S T A T E O F N E W Y O R K

3813--A

2015-2016 Regular Sessions

I N S E N A T E

February 18, 2015

Introduced by Sens. STEWART-COUSINS, AVELLA, COMRIE, GIANARIS, HOYLMAN, KRUEGER, PERALTA, PERKINS, SANDERS, SERRANO, SQUADRON, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Elections -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, in relation to early voting; and to repeal certain provisions of such law relating thereto

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

Section 1. Section 3-400 of the election law is amended by adding a new subdivision 9 to read as follows:

9. NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF THIS ARTICLE, ELECTION INSPECTORS OR POLL CLERKS, IF ANY, AT POLLING PLACES FOR EARLY VOTING, SHALL CONSIST OF EITHER BOARD OF ELECTIONS EMPLOYEES WHO SHALL BE APPOINTED BY THE COMMISSIONERS OF SUCH BOARD OR DULY QUALIFIED INDIVIDUALS, APPOINTED IN THE MANNER SET FORTH IN THIS SECTION. APPOINTMENTS TO THE OFFICES OF ELECTION INSPECTOR OR POLL CLERK IN EACH POLLING PLACE FOR EARLY VOTING SHALL BE EQUALLY DIVIDED BETWEEN THE MAJOR POLITICAL PARTIES.

S 2. Subdivision 1 of section 4-117 of the election law, as amended by chapter 288 of the laws of 2009, is amended to read as follows:

1. The board of elections, between August first and August fifth of each year, shall send by first class mail on which is endorsed "ADDRESS CORRECTION REQUESTED" and which contains a request that any such mail received for persons not residing at the address be dropped back in the mail, a communication, in a form approved by the state board of elections, to every registered voter who has been registered without a change of address since the beginning of such year, except that the board of elections shall not be required to send such communications to voters in inactive status. The communication shall notify the voter of the days and hours of the ensuing primary and general elections, INCLUD-

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

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ING THE DAYS AND HOURS FOR EARLY VOTING, the place where he OR SHE appears by his OR HER registration records to be entitled to vote, INCLUDING POLLING PLACES FOR EARLY VOTING, the fact that voters who have moved or will have moved from the address where they were last registered must re-register or, that if such move was to another address in the same county or city, that such voter may either notify the board of elections of his OR HER new address or vote by paper ballot at the polling place for his OR HER new address even if such voter has not re-registered, or otherwise notified the board of elections of the change of address. If the location of the polling place for the voter's election district has been moved, the communication shall contain the following legend in bold type: "YOUR POLLING PLACE HAS BEEN CHANGED. YOU NOW VOTE AT.....". The communication shall also indicate whether the polling place is accessible to physically disabled voters, that a voter who will be out of the city or county on the day of the primary or general election or a voter who is ill or physically disabled may obtain an absentee ballot, that a physically disabled voter whose polling place is not accessible may request that his OR HER registration record be moved to an election district which has a polling place which is accessible, the phone number to call for applications to move a registration record or for absentee ballot applications, the phone number to call for the location of registration and polling places, the phone number to call to indicate that the voter is willing to serve on election day as an election inspector, poll clerk, interpreter or in other capacities, the phone number to call to obtain an application for registration by mail, and such other information concerning the elections or registration as the board may include. In lieu of sending such communication to every registered voter, the board of elections may send a single communication to a household containing more than one registered voter, provided that the names of all such voters appear as part of the address on such communication.

S 3. Subdivision 2 of section 8-100 of the election law is REPEALED and a new subdivision 2 is added to read as follows:

2. (A) THE BOARD OF ELECTIONS OF EACH COUNTY AND OF THE CITY OF NEW YORK SHALL DESIGNATE HOURS POLLS SHALL BE OPEN FOR VOTING, SUBJECT TO THE REQUIREMENTS OF THIS SUBDIVISION.

(B) IN THE CITY OF NEW YORK OR IN THE COUNTY OF NASSAU, SUFFOLK, WESTCHESTER, ROCKLAND, ORANGE, PUTNAM OR ERIE, FOR A PRIMARY ELECTION, THE DESIGNATED TIME POLLS SHALL OPEN SHALL BE NO EARLIER THAN SIX O'CLOCK AND NO LATER THAN SEVEN O'CLOCK IN THE MORNING.

(C) IN ANY COUNTY OTHER THAN IN THE CITY OF NEW YORK OR THE COUNTIES OF NASSAU, SUFFOLK, WESTCHESTER, ROCKLAND, ORANGE, PUTNAM OR ERIE, FOR A PRIMARY ELECTION THE DESIGNATED TIME POLLS SHALL OPEN SHALL BE NO EARLIER THAN ELEVEN O'CLOCK IN THE MORNING AND NO LATER THAN TWELVE O'CLOCK NOON.

(D) FOR A GENERAL, SPECIAL, OR OTHER ELECTION, EXCEPT AS OTHERWISE PROVIDED BY LAW, THE DESIGNATED TIME POLLS SHALL OPEN SHALL BE NO EARLIER THAN SIX O'CLOCK AND NO LATER THAN SEVEN O'CLOCK IN THE MORNING.

(E) FOR ANY PRIMARY, GENERAL, SPECIAL, OR OTHER ELECTION, EXCEPT AS OTHERWISE PROVIDED BY LAW, THE DESIGNATED TIME POLLS SHALL CLOSE SHALL BE NO EARLIER THAN EIGHT O'CLOCK AND NO LATER THAN NINE O'CLOCK IN THE EVENING.

S 4. Subdivision 1 of section 8-102 of the election law is amended by adding a new paragraph (k) to read as follows:

(K) VOTING AT EACH POLLING PLACE FOR EARLY VOTING SHALL BE CONDUCTED IN A MANNER CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE, WITH THE

EXCEPTION OF THE TABULATION AND PROCLAMATION OF ELECTION RESULTS WHICH SHALL BE COMPLETED ACCORDING TO SUBDIVISIONS EIGHT AND NINE OF SECTION 8-600 OF THIS ARTICLE.

S 5. Section 8-104 of the election law is amended by adding a new subdivision 7 to read as follows:

7. THIS SECTION SHALL APPLY ON ALL EARLY VOTING DAYS AS PROVIDED FOR IN SECTION 8-600 OF THIS ARTICLE.

S 6. Paragraph (b) of subdivision 2 of section 8-508 of the election law, as amended by chapter 200 of the laws of 1996, is amended to read as follows:

(b) The second section of such report shall be reserved for the board of inspectors to enter the name, address and registration serial number of each person who is challenged on the day of election OR ON ANY DAY IN WHICH THERE IS EARLY VOTING PURSUANT TO SECTION 8-600 OF THIS ARTICLE, together with the reason for the challenge. If no voters are challenged, the board of inspectors shall enter the words "No Challenges" across the space reserved for such names. In lieu of preparing section two of the challenge report, the board of elections may provide, next to the name of each voter on the computer generated registration list, a place for the inspectors of election to record the information required to be entered in such section two, or provide at the end of such computer generated registration list, a place for the inspectors of election to enter such information.

S 7. Article 8 of the election law is amended by adding a new title 6 to read as follows:

TITLE VI
EARLY VOTING

SECTION 8-600. EARLY VOTING.
8-602. STATE BOARD OF ELECTIONS; POWERS AND DUTIES FOR EARLY VOTING.

S 8-600. EARLY VOTING. 1. BEGINNING THE FOURTEENTH DAY PRIOR TO ANY GENERAL, PRIMARY OR SPECIAL ELECTION FOR ANY PUBLIC OR PARTY OFFICE, AND ENDING THE SECOND DAY PRIOR TO SUCH GENERAL, PRIMARY OR SPECIAL ELECTION FOR SUCH PUBLIC OR PARTY OFFICE, PERSONS DULY REGISTERED AND ELIGIBLE TO VOTE FOR CANDIDATES FOR SUCH OFFICE SHALL BE PERMITTED TO VOTE IN PERSON BY BALLOT FOR A CANDIDATE FOR SUCH OFFICE. THE BOARD OF ELECTIONS OF EACH COUNTY AND THE CITY OF NEW YORK SHALL ESTABLISH PROCEDURES, SUBJECT TO APPROVAL OF THE STATE BOARD OF ELECTIONS, TO ENSURE THAT PERSONS WHO VOTE DURING THE EARLY VOTING PERIOD SHALL NOT BE PERMITTED TO VOTE SUBSEQUENTLY IN THE SAME ELECTION.

2. (A) THE BOARD OF ELECTIONS OF EACH COUNTY OR THE CITY OF NEW YORK SHALL DESIGNATE ONE OR MORE POLLING PLACES FOR EARLY VOTING IN EACH COUNTY, WHICH MAY INCLUDE THE OFFICES OF THE BOARD OF ELECTIONS, FOR PERSONS TO VOTE EARLY PURSUANT TO THIS SECTION.

(B) A COUNTY WITH A POPULATION OF LESS THAN ONE HUNDRED FIFTY THOUSAND SHALL HAVE ONE POLLING PLACE FOR EARLY VOTING DESIGNATED IN THE COUNTY.

(C) A COUNTY WITH A POPULATION OF ONE HUNDRED FIFTY THOUSAND OR MORE AND LESS THAN THREE HUNDRED FIFTY THOUSAND SHALL HAVE THREE POLLING PLACES FOR EARLY VOTING DESIGNATED IN THE COUNTY.

(D) A COUNTY WITH A POPULATION OF THREE HUNDRED FIFTY THOUSAND OR MORE AND LESS THAN FIVE HUNDRED FIFTY THOUSAND SHALL HAVE FIVE POLLING PLACES FOR EARLY VOTING DESIGNATED IN THE COUNTY.

(E) A COUNTY WITH A POPULATION OF FIVE HUNDRED FIFTY THOUSAND OR MORE SHALL HAVE SEVEN POLLING PLACES FOR EARLY VOTING DESIGNATED IN THE COUNTY.

(F) IN ADDITION TO THE POLLING PLACES FOR EARLY VOTING REQUIRED IN THIS SUBDIVISION, THE BOARD OF ELECTIONS OF EACH COUNTY OR THE CITY OF NEW YORK MAY ESTABLISH ADDITIONAL POLLING PLACES FOR EARLY VOTING FOR THE CONVENIENCE OF ELIGIBLE VOTERS WISHING TO VOTE DURING THE EARLY VOTING PERIOD.

(G) IN THE CITY OF NEW YORK THE BOARD OF ELECTIONS MAY DESIGNATE, WITH THE UNANIMOUS APPROVAL OF THE COMMISSIONERS FOR THE FIVE COUNTIES THEREOF, POLLING PLACES FOR EARLY VOTING ON A CITYWIDE BASIS, SUCH THAT THE AGGREGATE NUMBER OF SUCH POLLING PLACES EQUALS OR EXCEEDS THE SUM OF THE SITES OTHERWISE REQUIRED BY THIS SECTION FOR THE FIVE COUNTIES, WITHOUT DESIGNATING THE NUMBER OTHERWISE REQUIRED TO BE DESIGNATED IN EACH COUNTY.

(H) POLLING PLACES FOR EARLY VOTING SHALL BE LOCATED TO ENSURE, TO THE EXTENT PRACTICABLE, THAT ELIGIBLE VOTERS HAVE ADEQUATE EQUITABLE ACCESS, TAKING INTO CONSIDERATION POPULATION DENSITY, TRAVEL TIME TO THE POLLING PLACE, PROXIMITY TO OTHER LOCATIONS OR COMMONLY USED TRANSPORTATION ROUTES AND SUCH OTHER FACTORS THE BOARD OF ELECTIONS OF THE COUNTY OR THE CITY OF NEW YORK DEEMS APPROPRIATE. THE PROVISIONS OF SECTION 4-104 OF THIS CHAPTER, EXCEPT SUBDIVISIONS FOUR AND FIVE OF SUCH SECTION, SHALL APPLY TO THE DESIGNATION OF POLLING PLACES FOR EARLY VOTING EXCEPT TO THE EXTENT SUCH PROVISIONS ARE INCONSISTENT WITH THIS SECTION.

3. ANY PERSON ENTITLED TO VOTE EARLY MAY DO SO AT ANY POLLING PLACE FOR EARLY VOTING ESTABLISHED PURSUANT TO SUBDIVISION TWO OF THIS SECTION IN THE COUNTY WHERE SUCH VOTER IS REGISTERED TO VOTE PROVIDED, HOWEVER, IF IT IS IMPRACTICAL TO PROVIDE EACH POLLING PLACE FOR EARLY VOTING ALL APPROPRIATE BALLOTS FOR EACH ELECTION TO BE VOTED ON IN THE COUNTY OR TO ENSURE THAT SUCH VOTER HAS NOT PREVIOUSLY VOTED EARLY DURING SUCH ELECTION, THE BOARD OF ELECTIONS MAY DESIGNATE EACH POLLING PLACE FOR EARLY VOTING ONLY FOR THOSE VOTERS REGISTERED TO VOTE IN A PORTION OF THE COUNTY SERVED BY SUCH POLLING PLACE, PROVIDED THAT ALL VOTERS IN EACH COUNTY SHALL HAVE ONE OR MORE POLLING PLACES AT WHICH THEY ARE ELIGIBLE TO VOTE THROUGHOUT THE EARLY VOTING PERIOD.

4. (A) POLLS SHALL BE OPEN FOR EARLY VOTING FOR AT LEAST EIGHT HOURS BETWEEN SIX O'CLOCK IN THE MORNING AND NINE O'CLOCK IN THE EVENING EACH WEEK DAY DURING THE EARLY VOTING PERIOD.

(B) AT LEAST ONE POLLING PLACE FOR EARLY VOTING SHALL REMAIN OPEN UNTIL NO EARLIER THAN EIGHT O'CLOCK IN THE EVENING ON AT LEAST TWO WEEK DAYS IN EACH CALENDAR WEEK DURING THE EARLY VOTING PERIOD. IF POLLING PLACES FOR EARLY VOTING ARE LIMITED TO VOTERS FROM CERTAIN AREAS PURSUANT TO SUBDIVISION THREE OF THIS SECTION, POLLING PLACES THAT REMAIN OPEN UNTIL NO EARLIER THAN EIGHT O'CLOCK SHALL BE DESIGNATED SUCH THAT ANY PERSON ENTITLED TO VOTE EARLY MAY VOTE UNTIL NO EARLIER THAN EIGHT O'CLOCK IN THE EVENING ON AT LEAST TWO WEEK DAYS DURING THE EARLY VOTING PERIOD.

(C) POLLS SHALL BE OPEN FOR EARLY VOTING FOR AT LEAST FIVE HOURS BETWEEN NINE O'CLOCK IN THE MORNING AND SIX O'CLOCK IN THE EVENING ON EACH SATURDAY, SUNDAY AND LEGAL HOLIDAY DURING THE EARLY VOTING PERIOD.

(D) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT ANY BOARD OF ELECTIONS FROM ESTABLISHING A GREATER NUMBER OF HOURS FOR VOTING DURING THE EARLY VOTING PERIOD BEYOND THE NUMBER OF HOURS REQUIRED IN THIS SUBDIVISION.

(E) HOURS OF OPERATION FOR POLLING PLACES FOR EARLY VOTING SHALL BE DESIGNATED BY MAY FIRST OF EACH YEAR, ALONG WITH THE DESIGNATION OF POLLING PLACES PURSUANT TO SUBDIVISION ONE OF SECTION 4-104 OF THIS CHAPTER, AND SHALL BE EFFECTIVE FOR ONE YEAR THEREAFTER.

5. EACH BOARD OF ELECTIONS SHALL CREATE A COMMUNICATION PLAN TO INFORM ELIGIBLE VOTERS OF THE OPPORTUNITY TO VOTE EARLY. SUCH PLAN MAY UTILIZE ANY AND ALL MEDIA OUTLETS, INCLUDING SOCIAL MEDIA, AND SHALL PUBLICIZE: THE LOCATION AND DATES AND HOURS OF OPERATION OF ALL POLLING PLACES FOR EARLY VOTING; AN INDICATION OF WHETHER EACH POLLING PLACE IS ACCESSIBLE TO VOTERS WITH PHYSICAL DISABILITIES; A CLEAR AND UNAMBIGUOUS NOTICE TO VOTERS THAT IF THEY CAST A BALLOT DURING THE EARLY VOTING PERIOD THEY WILL NOT BE ALLOWED TO VOTE ON ELECTION DAY; AND IF POLLING PLACES FOR EARLY VOTING ARE LIMITED TO VOTERS FROM CERTAIN AREAS PURSUANT TO SUBDIVISION THREE OF THIS SECTION, THE LOCATION OF THE POLLING PLACES FOR EARLY VOTING SERVING THE VOTERS OF EACH PARTICULAR CITY, TOWN OR OTHER POLITICAL SUBDIVISION.

6. THE FORM OF PAPER BALLOTS, IF USED IN EARLY VOTING, SHALL COMPLY WITH THE PROVISIONS OF ARTICLE SEVEN OF THIS CHAPTER THAT ARE APPLICABLE TO VOTING BY PAPER BALLOT ON ELECTION DAY AND SUCH BALLOT SHALL BE CAST IN THE SAME MANNER AS PROVIDED FOR IN SECTION 8-312 OF THIS ARTICLE, PROVIDED HOWEVER THAT BALLOTS CAST DURING THE EARLY VOTING PERIOD SHALL NOT BE CANVASSED UNTIL AFTER THE CLOSE OF THE POLLS ON ELECTION DAY.

7. VOTERS CASTING BALLOTS PURSUANT TO THIS TITLE SHALL BE SUBJECT TO CHALLENGE AS PROVIDED IN SECTIONS 8-500, 8-502 AND 8-504 OF THIS ARTICLE.

8. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER, AT THE END OF EACH DAY OF EARLY VOTING, ANY EARLY VOTING BALLOTS THAT HAVE NOT BEEN SCANNED BECAUSE A BALLOT SCANNER WAS NOT AVAILABLE OR BECAUSE THE BALLOT HAS BEEN ABANDONED BY THE VOTER AT THE BALLOT SCANNER SHALL BE CANVASSED IN A MANNER CONSISTENT WITH SECTION 9-110 OF THIS CHAPTER, EXCEPT THAT ANY BALLOTS THAT WOULD OTHERWISE BE SCANNED AT THE CLOSE OF THE POLLS PURSUANT TO SUCH SECTION SHALL BE SCANNED AT THE CLOSE OF EACH DAY'S EARLY VOTING.

9. THE BOARD OF ELECTIONS SHALL SECURE ALL BALLOTS AND SCANNERS USED FOR EARLY VOTING FROM THE BEGINNING OF THE EARLY VOTING PERIOD THROUGH THE CLOSE OF THE POLLS OF THE ELECTION ON ELECTION DAY. AS SOON AS THE POLLS OF THE ELECTION ARE CLOSED ON ELECTION DAY, AND NOT BEFORE, INSPECTORS OR BOARD OF ELECTIONS EMPLOYEES SHALL FOLLOW ALL RELEVANT PROVISIONS OF ARTICLE NINE OF THIS CHAPTER THAT ARE NOT INCONSISTENT WITH THIS SECTION, FOR CANVASSING, PROCESSING, RECORDING, AND ANNOUNCING RESULTS OF VOTING AT POLLING PLACES FOR EARLY VOTING, AND SECURING BALLOTS, SCANNERS, AND OTHER ELECTION MATERIALS.

S 8-602. STATE BOARD OF ELECTIONS; POWERS AND DUTIES FOR EARLY VOTING. ANY RULE OR REGULATION NECESSARY FOR THE IMPLEMENTATION OF THE PROVISIONS OF THIS TITLE SHALL BE PROMULGATED BY THE STATE BOARD OF ELECTIONS PROVIDED THAT SUCH RULES AND REGULATIONS SHALL INCLUDE PROVISIONS TO ENSURE THAT BALLOTS CAST EARLY, BY ANY METHOD ALLOWED UNDER LAW, ARE COUNTED AND CANVASSED AS IF CAST ON ELECTION DAY. THE STATE BOARD OF ELECTIONS SHALL PROMULGATE ANY OTHER RULES AND REGULATIONS NECESSARY TO ENSURE AN EFFICIENT AND FAIR EARLY VOTING PROCESS THAT RESPECTS THE PRIVACY OF THE VOTER. PROVIDED FURTHER THAT SUCH RULES AND REGULATIONS SHALL REQUIRE THAT THE VOTING HISTORY RECORD FOR EACH VOTER BE CONTINUALLY UPDATED TO REFLECT EACH INSTANCE OF EARLY VOTING BY SUCH VOTER.

S 8. This act shall take effect on the first of January next succeeding the date on which it shall have become a law and shall apply to any election held one hundred twenty days or more after it shall have taken effect.