the ballot box by deducting from the number of  
10 envelopes opened the number of missing ballots, and shall make a sepa-  
11 rate return thereof in duplicate. The number of absentee voters' ballots  
12 deposited in the ballot box shall be added to the number of other  
13 ballots deposited in the ballot box in order to determine the number of  
14 all ballots to be accounted for in the ballot box. Such ballots shall  
15 then be counted or canvassed by the election inspectors along with the  
16 other ballots cast at such district election, or, where voting machines  
17 are used[,] PURSUANT TO SUBDIVISION TWENTY-NINE OF SECTION ONE HUNDRED  
18 SEVENTY-SIX OF THIS ARTICLE, SUCH BALLOTS shall be added to the votes  
19 recorded on such machines.

20 S 6. Subdivision 4 of section 175-b of the town law, as amended by  
21 chapter 401 of the laws of 1996, is amended to read as follows:

22 4. Ballots for absentee voters shall be, as nearly as practicable, in  
23 the same form as those to be voted at the district election; if the vote  
24 at such election shall be by ballot, the absentee ballot shall conform  
25 to that part of the regular ballot which relates to the election of  
26 district members; if the vote of such election shall be by voting  
27 machine, the absentee ballot shall [conform as closely as possible to  
28 the manner in which the names of the candidates appear on the voting  
29 machines, except that the absentee ballot shall also contain a space for  
30 a write-in or write-ins] BE, AS NEARLY PRACTICABLE, IN THE SAME FORM AS  
31 THOSE TO BE VOTED IN THE DISTRICT ON ELECTION DAY AND SHALL CONTAIN A  
32 SPACE FOR A WRITE-IN OR WRITE-INS. On the back of such absentee ballots  
33 shall be printed the words "Official Ballot, Absentee Voter," followed  
34 by the words "For Officers of fire district."

35 S 7. This act shall take effect immediately provided, however, that  
36 sections one, two, four and five of this act shall expire and be deemed  
37 repealed December 31, 2012, when upon such date the provisions of  
38 sections three and six of this act shall take effect.