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I N   S E N A T E

February 21, 2014

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Introduced by Sen. MARCHIONE -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

AN ACT to amend the election law, in relation to removing the requirement that party emblems be included in ballot design

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

- 1     Section 1. Subdivision 18 of section 1-104 of the election law, as  
2 amended by chapter 181 of the laws of 2005, is amended to read as  
3 follows:  
4     18. The word "ballot" when referring to voting machines or systems  
5 means that portion of the cardboard or paper or other material or elec-  
6 tronic display within the ballot frame containing the name of the candi-  
7 date and [the emblem of] the party organization by which he was nomi-  
8 nated, of the form of submission of a proposed constitutional amendment,  
9 proposition referendum or question as provided in this chapter, with the  
10 word "yes" for voting for any question or the word "no" for voting  
11 against any question except that where the question or proposition is  
12 submitted only to the voters of a territory wholly within a county or  
13 city, such form shall be determined by the county board of elections.  
14 Such statement and the title shall be printed and/or displayed in the  
15 largest type or display which it is practicable to use in the space  
16 provided.  
17     S 2. Subdivisions 1 and 2 of section 2-124 of the election law, subdi-  
18 vision 2 as amended by chapter 9 of the laws of 1978, are amended to  
19 read as follows:  
20     1. The state committee of a party shall select a name [and emblem] to  
21 distinguish the candidates of the party for public office in all  
22 districts of the state, and shall file in the office of the state board  
23 of elections, a certificate executed by its chairman and secretary,  
24 setting forth the name [and showing the emblem so selected].  
25     2. The name of a party shall be in the English language and shall not  
26 include the words "American", "United States", "National", "New York  
27 State", "Empire State", or any abbreviation thereof, nor the name or  
28 part of the name, or an abbreviation of the name, of an existing party.

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

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[The emblem chosen may be a star, an animal, an anchor, or any other proper symbol, but may not be the same as or similar to any emblem, insignia, symbol or flag used by any political or governmental body, agency or entity nor any religious emblem, insignia, symbol or flag, nor the portrait of any person, nor the representation of a coin or of the currency of the United States.] The name [and emblem] chosen shall not be similar to or likely to create confusion with the name [or emblem] of any other existing party or independent body.

S 3. Subdivision 1 of section 4-112 of the election law, as amended by chapter 4 of the laws of 2011, is amended to read as follows:

1. The state board of elections not later than thirty-six days before a general election, or fifty-three days before a special election, shall certify to each county board of elections the name and residence of each candidate nominated in any valid certificate filed with it or by the returns canvassed by it, the title of the office for which nominated; the name of the party or body specified of which he is a candidate; [the emblem chosen to distinguish the candidates of the party or body;] and a notation as to whether or not any litigation is pending concerning the candidacy. Upon the completion of any such litigation, the state board of elections shall forthwith notify the appropriate county boards of elections of the results of such litigation.

S 4. Subdivision 1 of section 6-128 of the election law is amended to read as follows:

1. When an independent body becomes a party at a general election by qualifying under the requirements set by law, nominations shall, prior to and including the first general election thereafter, be made as provided by the rules of such party. A certificate of such nominations shall contain:

(a) The name of the party filing the nominations.

(b) The title of the office for which the nomination is made and the name and residence address of the person so nominated.

(c) The names of the members of the committee, if any, appointed to fill vacancies in nominations.

(d) [A description and representation of the party's emblem.

(e)] The name of the committee making the nomination.

[(f)] (E) A certified copy of the party rules describing the rule-making body and nomination process.

[(g)] (F) An affidavit containing a statement by the presiding officer and secretary of the committee that they are such officers and the statements in the certificate are true.

S 5. Subdivision 3 of section 6-138 of the election law, as amended by chapter 305 of the laws of 1992, paragraph (a) as amended by chapter 306 of the laws of 1992, is amended to read as follows:

3. a. The name selected for the independent body making the nomination shall be in English characters and shall not include the name or part of the name or an abbreviation of the name or part of the name, nor shall the [emblem or] name be of such a configuration as to create the possibility of confusion with the [emblem or] name of a then existing party, or the [emblem or] name of an independent body selected by a previously filed independent nominating petition for the same office.

b. Notwithstanding the requirements of paragraph a of this subdivision, if the [emblem or] name selected for an independent body on any independent nominating petition is the same as that selected by any previously filed independent nominating petition for the same office, the board of elections with which such later petition was filed shall, not later than two days after the filing of such later filed petition,

1 send notice of such duplicate selection of [emblem or] name by first-  
2 class mail, to the candidate for such office who was nominated by such  
3 later filed petition, and that the candidate to whom such notice is  
4 required to be sent may file with such board of elections, not later  
5 than seven days after such notice was mailed, a certificate selecting a  
6 different [emblem or] name.

7 c. A person who has been nominated or who expects to be nominated as  
8 the candidate of an independent body for the office of President of the  
9 United States at any election for such office may, not later than three  
10 days after the last day to file nominating petitions, file with the  
11 state board of elections, a special certificate which shall be irrev-  
12 ocable, stating that such person does not wish to permit candidates for  
13 any other office, except the office of Vice-President of the United  
14 States, to appear on the ballot with the same name [and emblem] as the  
15 independent body which has nominated or will nominate such candidate for  
16 the office of President.

17 d. Not later than seven days after the last day to file nominating  
18 petitions, the state board of elections shall notify each local board of  
19 elections of the name of each candidate for President of the United  
20 States who has filed such a special certificate, together with the name  
21 [and emblem] of the independent body selected on the petition which  
22 nominated such candidate.

23 e. If any candidate has been nominated for any other office by a peti-  
24 tion which selected the same name [or emblem] for an independent body as  
25 the name [or emblem] selected on the petition which nominated a candi-  
26 date for President of the United States who has filed a special certif-  
27 icate pursuant to paragraph c of this subdivision, the board of  
28 elections with which the petition nominating such candidate for such  
29 other office was filed shall, not later than ten days after the last day  
30 to file nominating petitions, send to each such candidate, by first  
31 class mail, notice that a special certificate pursuant to paragraph c of  
32 this subdivision has been filed and that the candidate to whom such  
33 notice is sent may file with such board of elections, not later than  
34 seven days after such notice was mailed, a certificate selecting a  
35 different name [and emblem].

36 f. If [such a petition shall not show an emblem, or if] the petition  
37 shall fail to select a name for such independent body, or if pursuant to  
38 the provisions of paragraph b or paragraph e of this subdivision, a  
39 candidate shall fail to select another [emblem or] name for such inde-  
40 pendent body, the officer or board in whose office the petition is filed  
41 shall select [an emblem or] A name [or both] to distinguish the candi-  
42 dates nominated thereby. The name [and emblem] shown upon such petition  
43 or selected by a candidate authorized to make such selection by para-  
44 graph b or paragraph e of this subdivision, or selected by an officer or  
45 board shall also conform to the requirements of this chapter with  
46 respect to names [or emblems] permitted to be selected by a party.

47 g. Nothing contained in this subdivision shall preclude a court of  
48 competent jurisdiction from rejecting an independent nominating petition  
49 if the court determines that fraud was involved in the selection of a  
50 name [or emblem].

51 S 6. Paragraph a of subdivision 1 of section 6-140 of the election  
52 law, as amended by chapter 235 of the laws of 2000, is amended to read  
53 as follows:

54 a. Each sheet of an independent nominating petition shall be signed in  
55 ink, shall contain the following information and shall be in substan-  
56 tially the following form:

1 I, the undersigned, do hereby state that I am a registered voter of  
 2 the political unit for which a nomination for public office is hereby  
 3 being made, that my present place of residence is truly stated opposite  
 4 my signature hereto, and that I do hereby nominate the following named  
 5 person (or persons) as a candidate (or as candidates) for election to  
 6 public office (or public offices) to be voted for at the election to be  
 7 held on the ..... day of ....., 20...., and that I  
 8 select the name ..... (fill in name) as the name  
 9 of the independent body making the nomination (or nominations) [and  
 10 ..... (fill in emblem) as the emblem of such body].

11			Place of residence
12			(also post office
13	Name of	Public	address
14	Candidate	Office	if not identical)
15	.....	.....	.....
16	.....	.....	.....

17 I do hereby appoint ..... (here insert the names  
 18 and addresses of at least three persons, all of whom shall be registered  
 19 voters within such political unit), as a committee to fill vacancies in  
 20 accordance with the provisions of the election law.  
 21 In witness whereof, I have hereunto set my hand, the day and year  
 22 placed opposite my signature.

23	Date	Name of Signer	Residence
24	.....	.....	.....
25	.....	.....	.....
26			Town or city (except
27			in the city of New
28			York, the county)
			.....
			.....

29 S 7. Subdivisions 1 and 3 of section 6-206 of the election law, subdi-  
 30 vision 1 as amended by chapter 447 of the laws of 2006, and subdivision  
 31 3 as added by chapter 359 of the laws of 1989, are amended to read as  
 32 follows:

33 1. Independent nominations for elective village offices shall be made  
 34 by a petition containing the signatures in ink of residents of the  
 35 village who are registered with the appropriate county board of  
 36 elections at the time of signing. The sheets of such a petition shall be  
 37 numbered. A signer need not himself or herself fill in the date or resi-  
 38 dence. Each sheet of such petition must be in substantially the follow-  
 39 ing form and shall contain all the information required therein:

#### 40 VILLAGE INDEPENDENT NOMINATING PETITION

41 I, the undersigned, do hereby state that I am a registered voter of  
 42 the Village of....., that my present place of residence is truly stat-  
 43 ed opposite my signature, and I do hereby nominate the following named  
 44 person (or persons) as a candidate (or as candidates) for election to  
 45 public office (or public offices) to be voted for at the election to be  
 46 held on the....day of....., 20...., and that I select the  
 47 name..... (fill in name) as the name of the independent body  
 48 making the nomination (or nominations) [and.....(fill in emblem) as the  
 49 emblem of such body].

1	Name of			
2	Candidate	Public Office	Term	Residence
3	.....	.....	....	.....
4	.....	.....	....	.....

5 I do hereby appoint (insert names and addresses of at least three  
6 persons, all of whom shall be registered voters within such village) as  
7 a committee to fill vacancies in accordance with the provisions of the  
8 election law.

9 In witness whereof, I have signed this petition on the day and year  
10 stated before my signature.

11	Date	Signature	Residence
12	.....	.....	.....
13	.....	.....	.....

#### 14 STATEMENT OF WITNESS

15 I, ..... state that I am a duly qualified voter and  
16 now reside at ..... (residence address) in the Village  
17 of ..... in the State of New York in the County of  
18 ..... Each of the voters whose names are subscribed to  
19 this petition sheet containing ..... (fill in number) signa-  
20 tures, subscribed his or her name in my presence.

21 I understand that this statement will be accepted for all purposes as  
22 the equivalent of an affidavit and, if it contains a material false  
23 statement, shall subject me to the same penalties as if I had been duly  
24 sworn.

25	.....	.....
26	Date	Signature of witness

27 3. The name selected for the independent body making the nomination  
28 shall be in the English language and shall not include the name or part  
29 of the name, or an abbreviation of the name or of part of the name, of a  
30 then existing party. The name [and emblem] shown upon such petition  
31 shall conform to the requirements of this chapter, relating to party  
32 names [and party emblems]. If [such a petition shall not show an emblem,  
33 or] the petition shall fail to select a name for such independent body,  
34 the board of elections shall select [an emblem or] A name, [or both] to  
35 distinguish the candidates nominated thereby.

36 S 8. Subdivision 4 of section 15-108 of the election law, as amended  
37 by chapter 447 of the laws of 2006, is amended to read as follows:

38 4. Independent nominations for elective village offices shall be made  
39 by a petition containing the signatures in ink of residents of the  
40 village who are registered with the appropriate county board of  
41 elections at the time of signing or who are residents of the village who  
42 were on the list of registered voters for the last village election in  
43 such village. The sheets of such a petition shall be numbered. Such  
44 petition must set forth in each instance the correct date of signing,  
45 the name of the signer and his or her present address, and may set forth  
46 a committee to fill vacancies consisting of at least three persons qual-  
47 ified to vote in the village election and their residence within the  
48 village. A signer need not himself or herself fill in the date or resi-  
49 dence. Each sheet of such petition must be in substantially the follow-  
50 ing form and shall contain all the information required therein except  
51 as may otherwise be permitted by law.

## VILLAGE INDEPENDENT NOMINATING PETITION

I, the undersigned, do hereby state that I am a registered voter of the Village of ....., that my present place of residence is truly stated opposite my signature, and I do hereby nominate the following named person (or persons) as a candidate (or as candidates) for election to public office (or public offices) to be voted for at the election to be held on the ..... day of ....., 20....., and that I select the name ..... (fill in name) as the name of the independent body making the nomination (or nominations) [and ..... (fill in emblem) as the emblem of such body].

Name of Candidate	Public Office	Term	Residence
.....	.....	.....	.....
.....	.....	.....	.....

I do hereby appoint \_ \_ \_ \_  
 Name

Residence

.....  
 .....  
 as a committee to fill vacancies in accordance with the provisions of the election law.

IN WITNESS WHEREOF, I have signed this petition on the day and year stated before my signature.

Date	Signature	Residence
.....	.....	.....
.....	.....	.....

## STATEMENT OF WITNESS

I, ..... state that I am a duly qualified voter and now reside at ..... (residence address) in the Village of ..... in the State of New York in the County of ..... Each of the voters whose names are subscribed to this petition sheet, containing ..... (fill in number) signatures, subscribed his or her name in my presence.

I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn.

Date .....  
 Signature of Witness

S 9. Subdivision 1 of section 16-104 of the election law is amended to read as follows:

1. The form and content of any ballot, or portion thereof, to be used in an election, and the right to use any [emblem design,] color, party or independent body name, may be contested in a proceeding instituted in the supreme court by any aggrieved candidate or by the chairman of any party committee or independent body.

S 10. This act shall take effect immediately.