

1541

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. PERKINS, ADAMS, ADDABBO -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

AN ACT to amend the election law, the municipal home rule law and the administrative code of the city of New York, in relation to the determination of a winner of a primary election; and to repeal certain provisions of the election law and the administrative code of the city of New York relating thereto

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

1 Section 1. Section 6-160 of the election law is amended by adding a
2 new subdivision 3 to read as follows:
3 3. THE INDIVIDUAL WHO RECEIVES THE HIGHEST PERCENTAGE OF THE TOTAL
4 VOTES CAST AT THE PRIMARY SHALL BE DEEMED THE WINNER OF THE PRIMARY.
5 S 2. Section 6-162 of the election law is REPEALED.
6 S 3. Paragraph (b) of subdivision 1 of section 8-100 of the election
7 law is REPEALED and paragraph (c), as relettered by chapter 373 of the
8 laws of 1978, is relettered paragraph (b).
9 S 4. Paragraph d of subdivision 1 of section 15-104 of the election
10 law, as amended by chapter 684 of the laws of 2006, is amended to read
11 as follows:
12 d. Except as otherwise provided by law, to be elected in a village
13 election, a candidate must receive more votes than any other candidate
14 for the office. In the event of a tie at a village election, [a run-off
15 election shall be conducted pursuant to the provisions of section 15-126
16 of this article; provided, however, that if all candidates receiving an
17 equal number of votes agree to waive a run-off election,] the election
18 shall be determined according to the provisions of paragraph [d] B of
19 subdivision two of section 15-126 of this article.

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

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1 S 5. Subdivision 2 of section 15-126 of the election law, as amended
2 by chapter 684 of the laws of 2006, is amended to read as follows:

3 2. a. The person or persons eligible and receiving the highest number
4 of votes for an office shall be elected thereto.

5 b. In the event that more eligible persons than the number remaining
6 to be elected receive for the same office or offices an equal number of
7 votes, the [board of trustees shall conduct a run-off election. Such
8 run-off election shall be held on the first Tuesday at least ten days
9 after the final certification of such tie result, subject to the
10 provisions of paragraph b of subdivision three of section 15-104 of this
11 article, provided, however, that the only persons who shall be deemed
12 nominated shall be those persons who shall have received such equal
13 number of votes. The order of the candidates names on the ballot shall
14 be determined by a drawing conducted by a village clerk, in the presence
15 of all those persons who received such equal number of votes, or a
16 representative of such persons.

17 c. Such run-off election may be waived and the selection made by lot
18 as otherwise provided by this section if each person who shall have
19 received such equal number of votes shall file with the village clerk,
20 no later than two days after such final certification of such tie
21 result, a written notice of consent that such selection be made by lot.

22 d. If a waiver of such run-off election shall occur, the] village
23 clerk, no later than two days after receiving written notice [of consent
24 that such selection be made by lot], shall certify such facts in writing
25 to any supreme court justice within the judicial district in which such
26 village is located and shall within three days summon the candidates
27 before him or her and he or she shall by lot determine which of them
28 shall be elected.

29 S 6. Section 16-116 of the election law is amended to read as follows:

30 S 16-116. Proceedings; provisions in relation thereto. A special
31 proceeding under the foregoing provisions of this article shall be heard
32 upon a verified petition and such oral or written proof as may be
33 offered, and upon such notice to such officers, persons or committees as
34 the court or justice shall direct, and shall be summarily determined.
35 The proceeding shall have preference over all other causes in all
36 courts. The petition in any such proceeding instituted by the state or
37 other board of elections shall be verified by the persons specified in
38 accordance with rules promulgated by the state board of elections. [In
39 the city of New York, a proceeding relating to a run-off primary brought
40 pursuant to this article shall have first preference over all other
41 proceedings.]

42 S 7. Paragraph f of subdivision 1 of section 11 of the municipal home
43 rule law, as amended by chapter 21 of the laws of 1992, is amended to
44 read as follows:

45 f. Applies to or affects any provision of paragraph [(c)] (B) of
46 subdivision one of section 8-100 of the election law, the labor law,
47 sections two, three and four of chapter one thousand eleven of the laws
48 of nineteen hundred sixty-eight, entitled "An act in relation to the
49 maximum hours of labor of certain municipal and fire district firemen
50 and the holidays of firemen and policemen, repealing certain sections of
51 the labor law relating thereto, and to amend the municipal home rule
52 law, in relation thereto," as amended, the volunteer [firemen's] FIRE-
53 FIGHTERS' benefit law, or the [workmen's] WORKERS' compensation law or
54 changes any provision of the multiple residence law or the multiple
55 dwelling law, except that in a city of one million persons or more, the
56 provisions of local law for the enforcement of the housing code which is

1 not less restrictive than the multiple dwelling law may be applied in
2 the enforcement of the multiple dwelling law.

3 S 8. Subdivision 10 of section 3-702 of the administrative code of the
4 city of New York, as amended by local law number 12 of the city of New
5 York for the year 2003, is amended to read as follows:

6 10. The term "covered election" shall mean any primary, [run-off
7 primary,] special[, run-off special] or general election for nomination
8 for election, or election, to the office of mayor, public advocate,
9 comptroller, borough president or member of the city council.

10 S 9. Paragraph (f) of subdivision 1 of section 3-703 of the adminis-
11 trative code of the city of New York, as amended by local law number 105
12 of the city of New York for the year 2005, is amended to read as
13 follows:

14 (f) not accept and his or her principal committee or authorized
15 committees must not accept, either directly or by transfer, any contrib-
16 ution or contributions from any one individual, partnership, political
17 committee, labor organization or other entity for all covered elections
18 held in the same calendar year in which he or she is a participating
19 candidate or a non-participating candidate which in the aggregate: (i)
20 for the office of mayor, public advocate or comptroller shall exceed
21 four thousand five hundred dollars, or (ii) for borough president, shall
22 exceed three thousand five hundred dollars, or (iii) for member of the
23 city council, shall exceed two thousand five hundred dollars; provided
24 that a participating candidate and his or her principal committee or a
25 non-participating candidate and his or her authorized committees may
26 accept additional contributions which do not exceed one half the amount
27 of the applicable limitation for any [run-off primary election,] addi-
28 tional day for voting held pursuant to section 3-108 of the New York
29 state election law, special election to fill a vacancy, [run-off special
30 election to fill a vacancy,] delayed or otherwise postponed election, or
31 election held pursuant to court order which is a covered election and in
32 which the candidate seeks nomination for election or election; and
33 provided further that for the purposes of this paragraph, contributions
34 made by different labor organizations shall not be aggregated or treated
35 as contributions from a single contributor for purposes of the contrib-
36 ution limit that is set forth in this paragraph if those labor organiza-
37 tions make contributions from different accounts, maintain separate
38 accounts with different signatories, do not share a majority of members
39 of their governing boards, and do not share a majority of the officers
40 of their governing boards; and provided further that if state law
41 prescribes a contribution limitation of a lesser amount, this paragraph
42 shall not be deemed to authorize acceptance of a contribution in excess
43 of such lesser amount. The maximum contributions set forth in this
44 paragraph shall be adjusted in accordance with subdivision seven of this
45 section;

46 S 10. Subdivision 1-a of section 3-703 of the administrative code of
47 the city of New York, as amended by local law number 67 of the city of
48 New York for the year 2007, is amended to read as follows:

49 1-a. Notwithstanding any inconsistent provision of this section, a
50 participating candidate or his or her principal committee may not
51 accept, either directly or by transfer, any contribution or contrib-
52 utions for a covered election in which he or she is a participating
53 candidate from a natural person who has business dealings with the city,
54 as that term is defined in subdivision eighteen of section 3-702 of this
55 chapter, if the aggregate of such contributions to such candidate from
56 such person for all covered elections in the same calendar year exceeds:

1 (i) for the office of mayor, public advocate or comptroller four hundred
2 dollars; (ii) for borough president three hundred twenty dollars; and
3 (iii) for member of the city council two hundred fifty dollars; provided
4 that a participating candidate or his or her principal committee may
5 accept additional contributions which do not exceed one half the amount
6 of the applicable limitation for any [run-off primary election,] addi-
7 tional day for voting held pursuant to section 3-108 of the New York
8 state election law, special election to fill a vacancy, [run-off special
9 election to fill a vacancy,] delayed or otherwise postponed election, or
10 election held pursuant to court order which is a covered election and in
11 which the candidate seeks nomination for election or election. Any
12 contribution made pursuant to this section shall not be a matchable
13 contribution. For purposes of this subdivision, "person" shall include
14 any chief executive officer, chief financial officer and/or chief oper-
15 ating officer of an entity which has business dealings with the city,
16 any person employed in a senior managerial capacity regarding such an
17 entity, or any person with an interest in such an entity which exceeds
18 ten percent of the entity. For purposes of this subdivision, the phrase
19 "senior managerial capacity" shall mean a high level supervisory capaci-
20 ty, either by virtue of title or duties, in which substantial discretion
21 and oversight is exercised over the solicitation, letting or adminis-
22 tration of business transactions with the city, including contracts,
23 franchises, concessions, grants, economic development agreements and
24 applications for land use approvals. Notwithstanding any provision of
25 this subdivision, the limitations on contributions contained herein
26 shall not apply to any contribution made by a natural person who has
27 business dealings with the city to a participating candidate or his or
28 her principal committee where such participating candidate is the
29 contributor, or where such participating candidate is the contributor's
30 parent, spouse, domestic partner, sibling, child, grandchild, aunt,
31 uncle, cousin, niece or nephew by blood or by marriage.

32 S 11. Subdivision 5 of section 3-705 of the administrative code of the
33 city of New York is REPEALED.

34 S 12. Paragraph (b) of subdivision 1 of section 3-706 of the adminis-
35 trative code of the city of New York, as amended by local law number 34
36 of the city of New York for the year 2007, is amended to read as
37 follows:

38 (b) [(i) The expenditure limitation in a run-off primary election held
39 pursuant to section 6-162 of the New York state election law or a run-
40 off special election held to fill a vacancy shall be one half the amount
41 of the applicable limitation provided for an election for such office
42 pursuant to the provisions of paragraph (a) of this subdivision.

43 (ii)] The board shall promulgate rules to provide for a separate
44 expenditure limit applicable to campaign expenditures for an additional
45 day for voting held pursuant to section 3-108 of the New York state
46 election law, an election held pursuant to court order, or a delayed or
47 otherwise postponed election.

48 S 13. Subdivision 3 of section 3-706 of the administrative code of the
49 city of New York, as amended by local law number 58 of the city of New
50 York for the year 2004, subparagraph (iii) of paragraph (a) and subpara-
51 graph (iii) of paragraph (b) as amended by local law number 67 of the
52 city of New York for the year 2007, is amended to read as follows:

53 3. (a) If any candidate in any covered election chooses not to file a
54 certification as a participating or limited participating candidate
55 pursuant to this chapter, and where the campaign finance board has
56 determined that such candidate and his or her authorized committees have

1 spent or contracted or have obligated to spend, or received in loans or
2 contributions, or both, an amount which, in the aggregate, exceeds half
3 the applicable expenditure limit for such office fixed by subdivision
4 one of this section, then:

5 (i) such expenditure limit applicable to participating candidates and
6 limited participating candidates in such election for such office shall
7 be increased to one hundred fifty percent of such limit; and

8 (ii) the principal committees of such participating candidates shall
9 receive payment for qualified campaign expenditures of five dollars for
10 each one dollar of matchable contributions, up to one thousand two
11 hundred fifty dollars in public funds per contributor (or up to six
12 hundred twenty five dollars in public funds per contributor in the case
13 of a special election); provided, however, that [(A) participating
14 candidates in a run-off election shall receive public funds for such
15 election pursuant to subdivision five of section 3-705 and shall not
16 receive any additional public funds pursuant to this section, and (B)]
17 in no case shall a principal committee receive in public funds an amount
18 exceeding two-thirds of the expenditure limitation provided for such
19 office in subdivision one of this section.

20 (iii) for elections occurring after January first, two thousand eight,
21 the campaign finance board shall promulgate rules to provide that the
22 principal committees of such participating candidates shall receive
23 payment for qualified campaign expenditures that will provide the high-
24 est allowable matchable contribution to be matched by an amount up to
25 one thousand two hundred fifty dollars in public funds per contributor
26 (or up to six hundred twenty five dollars in public funds per contribu-
27 tor in the case of special election); provided, however, that [(A)
28 participating candidates in a run-off election shall receive public
29 funds for such election pursuant to subdivision five of section 3-705
30 and shall not receive any additional public funds pursuant to this
31 section, and (B)] in no case shall a principal committee receive in
32 public funds an amount exceeding two-thirds of the expenditure limita-
33 tion provided for such office in subdivision one of this section.

34 (b) If any candidate in any covered election chooses not to file a
35 certification as a participating or limited participating candidate
36 pursuant to this chapter, and where the campaign finance board has
37 determined that such candidate and his or her authorized committees have
38 spent or contracted or have obligated to spend, or received in loans or
39 contributions, or both, an amount which, in the aggregate, exceeds three
40 times the applicable expenditure limit for such office fixed by subdivi-
41 sion one of this section, then:

42 (i) such expenditure limit shall no longer apply to participating
43 candidates and limited participating candidates in such election for
44 such office; and

45 (ii) the principal committees of such participating candidates shall
46 receive payment for qualified campaign expenditures of six dollars for
47 each one dollar of matchable contributions, up to one thousand five
48 hundred dollars in public funds per contributor (or up to seven hundred
49 fifty dollars in public funds per contributor in the case of a special
50 election); provided, however, that [(A) participating candidates in a
51 run-off election shall receive public funds for such election pursuant
52 to subdivision five of section 3-705 and shall not receive any addi-
53 tional public funds pursuant to this section, and (B)] in no case shall
54 a principal committee receive in public funds an amount exceeding one
55 hundred twenty-five percent of the expenditure limitation provided for
56 such office in subdivision one of this section.

1 (iii) for elections occurring after January first, two thousand eight,
2 the campaign finance board shall promulgate rules to provide that the
3 principal committees of such participating candidates shall receive
4 payment for qualified campaign expenditures that will provide the high-
5 est allowable matchable contribution to be matched by an amount up to
6 one thousand five hundred dollars in public funds per contributor (or up
7 to seven hundred fifty dollars in public funds per contributor in the
8 case of special election); provided, however, that [(A) participating
9 candidates in a run-off election shall receive public funds for such
10 election pursuant to subdivision five of section 3-705 and shall not
11 receive any additional public funds pursuant to this section, and (B)]
12 in no case shall a principal committee receive in public funds an amount
13 exceeding one hundred twenty-five percent of the expenditure limitation
14 provided for such office in subdivision one of this section.

15 S 14. Subdivision 6 of section 3-709 of the administrative code of the
16 city of New York is REPEALED.

17 S 15. Paragraph (b) of subdivision 1 of section 3-709.5 of the admin-
18 istrative code of the city of New York is REPEALED and paragraphs (c)
19 and (d) are relettered paragraphs (b) and (c).

20 S 16. Subdivision 4 of section 3-709.5 of the administrative code of
21 the city of New York, as amended by local law number 58 of the city of
22 New York for the year 2004, is amended to read as follows:

23 4. Organizations which are not affiliated with any political party or
24 with any holder of or candidate for public office, which have not
25 endorsed any candidate in the pending primary, special, OR general[, or
26 run-off] election for the city-wide office shall be eligible to sponsor
27 one or more of the required debates. The rules for conducting such
28 debates shall be solely the responsibility of the organizations selected
29 but shall not be made final without consultation with the campaign
30 finance board. The organizations selected shall be responsible for
31 choosing the date, time and location of the debates.

32 S 17. Subparagraph (ii) of paragraph (b) of subdivision 5 of section
33 3-709.5 of the administrative code of the city of New York, as amended
34 by local law number 34 of the city of New York for the year 2007, is
35 amended to read as follows:

36 (ii) If a debate sponsor has determined that a non-participating
37 candidate has met all the non-partisan, objective, and non-discriminato-
38 ry criteria applicable to participating candidates or limited partic-
39 ipating candidates for access to any of the primary, general, or special
40 election debates, the sponsor may invite that candidate to participate
41 in such debate. [In the case of a run-off primary election or a run-off
42 special election, the sponsor may invite a non-participating candidate
43 to participate in such debate. However, if a non-participating candidate
44 does not accept such invitation to debate or does not appear at such
45 debate, the debate shall go forward as scheduled; provided, however, if
46 there is only one participating candidate or limited participating
47 candidate participating in any such debate, such debate shall be
48 canceled.]

49 S 18. Subdivision 9 of section 3-709.5 of the administrative code of
50 the city of New York, as amended by local law number 58 of the city of
51 New York for the year 2004, is amended to read as follows:

52 9. If a candidate fails to participate in any debate required under
53 this section before an election, the candidate shall be liable for
54 return of any public matching funds previously received pursuant to the
55 certification filed by the candidate in connection with the election for
56 which such debate is held, shall be ineligible to receive any further

1 matching funds for that election, and may be subject to a civil penalty
2 pursuant to section 3-711. For purposes of this subdivision, each prima-
3 ry, general, OR special [or run-off] election shall be considered a
4 separate election.

5 S 19. This act shall take effect immediately.