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

631

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

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

AN ACT to amend the election law, in relation to the jurisdiction of the supreme court to hear cases involving disputed results of general and special elections

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

Section 1. Section 16-102 of the election law, as amended by chapter 373 of the laws of 1978, subdivision 2 as amended by chapter 79 of the laws of 1992 and subdivision 4 as added by chapter 135 of the laws of 1986, is amended to read as follows:

S 16-102. Proceedings as to designations and nominations, primary, SPECIAL AND GENERAL elections, etc. 1. The nomination or designation of any candidate for any public office or party position or any independent nomination, or the holding of an uncontested primary election, by reason of a petition for an opportunity to ballot having been filed, or the election of any person to any party position OR PUBLIC OFFICE AT ANY PRIMARY, SPECIAL OR GENERAL ELECTION may be contested in a proceeding instituted in the supreme court by any aggrieved candidate, or by the chairman of any party committee or by a person who shall have filed objections, as provided in this chapter, except that the chairman of a party committee may not bring a proceeding with respect to a designation or the holding of an otherwise uncontested primary.

2. A proceeding with respect to a petition shall be instituted within fourteen days after the last day to file the petition, or within three business days after the officer or board with whom or which such petition was filed, makes a determination of invalidity with respect to such petition, whichever is later; except that a proceeding with respect to a petition for a village election or an independent nomination for a special election shall be instituted within seven days after the last

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

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day to file the petition for such village election or independent nomination or within three business days after the officer or board with whom or which such petition was filed, makes a determination of invalidity with respect to such petition, whichever is later. A proceeding with respect to a primary, SPECIAL OR GENERAL ELECTION, convention, meeting of a party committee, or caucus shall be instituted within ten days after the holding of such [primary] ELECTION or convention or the filing of the certificate of nominations made at such caucus or meeting of a party committee.

3. The court may direct reassembling of any convention or the holding of a new primary election, or caucus where it finds there has been such fraud or irregularity as to render impossible a determination as to who rightfully was nominated or elected. IN THE CASE OF A PROCEEDING WITH RESPECT TO A SPECIAL OR GENERAL ELECTION, THE COURT SHALL FINALLY DETERMINE WHO WAS RIGHTFULLY ELECTED; PROVIDED, HOWEVER, THAT WHEN SUCH A DETERMINATION CANNOT BE MADE, THE COURT MAY DIRECT THE HOLDING OF A NEW ELECTION.

4. A final order in any proceeding involving the names of candidates on ballots or voting machines shall be made, if possible, at least five weeks before the day of the election at which such ballots or voting machines are to be used, or if such proceeding is commenced within five weeks of such election, no later than the day following the day on which the case is heard.

S 2. This act shall take effect immediately.