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

1641

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. BING, CYMBROWITZ, REILLY, ROSENTHAL, COLTON, MILLMAN, CLARK, HOOPER -- Multi-Sponsored by -- M. of A. BOYLAND, BRENNAN, BROOK-KRASNY, KELLNER, LANCMAN, LIFTON, V. LOPEZ, McENENY, PERRY, PHEFFER, SEMINERIO, TOWNS, WEISENBERG -- 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:

Section 1. Subdivisions 2 and 3 of section 4-116 of the election law are REPEALED.

S 2. Paragraphs c and d of subdivision 1 of section 4-108 of the election law are REPEALED and subdivision 3, as added by chapter 234 of the laws of 1976, is amended to read as follows:

3. The attorney general shall advise in the preparation of such [abstract and such] form of submission.

S 3. The opening paragraph of subdivision 1 of section 4-120 of the election law, as amended by chapter 359 of the laws of 1989, is amended to read as follows:

The board of elections shall publish once in each of the two weeks preceding a general election, or a special or village election conducted by the board of elections, a notice specifying the day of the election, and the public officers to be voted for within such county, or any part thereof at such election. [If constitutional amendments, or questions are to be submitted to the voters of the state, the notice shall state that fact and that a copy of each such amendment or question may be

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

LBD03081-01-9

obtained at the board of elections, by any voter.] Such publication shall be in two newspapers published within the county. If the county contains a city or cities, at least one of such newspapers shall be published in the city, or the largest city, if there be more than one.

S 4. Subdivision 1 of section 4-128 of the election law, as amended by chapter 91 of the laws of 1992, is amended to read as follows:

1. The board of elections of each county shall provide the requisite number of official and facsimile ballots, two cards of instruction to voters in the form prescribed by the state board of elections, FIVE COPIES OF EACH BALLOT PAMPHLET, at least one copy of the instruction booklet for inspectors, distance markers, tally sheets and return blanks, pens, black ink, or ball point pens with black ink, pencils having black lead, envelopes for the ballots of voters whose registration poll records are not in the ledger or whose names are not on the computer generated registration list, envelopes for returns, identification buttons, badges or emblems for the inspectors and clerks in the form prescribed by the state board of elections and such other articles of stationery as may be necessary for the proper conduct of elections, except that when a town, city or village holds an election not conducted by the board of elections, the clerk of such town, city or village, shall provide such official and facsimile ballots and the necessary blanks, supplies and stationery for such election.

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

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

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

TITLE III
BALLOT PAMPHLET

SECTION 7-300. LEGISLATIVE FINDINGS.
7-302. STATE BOARD OF ELECTIONS TO PREPARE BALLOT PAMPHLET.
7-304. CONTENTS OF BALLOT PAMPHLET.
7-306. PREPARATION OF BALLOT PROPOSAL MATERIALS.
7-308. STATE IMMUNITY.
7-310. PRINTING.
7-312. DISTRIBUTION.
7-314. AUTHORIZATION TO LOCAL COMMUNITIES.
7-316. CANDIDATE BIOGRAPHIES.

S 7-300. LEGISLATIVE FINDINGS. THE LEGISLATURE HEREBY FINDS AND DECLARES THAT THE PURPOSE OF THIS TITLE AND OF THE BALLOT PAMPHLET IS TO FULLY AND FAIRLY INFORM THE ELECTORATE ABOUT THE CANDIDATES AND ABOUT THE ISSUES APPEARING ON THE BALLOT. THE STATE BOARD OF ELECTIONS SHALL UNDERTAKE ITS RESPONSIBILITIES IN THE MANNER BEST CALCULATED TO, AND ALL THE PROVISIONS HEREIN SHALL BE CONSTRUED SO AS TO ACCOMPLISH THAT GOAL.

S 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 ANY YEAR IN WHICH THE MAJORITY OF THE SEATS IN THE ASSEMBLY ARE OPEN TO ELECTION. 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. THE STATE BOARD OF ELECTIONS MAY DELEGATE THIS DUTY TO COUNTY BOARDS OF ELECTIONS TO PREPARE PAMPHLETS FOR THEIR OWN COUNTY.

S 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 ON CANDIDATES RUNNING FOR ELECTED OFFICE AND ON PROPOSALS WHICH WILL BE ON THE BALLOT STATE-WIDE. THERE MAY ALSO BE PROPOSALS OF LOCAL INTEREST ON THE BALLOT IN YOUR COMMUNITY. FOR INFORMATION ON THESE LOCAL PROPOSALS, CONTACT YOUR LOCAL BOARD OF ELECTIONS AND SEE YOUR LOCAL NEWSPAPER.

3. MATERIALS SHALL BE PREPARED FOR EACH BALLOT PROPOSAL TO BE SUBMIT-TED 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) 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; AND

(D) AN EXPLANATION OF SUCH USE OF ITALIC TYPE AND BRACKETS, AS DESCRIBED IN PARAGRAPH (C) OF THIS SUBDIVISION.

4. CANDIDATE BIOGRAPHY INFORMATION OBTAINED PURSUANT TO SECTION 7-316 OF THIS TITLE.

5. A CLEAR AND LEGIBLE STATEMENT INFORMING INDIVIDUALS THAT THEY MAY ACCESS CANDIDATE BIOGRAPHY INFORMATION ON THE BOARD'S WEBSITE AND INCLUDE THE ADDRESS OF SUCH WEBSITE.

S 7-306. PREPARATION OF BALLOT PROPOSAL MATERIALS. 1. ALL MATERIALS REQUIRED BY SUBDIVISION THREE OF SECTION 7-304 OF THIS TITLE SHALL BE PREPARED BY THE STATE BOARD OF ELECTIONS.

2. THE STATE BOARD SHALL CERTIFY AND MAKE PUBLIC THE FINAL CONTENTS OF THE BALLOT PAMPHLET NO LATER THAN SIXTY DAYS BEFORE THE ELECTION AT WHICH THE MEASURE IS TO APPEAR ON THE BALLOT.

S 7-308. STATE IMMUNITY. NO CAUSE OF ACTION SHALL ARISE AGAINST THE STATE OF NEW YORK OR ANY AGENCY OR EMPLOYEE THEREOF WITH RESPECT TO SUCH BALLOT PAMPHLET EXCEPT AS CAUSED BY THE NEGLIGENCE OR WILLFUL ACTS OF THE STATE OR OF ITS AGENTS OR EMPLOYEES.

S 7-310. PRINTING. 1. THE STATE BOARD SHALL CAUSE THE BALLOT PAMPHLET TO BE PRINTED IN AS LEGIBLE A MANNER AS POSSIBLE CONSISTENT WITH THE PURPOSE OF THIS TITLE. IN THE EVENT THAT THE STATE BOARD DETERMINES THAT THE PRINTING OF THE BALLOT PAMPHLET WOULD BE MORE EFFICIENT AND ECONOM-

ICAL IF DONE BY THE LOCAL BOARDS OF ELECTIONS, THE STATE BOARD IS HEREBY AUTHORIZED TO INSTRUCT ALL BOARDS OF ELECTIONS TO PRINT THE BALLOT PAMPHLET. SHOULD THE STATE BOARD SO INSTRUCT THE BOARDS OF ELECTIONS, IT SHALL PROMPTLY REIMBURSE EACH BOARD FOR THE ACTUAL COST OF PRODUCTION INCURRED BY SAID BOARD.

2. THE STATE BOARD OR THE LOCAL BOARDS OF ELECTIONS AS PROVIDED FOR IN SUBDIVISION ONE OF THIS SECTION, SHALL ALSO PREPARE AND CAUSE TO BE PRINTED, AND DISTRIBUTE TO SUCH VOTERS AS IT DEEMS APPROPRIATE, A TRANSLATION OF THE BALLOT PAMPHLET INTO SPANISH, RUSSIAN, AND ANY OTHER LANGUAGES REQUIRED TO COMPLY WITH THE VOTING RIGHTS ACT OF 1965, AS AMENDED.

S 7-312. DISTRIBUTION. 1. THERE SHALL BE NO CHARGE FOR SINGLE COPIES OF THE BALLOT PAMPHLET.

2. IN ADDITION TO THE REQUIREMENTS OF SECTION 7-300 OF THIS TITLE, IN EVERY GENERAL ELECTION IN WHICH A BALLOT PROPOSAL IS ON THE STATEWIDE BALLOT, THE STATE BOARD SHALL CAUSE A COPY OF THE BALLOT PAMPHLET TO BE DISTRIBUTED TO AT LEAST ONE REGISTERED VOTER IN EACH HOUSEHOLD. IN THE EVENT THE STATE BOARD DETERMINES THAT DISTRIBUTION OF THE BALLOT PAMPHLET WOULD BE MORE EFFICIENT AND ECONOMICAL IF DONE BY THE LOCAL BOARDS OF ELECTIONS, THE STATE BOARD IS HEREBY AUTHORIZED TO INSTRUCT ALL BOARDS OF ELECTIONS TO DISTRIBUTE THE BALLOT PAMPHLET TO AT LEAST ONE REGISTERED VOTER IN EACH HOUSEHOLD. SHOULD THE STATE BOARD SO INSTRUCT THE BOARDS OF ELECTIONS, IT SHALL PROVIDE A SUFFICIENT NUMBER OF BALLOT PAMPHLETS TO EACH BOARD OF ELECTIONS AND SHALL PROMPTLY REIMBURSE EACH BOARD FOR THE ACTUAL COST OF POSTAGE INCURRED BY SAID BOARD IN DISTRIBUTING THE PAMPHLET PROVIDED THAT SAID BOARD UTILIZE THE LOWEST FEASIBLE POSTAGE RATE CHARGED BY THE UNITED STATES POSTAL SERVICE. THE DISTRIBUTION OF THE BALLOT PAMPHLETS TO REGISTERED VOTERS OR HOUSEHOLDS SHALL BE MADE BETWEEN TWENTY AND FORTY DAYS BEFORE THE ELECTION TO WHICH THEY PERTAIN.

3. SUFFICIENT COPIES SHALL ALSO BE PROVIDED TO BOARDS OF ELECTIONS TO PERMIT EACH SUCH BOARD TO SUPPLY FIVE COPIES TO EACH ELECTION DISTRICT.

4. IN ADDITION TO PROVIDING A SUFFICIENT NUMBER OF COPIES OF THE PAMPHLET TO COMPLY WITH SUBDIVISIONS TWO AND THREE OF THIS SECTION, THE STATE BOARD SHALL CAUSE TO BE PRINTED AT LEAST FIFTY THOUSAND ADDITIONAL COPIES AND PROVIDE THEM TO THOSE PERSONS, ORGANIZATIONS AND OTHER ENTITIES THAT REQUEST THEM, AT NO CHARGE, PROVIDED THAT THE STATE BOARD MAY IMPOSE A CHARGE FOR BULK ORDERS OF GREATER THAN FIVE COPIES AND MAY SET LIMITS ON THE TOTAL NUMBER OF COPIES THAT ANY SINGLE INDIVIDUAL, ORGANIZATION OR OTHER ENTITY MAY OBTAIN UPON REQUEST.

5. IN ADDITION TO ALL PRINTED MATERIALS, THE BOARD SHALL HAVE A COPY OF THE PAMPHLET AVAILABLE ON ITS WEBSITE IN A PRINTER-FRIENDLY FORMAT.

S 7-314. AUTHORIZATION TO LOCAL COMMUNITIES. THE LEGISLATIVE BODIES OF ALL CITIES, TOWNS AND COUNTIES ARE HEREBY AUTHORIZED TO ENACT LEGISLATION CONSISTENT WITH THE PROVISIONS OF THIS TITLE WHICH WOULD ENABLE QUESTIONS, PROPOSITIONS, AND ISSUES ON THE BALLOT IN SUCH CITIES, TOWNS AND COUNTIES TO BE PRESENTED TO VOTERS BY MEANS OF A BALLOT PAMPHLET. ANY SUCH PAMPHLET MAY, WITH THE APPROVAL OF THE STATE BOARD, BE MAILED TOGETHER WITH THE STATEWIDE BALLOT PAMPHLET. THE ADDITIONAL EXPENSE OF PREPARING, PRINTING AND DISTRIBUTING SUCH A PAMPHLET SHALL BE PAID BY SUCH CITY, TOWN OR COUNTY.

S 7-316. CANDIDATE BIOGRAPHIES. 1. ANY CANDIDATE SEEKING NOMINATION OR ELECTION AT THE NEXT GENERAL ELECTION TO ANY PUBLIC OFFICE, OR A DESIGNATED AGENT ACTING ON BEHALF OF SUCH CANDIDATE, MAY, AT LEAST EIGHT WEEKS PRIOR TO THE GENERAL ELECTION, FILE WITH THE BOARD OF ELECTIONS WITH WHICH NOMINATING AND DESIGNATING PETITIONS AND CERTIFICATES FOR

SUCH OFFICE ARE FILED PURSUANT TO SECTION 6-144 OF THIS CHAPTER A SWORN STATEMENT SETTING FORTH THE CANDIDATE'S OCCUPATION, EDUCATIONAL AND OCCUPATIONAL BACKGROUND, PRIOR GOVERNMENTAL EXPERIENCE, AND ANY OTHER PERSONAL BACKGROUND OR EXPERIENCE THAT THE CANDIDATE DEEMS RELEVANT TO THE ELECTION CAMPAIGN.

2. THE STATE BOARD OF ELECTIONS SHALL, BY REGULATION, ESTABLISH THE FORMAT AND LENGTH OF THE STATEMENT AUTHORIZED UNDER THIS SECTION AND SHALL PROVIDE TO CANDIDATES A STANDARDIZED FORM FOR PREPARING SUCH STATEMENT.

3. WITHIN FIVE DAYS AFTER THE LAST DAY FOR FILING STATEMENTS UNDER THIS SECTION, ALL LOCAL BOARDS OF ELECTIONS SHALL FORWARD ALL SUCH CANDIDATE BIOGRAPHIES TO THE STATE BOARD OF ELECTIONS IN ELECTRONIC FORM IN A MANNER TO BE PRESCRIBED BY THE STATE BOARD OF ELECTIONS.

4. WITHIN FIVE DAYS OF RECEIPT OF ANY CANDIDATE BIOGRAPHIES FROM THE LOCAL BOARDS OF ELECTIONS, THE STATE BOARD OF ELECTIONS SHALL CAUSE ALL SUCH INFORMATION CONTAINED IN SAID CANDIDATE BIOGRAPHIES TO BE MADE AVAILABLE AT ALL TIMES ON THE STATE BOARD OF ELECTIONS WEBSITE UNTIL ONE DAY AFTER THE ELECTION.

5. THE STATE BOARD OF ELECTIONS SHALL INCORPORATE ALL THE INFORMATION IT RECEIVES INTO THE PAMPHLET AS AUTHORIZED PURSUANT TO SUBDIVISION FOUR OF SECTION 7-304 OF THIS TITLE.

6. IN THE EVENT THAT ANY CANDIDATE BIOGRAPHIES RECEIVED BY THE STATE BOARD OF ELECTIONS, FROM ANY LOCAL BOARD OF ELECTIONS, IS NOT IN ELECTRONIC FORM, THE STATE BOARD OF ELECTIONS SHALL, WITHIN TEN DAYS AFTER RECEIPT OF SUCH CANDIDATE BIOGRAPHY, CONVERT SUCH CANDIDATE BIOGRAPHY TO ELECTRONIC FORM, AND CAUSE SAID CANDIDATE INFORMATION TO BE MADE AVAILABLE AT ALL TIMES ON THE STATE BOARD OF ELECTIONS WEBSITE UNTIL ONE DAY AFTER THE ELECTION.

S 8. Subdivision 2 of section 16-100 of the election law is amended to read as follows:

2. The county court is vested with jurisdiction to summarily determine any question of law or fact except proceedings as to a nomination or election at a primary election or a nomination at a judicial convention, proceedings as to the casting and canvass of ballots [and], proceedings for examination or preservation of ballots AND PROCEEDINGS AS TO THE CONTENTS OF STATEMENTS ON CONSTITUTIONAL AMENDMENTS, QUESTIONS AND PROPOSITIONS.

S 9. On or before March 1, 2015 the board of elections shall submit a report to the governor and the legislature evaluating the effectiveness of ballot pamphlets as a tool to increase voter awareness, registration and participation. Such report shall include statistics on voter participation both before and after ballot pamphlets were distributed and findings and recommendations on continuing and improving title 3 of article 7 of the election law.

S 10. This act shall take effect April 1, 2011 and shall expire May 1, 2015, when upon such date the provisions of this act shall be deemed repealed.

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

Paragraphs c and d of subdivision 1 of section 4-108 of such 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 such law, proposed to be repealed by this act, provides for mailing copies of proposed constitutional amendments and questions to registered voters.