

9126

I N A S S E M B L Y

January 29, 2016

Introduced by M. of A. CUSICK -- read once and referred to the Committee
on Election Law

AN ACT to amend the election law, in relation to vacancies for elective
offices; to judicial proceedings for designating or nominating
petitions and to ballots for primary and general elections

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

1 Section 1. Section 6-150 of the election law is amended to read as
2 follows:
3 S 6-150. Nomination; vacancy caused by death or disqualification,
4 unfilled at time of general or special election. If a vacancy shall
5 occur in a nomination, caused by disqualification or death of the candi-
6 date subsequent to [noon of the Tuesday] THIRTY DAYS before a general or
7 special election and prior to the closing of the polls on such election
8 day, such vacancy shall not be filled, and the votes cast for such
9 [deceased] candidate shall be canvassed and counted, and if he OR SHE
10 shall receive a plurality of the votes cast, a vacancy shall exist in
11 the office for which such nomination was made to be filled in the manner
12 provided by law for vacancies in office occurring by reason of death
13 after election.
14 S 2. Section 6-152 of the election law, as amended by chapter 234 of
15 the laws of 1976, is amended to read as follows:
16 S 6-152. Vacancies caused by death or disqualification and unfilled at
17 time of primary election. If a vacancy shall occur in a designation of a
18 candidate for nomination or election at a primary election, caused by
19 the death or disqualification of a candidate subsequent to [noon of the
20 seventh day] THIRTY DAYS before the primary election and prior to the
21 closing of the polls, such vacancy shall not be filled and the votes
22 cast for such [deceased or disqualified] candidate shall be canvassed
23 and counted, and, if he OR SHE shall receive a plurality of the votes
24 cast, another candidate may thereafter be nominated or the vacancy
25 filled as provided by law or the rules of the party.
26 S 3. Section 6-154 of the election law is amended by adding a new
27 subdivision 4 to read as follows:

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

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1 4. EACH BOARD OF ELECTIONS OR THE STATE BOARD OF ELECTIONS SHALL MAKE
2 ANY DETERMINATION REQUIRED BY THIS SECTION NO LATER THAN SIXTY DAYS
3 BEFORE THE PRIMARY ELECTION IN THE CASE OF CHALLENGES TO DESIGNATING OR
4 OPPORTUNITY TO BALLOT PETITIONS AND NO LATER THAN SEVENTY DAYS BEFORE
5 THE GENERAL ELECTION IN THE CASE OF CHALLENGES TO NOMINATING PETITIONS
6 AND CERTIFICATES OF DESIGNATION OR NOMINATION.

7 S 4. Section 7-116 of the election law is amended by adding a new
8 subdivision 7 to read as follows:

9 7. IN CASES WHERE A NAME IS ADDED TO OR REMOVED FROM THE COUNTY BOARD
10 OF ELECTIONS' OFFICIAL BALLOT TOO LATE TO MAKE A COMPLETE ADJUSTMENT TO
11 THESE REQUIREMENTS FEASIBLE, THE NAME MAY BE ADDED AT THE END OF THE
12 LIST OF CANDIDATES IN ALL ELECTION DISTRICTS, OR REMOVED FROM THE BALLOT
13 IN ALL ELECTION DISTRICTS WITHOUT CHANGING THE PREVIOUSLY ARRANGED ORDER
14 OF OTHER NAMES AND WITHOUT INVALIDATING THE ELECTION. ANY INADVERTENT
15 ERROR IN THE ORDER OF NAMES DISCOVERED TOO LATE TO CORRECT THE ORDER OF
16 THE NAMES ON THE BALLOTS CONCERNED SHALL NOT INVALIDATE AN ELECTION.

17 EXCEPT WHERE A CONTEST OR CANDIDATE IS REMOVED FROM THE BALLOT BY
18 COURT ORDER TOO LATE TO MAKE COMPLETE COMPLIANCE WITH THIS SECTION
19 FEASIBLE, THE TITLE OF EACH PUBLIC OFFICE OR PARTY POSITION AND THE
20 NAMES OF THE CANDIDATES FOR SUCH OFFICE OR POSITION APPEARING ON ANY
21 BALLOT USED FOR ELECTIONS OVER WHICH THE COUNTY BOARD OF ELECTIONS HAS
22 JURISDICTION SHALL APPEAR ON SUCH BALLOT IMMEDIATELY ADJACENT TO ONE
23 ANOTHER, EITHER HORIZONTALLY OR VERTICALLY; AND NO BLANK SPACES SHALL
24 SEPARATE THE NAMES OF CANDIDATES ACTUALLY RUNNING FOR AN OFFICE OR PARTY
25 POSITION ON SUCH BALLOT, AND NO BLANK SPACES SHALL SEPARATE ANY TWO SUCH
26 OFFICES OR POSITIONS WHICH APPEAR ON SUCH BALLOT IN THE SAME COLUMN OR
27 ROW.

28 S 5. Subdivision 3 of section 7-122 of the election law, as amended by
29 chapter 165 of the laws of 2010, is amended to read as follows:

30 3. The determination of the appropriate county board of elections as
31 to the candidates duly designated or nominated for public office or
32 party position whose name shall appear on the absentee ballot and as to
33 ballot proposals to be voted on shall be made no later than the day
34 after the state board of elections issues its certification of those
35 candidates to be voted for at the general, special or primary election.
36 The determinations of the state board of elections and the respective
37 county boards of elections shall be final and conclusive with respect to
38 such offices for which petitions or certificates are required to be
39 filed with such boards, as the case may be but nothing herein contained
40 shall prevent a board of elections, or a court of competent jurisdiction
41 from determining at a later date that any such certification, designa-
42 tion or nomination is invalid and, in the event of such later determi-
43 nation, no vote cast for any such nominee by any voter shall be counted
44 at the election. ANY ORDER OF A COURT OF COMPETENT JURISDICTION OR
45 DETERMINATION BY THE BOARD OF ELECTIONS CHANGING THE BALLOT AS PREVIOUS-
46 LY DETERMINED BY THE BOARD OF ELECTIONS MUST BE MADE AND, WHERE
47 REQUIRED, ENTERED AT LEAST TWENTY DAYS PRIOR TO THE ELECTION. THE ORDER
48 OF A COURT OF COMPETENT JURISDICTION OR DETERMINATION OF A BOARD OF
49 ELECTIONS TO ADD A NAME OR BALLOT PROPOSAL TO THE BALLOT SHALL REQUIRE
50 THAT ONLY THOSE VOTERS WHO HAVE NOT BEEN SENT ABSENTEE BALLOTS PRIOR TO
51 SUCH CHANGE SHALL BE SENT BALLOTS WHICH REFLECT SUCH ADDITION OR ADDI-
52 TIONS UNLESS THE COURT SPECIFICALLY OTHERWISE ORDERS.

53 S 6. Subdivisions 1 and 2 of section 7-128 of the election law are
54 amended to read as follows:

55 1. Each officer or board charged with the duty of providing official
56 ballots for an election shall have sample ballots open to public

1 inspection [five] FIFTY days, EXCEPT IN THE CASE OF EXTRAORDINARY
2 CIRCUMSTANCES IN WHICH CASE ON THE EARLIEST DAY PRACTICABLE, before the
3 election for which [they were] THE BALLOTS HAVE BEEN prepared and the
4 official ballots open to such inspection [four] FIFTY days, EXCEPT IN
5 THE CASE OF EXTRAORDINARY CIRCUMSTANCES IN WHICH CASE ON THE EARLIEST
6 DAY PRACTICABLE, before such election except that the sample and offi-
7 cial ballots for a village election held at a different time from a
8 general election shall be open to public inspection at least two days
9 before such election. During the times within which the ballots are open
10 for inspection, such officer or board shall deliver to each voter apply-
11 ing therefor a sample of the ballot which he OR SHE is entitled to vote.

12 2. Each officer or board charged with the duty of preparing ballots to
13 be used [on] WITH voting machines in any election shall:

14 A. give written notice, by first class mail, to all candidates, except
15 candidates for member of the county committee, who are lawfully entitled
16 to have their names appear thereon, of the time when, and the place
17 where, they may inspect the [voting machines] BALLOTS to be used for
18 such election. The candidates or their designated representatives may
19 appear at the time and place specified in such notice to inspect such
20 [machines] BALLOTS, provided, however, that the time so specified shall
21 [be not less than two] OCCUR NO LATER THAN FORTY-SIX days [prior to the
22 date of] BEFORE the election AT WHICH THE BALLOTS WILL BE USED. A
23 candidate, whose name appears on the ballot [for an election district]
24 or his OR HER designated representative, may, in the presence of the
25 election officer attending the [voting machine] BALLOT, inspect the
26 [face of the machine] BALLOT to see that his OR HER ballot [label] POSI-
27 TION is in its proper place[, but at no time during the inspection shall
28 the booth be closed] OR PLACES.

29 B. GIVE WRITTEN NOTICE, BY FIRST CLASS MAIL, TO ALL CANDIDATES, EXCEPT
30 CANDIDATES FOR MEMBER OF THE COUNTY COMMITTEE, WHO ARE LAWFULLY ENTITLED
31 TO HAVE THEIR NAMES APPEAR THEREON, OF THE TIME WHEN, AND THE PLACE
32 WHERE, THEY MAY INSPECT THE VOTING MACHINES OR SYSTEMS TO BE USED FOR
33 SUCH ELECTION. THE CANDIDATES OR THEIR DESIGNATED REPRESENTATIVES MAY
34 APPEAR AT THE TIME AND PLACE SPECIFIED IN SUCH NOTICE TO VIEW THE
35 CONDUCT OF THE LOGIC AND ACCURACY TESTING REQUIRED TO BE PERFORMED ON
36 SUCH VOTING MACHINES OR SYSTEMS, PROVIDED HOWEVER, THAT THE TIME SO
37 SPECIFIED SHALL BE NOT LESS THAN TWENTY DAYS PRIOR TO THE DATE OF THE
38 ELECTION.

39 S 7. Section 7-130 of the election law is amended to read as follows:

40 S 7-130. Ballots; examination by voters and instruction in use of
41 voting machines OR SYSTEMS. One or more voting machines [which shall
42 contain the ballot labels] OR SYSTEMS ON WHICH BALLOTS SHALL BE CAST,
43 showing the party [emblems] NAMES and [title] TITLES of [officers]
44 OFFICES to be voted for, and which shall so far as practicable contain
45 the names of the candidates to be voted for, shall be placed on public
46 exhibition in some suitable place by the board of elections, [in charge
47 of competent instructors,] for at least three days during the thirty
48 days next preceding an election. No voting machine OR SYSTEM which is to
49 be assigned for use in an election shall be used for such purpose after
50 having been prepared and sealed for the election. During such public
51 exhibition, the counting mechanism of the machine OR SYSTEM shall be
52 concealed from view and the doors, IF ANY, may be temporarily opened
53 only when authorized by the board or official having charge and control
54 of the election. Any voter shall be allowed to examine such machine OR
55 SYSTEM, and upon request shall be instructed in its use.

1 S 8. Section 16-100 of the election law is amended by adding a new
2 subdivision 3 to read as follows:

3 3. IN VIEW OF THE TIME REQUIRED FOR BOARDS OF ELECTIONS TO REPRINT
4 BALLOTS AND TO CONDUCT LOGIC AND ACCURACY TESTING REQUIRED BY TITLE TWO
5 OF ARTICLE SEVEN OF THIS CHAPTER AND REGULATIONS OF THE STATE BOARD OF
6 ELECTIONS, NO COURT SHALL, EXCEPT IN EXTRAORDINARY CIRCUMSTANCES, ENTER
7 A FINAL ORDER INCLUDING THE RESOLUTION OF ANY APPEALS ISSUED PURSUANT TO
8 SUBDIVISION FOUR OF SECTION 16-102 OF THIS ARTICLE OR SUBDIVISION FOUR
9 OF SECTION 16-104 OF THIS ARTICLE UNLESS SUCH ORDER OR DETERMINATION
10 SHALL BE MADE IN CONFORMANCE WITH THE TIME FRAME REQUIREMENTS OF THOSE
11 SECTIONS.

12 S 9. Subdivision 4 of section 16-102 of the election law, as added by
13 chapter 135 of the laws of 1986, is amended to read as follows:

14 4. A final order INCLUDING THE RESOLUTION OF ANY APPEALS in any
15 proceeding involving the names of candidates on ballots or voting
16 [machines] SYSTEMS shall, EXCEPT IN EXTRAORDINARY CIRCUMSTANCES, be
17 made[, if possible,] at least [five weeks] FIFTY-FIVE DAYS before the
18 day of the election at which such ballots or voting [machines] SYSTEMS
19 are to be used, or if such proceeding is commenced within [five weeks]
20 FIFTY-FIVE DAYS of such election, no later than the day following the
21 day on which the case is heard.

22 S 10. Subdivisions 1, 3 and 4 of section 16-104 of the election law,
23 subdivision 3 as added by chapter 136 of the laws of 1978 and subdivi-
24 sion 4 as amended by chapter 117 of the laws of 1985, are amended to
25 read as follows:

26 1. The form and content of any ballot, or portion thereof, to be used
27 in an election, and the right to use any emblem design, color, party or
28 independent body name, may be contested in a proceeding instituted in
29 the supreme court by any aggrieved candidate or by the chairman of any
30 party committee or independent body. A PROCEEDING PURSUANT TO THIS
31 SUBDIVISION MUST BE INSTITUTED WITHIN FIVE DAYS OF THE LAST DATE OF THE
32 INSPECTION OF THE BALLOT PURSUANT TO PARAGRAPH (A) OF SUBDIVISION 2 OF
33 SECTION 7-128 OF THIS CHAPTER.

34 3. A proceeding pursuant to subdivision two of this section must be
35 instituted within [fourteen] SEVEN days after the last day to certify
36 the wording of any such abstract or form of submission.

37 4. A final order INCLUDING THE RESOLUTION OF ANY APPEALS in any
38 proceeding involving the contents of official ballots TO BE USED on
39 [voting machines] BALLOT SCANNERS shall, EXCEPT IN EXTRAORDINARY CIRCUM-
40 STANCES, be made[, if possible,] at least [five weeks] TWENTY-FIVE DAYS
41 before the day of the election at which such [voting machines] BALLOT
42 SCANNERS are to be used[, or if such proceeding is commenced within five
43 weeks of an election, no later than the day following the day on which
44 the case is heard].

45 S 11. This act shall take effect immediately.