

STATE OF NEW YORK

1116

2021-2022 Regular Sessions

IN ASSEMBLY

January 7, 2021

Introduced by M. of A. CAHILL -- Multi-Sponsored by -- M. of A. COLTON, DINOWITZ, GALEF -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to the preparation, contents and distribution of a paper pamphlet containing information relative to general elections; to repeal certain provisions of the election law, relating to distribution of copies of proposed amendments to the constitution or other propositions or questions; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivisions 2 and 3 of section 4-116 of the election law
2 are REPEALED.
3 § 2. Paragraphs c and d of subdivision 1 of section 4-108 of the
4 election law are REPEALED and subdivision 3, as added by chapter 234 of
5 the laws of 1976, is amended to read as follows:
6 3. The attorney general shall advise in the preparation of such
7 [~~abstract and such~~] form of submission.
8 § 3. The opening paragraph of subdivision 1 of section 4-120 of the
9 election law, as amended by chapter 413 of the laws of 2019, is amended
10 to read as follows:
11 The board of elections shall publish once in each of the two weeks
12 preceding a general election, or a special or village election conducted
13 by the board of elections, a notice specifying the day of the election,
14 and the public officers to be voted for within such county, or any part
15 thereof at such election. The board of elections shall, as soon as prac-
16 ticable, but not less than two weeks prior to any special election,
17 prominently display on its website the date and hours of the election,
18 the offices to be voted on in the county, part of a county, or the city
19 of New York, and a link to any poll site information or poll location
20 tools, where available. Such information shall also be made available to

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

LBD01399-01-1

1 local governments, municipalities, and community boards for publication
2 on any public-facing internet website, web application, web domain or
3 digital application, including a social network or search engine, to the
4 extent that such publication is practicable. [~~If constitutional amend-
5 ments, or questions are to be submitted to the voters of the state, the
6 notice shall state that fact and that a copy of each such amendment or
7 question may be obtained at the board of elections, by any voter.~~] Such
8 publication shall be in two newspapers published within the county. If
9 the county contains a city or cities, at least one of such newspapers
10 shall be published in the city, or the largest city, if there be more
11 than one.

12 § 4. Subdivision 1 of section 4-128 of the election law, as amended by
13 section 2 of part XX of chapter 55 of the laws of 2019, is amended to
14 read as follows:

15 1. The board of elections of each county shall provide the requisite
16 number of official and facsimile ballots, two cards of instruction to
17 voters in the form prescribed by the state board of elections, five
18 copies of each ballot pamphlet, at least one copy of the instruction
19 booklet for inspectors, a sufficient number of maps, street finders or
20 other descriptions of all of the polling places and election districts
21 within the political subdivision in which the polling place is located
22 to enable the election inspectors and poll clerks to determine the
23 correct election district and polling place for each street address
24 within the political subdivision in which the polling place is located,
25 distance markers, tally sheets and return blanks, pens, pencils, or
26 other appropriate marking devices, envelopes for the ballots of voters
27 whose registration poll records are not in the ledger or whose names are
28 not in the computer generated registration list, envelopes for returns,
29 identification buttons, badges or emblems for the inspectors and clerks
30 in the form prescribed by the state board of elections and such other
31 articles of stationery as may be necessary for the proper conduct of
32 elections, except that when a town, city or village holds an election
33 not conducted by the board of elections, the clerk of such town, city or
34 village, shall provide such official and facsimile ballots and the
35 necessary blanks, supplies and stationery for such election.

36 § 5. Subdivision 4 of section 5-204 of the election law is REPEALED
37 and subdivisions 3, 5, 6, 7, 8, 9 and 10 are renumbered subdivisions 2,
38 3, 4, 5, 6, 7 and 8.

39 § 6. Subdivision 2 of section 4-117 of the election law is REPEALED
40 and subdivision 3 is renumbered subdivision 2.

41 § 7. Article 7 of the election law is amended by adding a new title 3
42 to read as follows:

43 TITLE III

44 BALLOT PAMPHLET

45 Section 7-300. Legislative findings.

46 7-302. State board of elections to prepare ballot pamphlet.

47 7-304. Contents of ballot pamphlet.

48 7-306. Preparation of ballot proposal materials.

49 7-308. State immunity.

50 7-310. Printing.

51 7-312. Distribution.

52 7-314. Authorization to local communities.

53 § 7-300. Legislative findings. The legislature hereby finds and
54 declares that the purpose of this title and of the ballot pamphlet is to
55 fully and fairly inform the electorate about the issues appearing on the
56 ballot. The state board of elections shall undertake its responsibil-

ities in the manner best calculated to, and all the provisions herein shall be construed so as to accomplish that goal.

§ 7-302. State board of elections to prepare ballot pamphlet. It shall be the duty of the state board of elections, hereinafter referred to as the state board, to prepare and distribute a ballot pamphlet, in the manner set out in this title, for every general election conducted in the state in which a ballot proposal is on the ballot. Not later than January thirty-first of each year, the state board shall fix and announce the dates for all deadlines provided for by this title.

§ 7-304. Contents of ballot pamphlet. Each ballot pamphlet shall contain the following material and no other material. 1. An introductory statement shall be prepared by the state board explaining:

(a) The date and hours during which the polls will be open for the general election;

(b) Voter qualification requirements in New York state;

(c) When, where, and how to register to vote;

(d) When, where and how absentee ballots are obtained and used;

(e) Instructions on how to vote, including the use of affidavit ballots; and

(f) Any other general information on voting deemed necessary or useful to the electorate or otherwise consistent with the goals of this article by the state board.

2. The following statement, printed in boldface type, shall follow the introductory statement and precede materials related to ballot proposals:

IMPORTANT: This pamphlet contains information only on proposals which will be on the ballot statewide. There may also be proposals of local interest on the ballot in your community. For information on these proposals, contact your local board of elections and see your local newspaper. The arguments for and against the proposals do not constitute endorsement by the State of New York, nor does the State certify the accuracy or truth of any statement made in those materials.

3. Materials shall be prepared for each ballot proposal to be submitted to a statewide vote at the general election. Such materials shall be prepared as prescribed in section 7-306 of this title, and shall include the following:

(a) A true copy of the form of the ballot proposal, as it will appear on the ballot, set out in boldface or italic type at the top of the page;

(b) A concise, impartial, and understandable explanation, not to exceed five hundred words, stating the nature and effect of the ballot proposal;

(c) A statement not to exceed three hundred words, of the major arguments for its passage, clearly labelled as such;

(d) A statement not to exceed three hundred words, of the major arguments against its passage, clearly labelled as such;

(e) The full text of the ballot proposal, which shall be printed so as to indicate by the use of italic type the matter if any that would be added to the state constitution of law, and by the use of brackets the matter if any that would be deleted therefrom;

(f) An explanation of such use of italic type and brackets, as described in paragraph (e) of this subdivision; and

(g) The members of the committee that prepared the materials.

§ 7-306. Preparation of ballot proposal materials. 1. All materials required by paragraphs (a), (e), (f) and (g) of subdivision three of section 7-304 of this title shall be prepared by the state board of

1 elections, and all materials required by paragraphs (b), (c) and (d) of
2 subdivision three of section 7-304 of this title with respect to each
3 ballot proposal, shall be prepared by a separate committee consisting of
4 seven members. The majority leader of the senate shall appoint two
5 members to serve on such committee. The speaker of the assembly shall
6 appoint two members to such committee. The minority leader of the senate
7 and the minority leader of the assembly shall jointly appoint two addi-
8 tional persons to such committee. In making their appointments, the
9 majority and the minority leaders of the senate and the speaker of the
10 assembly and the minority leader of the assembly shall endeavor to
11 create a committee with a broad range of opinions on the measure. The
12 seventh member shall be the attorney general and shall serve as the
13 chairperson of the committee. Vacancies shall be filled in the same
14 manner as the original appointment. Members who are not state officials
15 shall be entitled to actual and necessary expenses incurred in the
16 performance of their duties.

17 2. The state board of elections shall make staff available to assist
18 the committee in carrying out its responsibilities.

19 3. The committee must meet within ten days after each proposition has
20 passed both houses of the legislature to determine who shall be the
21 principal proponents and opponents of each measure. Such principal
22 proponent or opponent may be a member of the committee or any registered
23 voter in the state.

24 4. The committee shall announce with such notice as the state board
25 shall specify, its preliminary draft of the explanatory statement and
26 the arguments opposing and proposing the ballot proposals as provided
27 for in paragraphs (b), (c) and (d) of subdivision three of section 7-304
28 of this title, not later than the date fixed by the state board pursuant
29 to the provisions of section 7-302 of this title. Any person may file
30 with the committee a written statement of suggested changes and all such
31 statements submitted not later than the date fixed by the state board
32 shall be considered by such committee.

33 5. In compliance with paragraphs (c) and (d) of subdivision three of
34 section 7-304 of this title, the committee may select no more than two
35 arguments advanced by proponents and opponents of every measure to be
36 submitted to the voters. If no argument is deemed appropriate for
37 selection, the committee may reserve the responsibility for composition
38 of either or both. In making its selections, the committee shall give
39 priority to arguments advanced by organizations over consideration of
40 arguments advanced by individuals. The state board shall include in the
41 ballot pamphlet on the same page as the printed argument relating to the
42 measure, the name of the organization, if any, advancing the argument
43 and whether the argument supports or opposes the measure. If the commit-
44 tee itself has written the argument, a disclaimer in substantially the
45 same form shall be printed immediately below the argument:

46 The printing of this argument does not constitute an endorsement by
47 the state of New York, nor does the state warrant the accuracy or truth
48 of any statement made in the argument.

49 6. The committee may reject a statement or portions thereof, if it:
50 (a) contains any language that the committee, at its discretion, has
51 construed not to accomplish the goals of this title;

52 (b) contains any language which may not be legally circulated through
53 the mails; or

54 (c) is submitted after the date specified by the board.

55 7. Thereafter, the committee shall make any changes in the materials
56 as it considers proper and shall file the final set of materials with

1 the state board not later than the date set by such board pursuant to
2 the provisions of section 7-302 of this title.

3 8. The preliminary materials and the final set of materials shall be
4 concurred on and certified by the committee or at least by four of its
5 members. If a member does not concur, a statement shall show only that
6 he dissents and where applicable, that he was appointed as a proponent
7 or opponent of the measure.

8 9. The state board shall certify and make public the final contents of
9 the ballot pamphlet no later than sixty days before the election at
10 which the measure is to appear on the ballot.

11 § 7-308. State immunity. No cause of action shall arise against the
12 state of New York or any agency or employee thereof with respect to such
13 ballot pamphlet except as caused by the negligence or willful acts of
14 the state or of its agents or employees, nor may a cause of action arise
15 against the state of New York or any agency or employee thereof by
16 virtue of statements prepared by any committee constituted under section
17 7-306 of this title.

18 § 7-310. Printing. 1. The state board shall cause the ballot pamphlet
19 to be printed in as legible a manner as possible consistent with the
20 purpose of this title. In the event that the state board determines that
21 the printing of the ballot pamphlet would be more efficient and econom-
22 ical if done by the local boards of elections, the state board is hereby
23 authorized to instruct all boards of elections to print the ballot
24 pamphlet. Should the state board so instruct the boards of elections, it
25 shall promptly reimburse each board for the actual cost of production
26 incurred by said board.

27 2. The state board or the local boards of elections as provided for in
28 subdivision one of this section, shall also prepare and cause to be
29 printed, and distribute to such voters as it deems appropriate, a trans-
30 lation of the ballot pamphlet into Spanish and any other languages
31 required to comply with the Voting Rights Act of 1965, as amended.

32 § 7-312. Distribution. 1. There shall be no charge for single copies
33 of the ballot pamphlet.

34 2. In every general election in which a ballot proposal is on the
35 statewide ballot, the state board shall cause a copy of the ballot
36 pamphlet to be distributed to at least one registered voter in each
37 household. In the event the state board determines that distribution of
38 the ballot pamphlet would be more efficient and economical if done by
39 the local boards of elections, the state board is hereby authorized to
40 instruct all boards of elections to distribute the ballot pamphlet to at
41 least one registered voter in each household. Should the state board so
42 instruct the boards of elections, it shall provide a sufficient number
43 of ballot pamphlets to each board of elections and shall promptly reim-
44 burse each board for the actual cost of postage incurred by said board
45 in distributing the pamphlet provided that said board utilize the lowest
46 feasible postage rate charged by the United States postal service. The
47 distribution of the ballot pamphlets to registered voters or households
48 shall be made between twenty and forty days before the election to which
49 they pertain.

50 3. Sufficient copies shall also be provided to boards of elections to
51 permit each such board to supply five copies to each election district.

52 4. In addition to providing a sufficient number of copies of the
53 pamphlet to comply with subdivisions two and three of this section, the
54 state board shall cause to be printed at least fifty thousand additional
55 copies and provide them to those persons, organizations and other enti-
56 ties that request them, at no charge, provided that the state board may

1 impose a charge for bulk orders of greater than five copies and may set
2 limits on the total number of copies that any single individual, organ-
3 ization or other entity may obtain upon request.

4 § 7-314. Authorization to local communities. The legislative bodies of
5 all cities, towns and counties are hereby authorized to enact legis-
6 lation consistent with the provisions of this title which would enable
7 questions, propositions, and issues on the ballot in such cities, towns
8 and counties to be presented to voters by means of a ballot pamphlet.
9 Any such pamphlet may, with the approval of the state board, be mailed
10 together with the statewide ballot pamphlet. The additional expense of
11 preparing, printing and distributing such a pamphlet shall be paid by
12 such city, town or county.

13 § 8. Subdivision 2 of section 16-100 of the election law, as amended
14 by section 4 of part E of chapter 399 of the laws of 2011, is amended to
15 read as follows:

16 2. The county court is vested with jurisdiction to summarily determine
17 any question of law or fact except proceedings as to a nomination or
18 election at a primary election or a nomination at a judicial convention,
19 proceedings as to the casting and canvass of ballots, proceedings for
20 examination or preservation of ballots, proceedings as to the contents
21 of statements on constitutional amendments, questions and propositions
22 and proceedings to enforce the provisions of article fourteen of this
23 chapter.

24 § 9. The election law is amended by adding a new section 16-105 to
25 read as follows:

26 § 16-105. Proceedings as to the content of ballot pamphlets. 1. Any
27 person eligible to vote on any ballot proposal contained in any ballot
28 pamphlet prepared pursuant to title three of article seven of this chap-
29 ter may institute a proceeding as to the factual accuracy of statements
30 on constitutional amendments, questions and propositions. Any such
31 proceeding shall be brought in the supreme court of the state of New
32 York, Albany county.

33 2. A proceeding pursuant to subdivision one of this section must be
34 instituted no later than ten days after the state board certifies the
35 final contents of the ballot pamphlet. If the court finds that the form
36 and contents do not comply with the requirements of article seven of
37 this chapter, or finds by clear and convincing evidence that the
38 language of the pamphlet is false or misleading, it shall order such
39 changes as it deems necessary, provided that any changes so ordered will
40 not substantially interfere with the printing and distribution of the
41 pamphlet as required by law.

42 3. A final order in any proceeding under this section shall be made,
43 if possible, at least fifty days before the general election for which
44 the pamphlet was prepared.

45 § 10. On or before March 1, 2027 the board of elections shall submit a
46 report to the governor and the legislature evaluating the effectiveness
47 of ballot pamphlets as a tool to increase voter awareness, registration
48 and participation. Such report shall include statistics on voter partic-
49 ipation both before and after ballot pamphlets were distributed and
50 findings and recommendations on continuing and improving title III of
51 article 7 of the election law.

52 § 11. This act shall take effect April 1, 2023 and shall expire May 1,
53 2027, when upon such date the provisions of this act shall be deemed
54 repealed.

REPEAL NOTE.--Subdivisions 2 and 3 of section 4-116 of the election law, proposed to be repealed by this act, provide for publication of proposed constitutional amendments.

Paragraphs c and d of subdivision 1 of section 4-108 of the election law, proposed to be repealed by this act, provide for a transmittal to county boards of an abstract of proposed constitutional amendments and for the form of the proposed constitutional amendment.

Subdivision 4 of section 5-204 of the election law, proposed to be repealed by this act, provides for distribution of copies of proposed constitutional amendments and questions at local registration.

Subdivision 2 of section 4-117 of the election law, proposed to be repealed by this act, provides for mailing copies of proposed constitutional amendments and questions to registered voters.