

3281--C

2009-2010 Regular Sessions

I N A S S E M B L Y

January 23, 2009

Introduced by M. of A. KAVANAGH, LUPARDO, THIELE -- read once and referred to the Committee on Election Law -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Election Law in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, in relation to establishing an instant runoff voting method for certain local elections 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. Legislative findings. The current system of voting often  
2 results in the election of a candidate that does not have the majority  
3 support of the electorate when there are three or more candidates  
4 running for an elective office. Further, where there are three or more  
5 candidates for an elective office, voters often will not vote for their  
6 preferred candidate to avoid "wasting" their vote on a "spoiler" candi-  
7 date. Rather, they will vote against a candidate they dislike, by voting  
8 for a leading candidate that they perceive as the lesser of two evils.  
9 The result of the current system in multi-candidate races can be the  
10 election of candidates that lack majority support.

11 The instant runoff voting method provides for the majority election  
12 for elective offices. Instant runoff voting gives voters the option to  
13 rank candidates according to the order of their choice. If no candidate  
14 obtains a majority of first-choice votes, then the candidate receiving  
15 the fewest first-choice votes is eliminated. Each vote cast for the  
16 eliminated candidate shall be transferred to the candidate who was the  
17 voter's next choice on the ballot. The process is continued until a  
18 candidate receives a majority of votes.

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

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1 There are several potential benefits to the instant runoff voting  
 2 method. First, voters are free to mark their ballot for the candidate  
 3 they truly prefer without fear that their choice will help elect their  
 4 least preferred candidate. Second, it insures that the elected candidate  
 5 has true majority support. In addition, the instant runoff voting method  
 6 will (1) promote higher voter turnout, and (2) encourage positive  
 7 campaigning, since candidates will seek second-choice and third-choice  
 8 votes from voters and will therefore be less likely to attack other  
 9 candidates and alienate voters that support other candidates as their  
 10 first choice. In situations where runoffs are already required, it will  
 11 eliminate the need for a second runoff election, with its increased  
 12 costs and lower voter turnout.

13 The instant runoff voting method has been the subject of increasing  
 14 interest across the nation. It has already been adopted by local refer-  
 15 enda in California, Vermont, and Massachusetts. It is under consider-  
 16 ation in many other states.

17 It is the purpose of this act to permit the use of the instant runoff  
 18 voting method on a trial basis in certain local elections at the option  
 19 of local governments in the years 2011, 2012 and 2013. This pilot  
 20 program would permit the state legislature to evaluate the broader  
 21 application of the instant runoff voting method to elections in New York  
 22 state.

23 S 2. The election law is amended by adding a new article 18 to read as  
 24 follows:

#### ARTICLE 18

#### INSTANT RUNOFF VOTING METHOD

27 SECTION 18-100. DEFINITIONS.

28 18-102. INSTANT RUNOFF VOTING METHOD AUTHORIZED IN CERTAIN  
 29 CASES.

30 18-104. INSTANT RUNOFF VOTING METHOD; BALLOTS.

31 18-106. INSTANT RUNOFF VOTING METHOD; PROCEDURES.

32 18-108. VOTER EDUCATION.

33 18-110. CONSTRUCTION.

34 S 18-100. DEFINITIONS. 1. "INSTANT RUNOFF VOTING METHOD" SHALL MEAN A  
 35 METHOD OF CASTING AND TABULATING VOTES THAT SIMULATES THE BALLOT COUNTS  
 36 THAT WOULD OCCUR IF ALL VOTERS PARTICIPATED IN A SERIES OF RUNOFF  
 37 ELECTIONS, WHEREBY THE VOTERS RANK CANDIDATES ACCORDING TO THE ORDER OF  
 38 THEIR CHOICE AND, IF NO CANDIDATE HAS RECEIVED A MAJORITY OF VOTES CAST,  
 39 THEN THE CANDIDATE WITH THE FEWEST FIRST CHOICE VOTES IS ELIMINATED AND  
 40 THE REMAINING CANDIDATES ADVANCE TO ANOTHER COUNTING ROUND. IN EVERY  
 41 ROUND, EACH BALLOT IS COUNTED AS ONE VOTE FOR THE HIGHEST RANKED ADVANC-  
 42 ING CANDIDATE.

43 2. "LOCAL GOVERNMENT" SHALL MEAN A COUNTY, CITY, TOWN, VILLAGE, OR  
 44 SCHOOL DISTRICT.

45 S 18-102. INSTANT RUNOFF VOTING METHOD AUTHORIZED IN CERTAIN CASES. 1.  
 46 FOR ELECTIONS TO BE HELD IN THE YEARS TWO THOUSAND ELEVEN, TWO THOUSAND  
 47 TWELVE, AND TWO THOUSAND THIRTEEN, LOCAL GOVERNMENTS ARE HEREBY AUTHOR-  
 48 IZED TO CONDUCT ELECTIONS UTILIZING THE INSTANT RUNOFF VOTING METHOD FOR  
 49 THE FOLLOWING ELECTIONS: (A) MEMBER OF THE BOARD OF EDUCATION IN THE  
 50 CASE OF A SCHOOL DISTRICT, (B) COUNTY EXECUTIVE AND COUNTY LEGISLATOR IN  
 51 THE CASE OF A COUNTY, (C) MAYOR, MEMBER OF CITY COUNCIL, PUBLIC ADVO-  
 52 CATE, COMPTROLLER, AND BOROUGH PRESIDENT, IN THE CASE OF A CITY, (D)  
 53 TOWN SUPERVISOR AND MEMBER OF TOWN COUNCIL IN THE CASE OF A TOWN, AND

1 (E) MAYOR AND VILLAGE TRUSTEE IN THE CASE OF A VILLAGE. "ELECTION"  
2 SHALL INCLUDE THE GENERAL ELECTION AND PRIMARY, WHERE APPLICABLE.

3 2. IN ORDER TO IMPLEMENT THE INSTANT RUNOFF VOTING METHOD AS PROVIDED  
4 IN SUBDIVISION ONE OF THIS SECTION, THE GOVERNING BODY OF THE LOCAL  
5 GOVERNMENT SHALL ADOPT A RESOLUTION IMPLEMENTING THE INSTANT RUNOFF  
6 METHOD AS AUTHORIZED BY THIS TITLE. SUCH RESOLUTION SHALL BE SUBJECT TO  
7 A PERMISSIVE REFERENDUM.

8 3. SUCH RESOLUTION SHALL BE ADOPTED BY THE GOVERNING BOARD OF THE  
9 LOCAL GOVERNMENT AT LEAST ONE HUNDRED EIGHTY DAYS BEFORE THE ELECTION  
10 FOR WHICH INSTANT RUNOFF VOTING WILL BE UTILIZED.

11 4. THE PROVISIONS OF SECTIONS 18-104, 18-106, 18-108 AND 18-110 OF  
12 THIS ARTICLE SHALL APPLY ONLY WHEN THREE OR MORE CANDIDATES HAVE BEEN  
13 NOMINATED OR DESIGNATED FOR AN OFFICE ENUMERATED IN SUBDIVISION ONE OF  
14 THIS SECTION, AND THE GOVERNING BODY OF THE LOCAL GOVERNMENT HAS ENACTED  
15 A RESOLUTION IMPLEMENTING THE INSTANT RUNOFF VOTING METHOD.

16 S 18-104. INSTANT RUNOFF VOTING METHOD; BALLOTS. 1. FOR OFFICES  
17 SUBJECT TO THE INSTANT RUNOFF VOTING METHOD, THE BALLOT SHALL BE SIMPLE  
18 AND EASY TO UNDERSTAND AND ALLOW A VOTER TO RANK CANDIDATES FOR AN  
19 OFFICE IN ORDER OF CHOICE. A VOTER MAY INCLUDE NO MORE THAN ONE WRITE-IN  
20 CANDIDATE AMONG THAT VOTER'S RANKED CHOICES FOR EACH OFFICE. IF FEASI-  
21 BLE, BALLOTS SHALL BE DESIGNED SO THAT A VOTER MAY MARK THAT VOTER'S  
22 FIRST CHOICES IN THE SAME MANNER AS THAT FOR OFFICES NOT ELECTED BY THE  
23 INSTANT RUNOFF VOTING METHOD.

24 2. INSTRUCTIONS ON THE BALLOT SHALL CONFORM SUBSTANTIALLY TO THE  
25 FOLLOWING SPECIFICATIONS, ALTHOUGH SUBJECT TO MODIFICATION, BASED ON  
26 BALLOT DESIGN AND VOTING MACHINE:

27 "VOTE FOR CANDIDATES BY INDICATING YOUR FIRST-CHOICE CANDIDATES IN  
28 ORDER OF PREFERENCE. INDICATE YOUR FIRST CHOICE BY MARKING THE NUMBER  
29 "1" BESIDE A CANDIDATE'S NAME, YOUR SECOND CHOICE BY MARKING THE NUMBER  
30 "2" BESIDE A CANDIDATE'S NAME, YOUR THIRD CHOICE BY MARKING THE NUMBER  
31 "3" BESIDE A CANDIDATE'S NAME AND SO ON, FOR AS MANY CHOICES AS YOU  
32 WISH. YOU MAY CHOOSE TO RANK ONLY ONE CANDIDATE, BUT RANKING ADDITIONAL  
33 CANDIDATES WILL NOT HURT THE CHANCES OF YOUR FIRST-CHOICE CANDIDATE. DO  
34 NOT MARK THE SAME NUMBER BESIDE MORE THAN ONE CANDIDATE. DO NOT SKIP  
35 NUMBERS."

36 3. A SAMPLE BALLOT FOR AN OFFICE SUBJECT TO THE INSTANT RUNOFF VOTING  
37 METHOD SHALL ILLUSTRATE THE VOTING PROCEDURE FOR THE INSTANT RUNOFF  
38 VOTING METHOD. SUCH A SAMPLE BALLOT SHALL BE INCLUDED WITH EACH ABSENTEE  
39 BALLOT.

40 4. THE APPROPRIATE ELECTION OFFICIAL FOR A LOCAL GOVERNMENT WHERE THE  
41 INSTANT RUNOFF VOTING METHOD HAS BEEN AUTHORIZED BY SAID LOCAL GOVERN-  
42 MENT SHALL INSURE THAT THE NECESSARY VOTING SYSTEM, VOTE TABULATION  
43 SYSTEM, OR OTHER SIMILAR OR RELATED EQUIPMENT SHALL BE AVAILABLE TO  
44 ACCOMMODATE THE INSTANT RUNOFF VOTING METHOD.

45 S 18-106. INSTANT RUNOFF VOTING METHOD; PROCEDURES. THE FOLLOWING  
46 PROCEDURES SHALL APPLY IN DETERMINING THE WINNER IN AN ELECTION FOR AN  
47 OFFICE SUBJECT TO THE INSTANT RUNOFF VOTING METHOD:

48 1. THE FIRST CHOICE MARKED ON EACH BALLOT SHALL BE COUNTED INITIALLY  
49 BY ELECTION OFFICIALS. IF ONE CANDIDATE RECEIVES A MAJORITY OF THE VOTES  
50 CAST, EXCLUDING BLANK AND VOID BALLOTS, THAT CANDIDATE SHALL BE DECLARED  
51 ELECTED.

52 2. IF NO CANDIDATE RECEIVES A MAJORITY OF FIRST-CHOICE VOTES CAST AT  
53 THE END OF THE INITIAL COUNT, THE CANDIDATE RECEIVING THE FEWEST FIRST-  
54 CHOICE VOTES SHALL BE ELIMINATED. EACH VOTE CAST FOR THE ELIMINATED  
55 CANDIDATE SHALL BE TRANSFERRED TO THE CANDIDATE WHO WAS THE VOTER'S NEXT  
56 CHOICE ON THE BALLOT.

1 3. CANDIDATES WITH THE FEWEST VOTES SHALL CONTINUE TO BE ELIMINATED,  
2 WITH THE VOTES FOR SUCH CANDIDATES TRANSFERRED TO THE CANDIDATE WHO WAS  
3 EACH VOTER'S NEXT CHOICE ON THE BALLOT UNTIL A CANDIDATE RECEIVES A  
4 MAJORITY OF THE VOTES CAST, EXCLUDING BLANK AND VOID BALLOTS. WHEN A  
5 CANDIDATE RECEIVES A MAJORITY OF THE VOTES CAST, THAT CANDIDATE SHALL BE  
6 DECLARED ELECTED.

7 4. IF A BALLOT HAS NO MORE AVAILABLE CHOICES RANKED ON IT, THAT BALLOT  
8 SHALL BE DECLARED EXHAUSTED. WHERE A BALLOT SKIPS ONE OR MORE NUMBERS,  
9 THAT BALLOT SHALL BE DECLARED EXHAUSTED WHEN THE SKIPPING OF NUMBERS IS  
10 REACHED. A BALLOT WITH THE SAME NUMBER FOR TWO OR MORE CANDIDATES SHALL  
11 BE DECLARED EXHAUSTED WHEN THESE DOUBLE NUMBERS ARE REACHED.

12 5. IN THE CASE OF A TIE BETWEEN CANDIDATES FOR LAST PLACE, AND THUS  
13 ELIMINATION, OCCURRING AT ANY STAGE IN THE TABULATION, THE TIE SHALL BE  
14 RESOLVED SO AS TO ELIMINATE THE CANDIDATE WHO RECEIVED THE LEAST NUMBER  
15 OF VOTES AT THE PREVIOUS STAGE OF TABULATION. IN THE CASE OF A TIE TO  
16 WHICH A PREVIOUS STAGE DOES NOT APPLY, OR SUCH PREVIOUS STAGE WAS ALSO A  
17 TIE, THE TIE SHALL BE RESOLVED BY DRAWING LOTS. HOWEVER, IF THE TIE  
18 OCCURS WHEN THERE ARE ONLY TWO CANDIDATES REMAINING, THE TIE SHALL BE  
19 RESOLVED IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER.

20 S 18-108. VOTER EDUCATION. WHERE A LOCAL GOVERNMENT SHALL PASS A  
21 RESOLUTION AUTHORIZING THE INSTANT RUNOFF VOTING METHOD, THE GOVERNING  
22 BODY SHALL CONDUCT A VOTER EDUCATION CAMPAIGN ON THE INSTANT RUNOFF  
23 VOTING SYSTEM TO FAMILIARIZE VOTERS WITH THE BALLOT DESIGN, METHOD OF  
24 VOTING, AND ADVANTAGES OF DETERMINING A MAJORITY WINNER IN A SINGLE  
25 ELECTION. THE GOVERNING BODY SHALL USE PUBLIC SERVICE ANNOUNCEMENTS, AS  
26 WELL AS SEEK OTHER MEDIA COOPERATION TO THE MAXIMUM EXTENT PRACTICABLE.

27 S 18-110. CONSTRUCTION. ALL ELECTIONS HELD BY THE INSTANT RUNOFF  
28 VOTING METHOD PURSUANT TO THIS TITLE SHALL BE SUBJECT TO ALL THE OTHER  
29 PROVISIONS OF THIS CHAPTER AND ALL OTHER APPLICABLE LAWS RELATING TO  
30 ELECTIONS, SO FAR AS IS APPLICABLE AND NOT INCONSISTENT WITH THIS CHAP-  
31 TER.

32 S 3. Severability. If any provision of this act or the application  
33 thereof shall for any reason be adjudged by any court of competent  
34 jurisdiction to be invalid, such judgment shall not affect, impair, or  
35 invalidate the remainder of this act, but shall be confined in its oper-  
36 ation to the provision thereof directly involved in the controversy in  
37 which such judgment shall have been rendered.

38 S 4. This act shall take effect immediately, and shall expire December  
39 31, 2014 when upon such date the provisions of this act shall be deemed  
40 repealed.