

8074

2009-2010 Regular Sessions

I N A S S E M B L Y

May 4, 2009

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

AN ACT to amend the election law, in relation to identifying the sources of campaign telephone canvasses or "push polls"

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

1 Section 1. Subdivision 1 of section 3-106 of the election law, as
2 amended by chapter 8 of the laws of 1978 and as redesignated by chapter
3 9 of the laws of 1978, is amended to read as follows:
4 1. (A) In addition to the powers and duties elsewhere enumerated in
5 this article, the state board of elections, after public hearings, shall
6 adopt a "fair campaign code" [setting] WHICH SHALL SET forth ethical
7 standards of conduct for persons, political parties and committees
8 engaged in election campaigns including, but not limited to, specific
9 prohibitions against practices of political espionage and other political
10 practices [involving] WHICH INVOLVE subversion of the political
11 parties and process, SUCH AS, BUT NOT LIMITED TO, THE MISREPRESENTATION
12 OF THE CRIMINAL RECORD OR BACKGROUND, MORAL TURPITUDE, CHARACTER, VOTING
13 RECORD OR OTHER SPECIFIC ACTS OR OMISSIONS OF A CANDIDATE, TO A POTENTIAL
14 VOTER, BY MEANS OF PERSONAL CONTACT OR TELEPHONE CANVASS FROM A
15 LIST OF NAMES OF POTENTIAL VOTERS NOT DERIVED FROM A SCIENTIFICALLY
16 MEASURABLE AND RANDOM SAMPLING TECHNIQUE AND WHICH CONTACT OR CANVASS IS
17 DESIGNED TO PERSUADE VOTERS RATHER THAN TO GATHER A RANDOM SAMPLE OF
18 OPINION, AS A FOUNDATION FOR ASKING A POTENTIAL VOTER IN ONE OR MORE
19 CANVASS QUESTIONS OR CANVASS SAMPLINGS WHICH ARE SPECIFICALLY DIRECTED
20 AT PERSUADING A VOTER RATHER THAN AT GATHERING A RANDOM SAMPLE OF OPINION,
21 AND CONDUCTED IN PERSON OR BY TELEPHONE HIS OR HER OPINION OR HOW
22 HE OR SHE WILL VOTE, AND SPECIFIC REQUIREMENTS TO DISCLOSE THE TRUE
23 IDENTITY OF THE CALLER AND BY WHOM THE CANVASS WAS COMMISSIONED AND BY
24 WHOM IT IS CONDUCTED, SPONSORED AND PAID, AND IF PAID FOR OR SPONSORED
25 BY ONE OR MORE CANDIDATES OR BY A POLITICAL COMMITTEE SUPPORTING ONE OR

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

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1 MORE CANDIDATES, REQUIRING THAT FACT AND THEIR IDENTITIES TO BE
2 DISCLOSED TO THE POTENTIAL VOTER.

3 (B) NO CANDIDATE, POLITICAL PARTY OR COMMITTEE SHALL ATTEMPT TO
4 PROMOTE THE SUCCESS OR DEFEAT OF A CANDIDATE BY, DIRECTLY OR INDIRECTLY,
5 DISCLOSING OR CAUSING TO BE DISCLOSED, THE RESULTS OF ANY CANVASS OR
6 POLL RELATING TO A CANDIDATE FOR SUCH OFFICE OR POSITION, UNLESS WITHIN
7 FORTY-EIGHT HOURS AFTER SUCH DISCLOSURE, THEY PROVIDE THE FOLLOWING
8 INFORMATION CONCERNING THE CANVASS OR POLL TO THE BOARD OR OFFICER WITH
9 WHOM STATEMENTS OR COPIES OF STATEMENTS OF CAMPAIGN RECEIPTS AND EXPEND-
10 ITURES ARE REQUIRED TO BE FILED BY THE CANDIDATE TO WHOM SUCH CANVASS OR
11 POLL RELATES:

12 (I) THE NAME OF THE PERSON, PARTY OR ORGANIZATION THAT CONTRACTED FOR
13 OR WHOM COMMISSIONED THE CANVASS OR POLL AND/OR PAID FOR IT.

14 (II) THE NAME AND ADDRESS OF THE ORGANIZATION THAT CONDUCTED THE
15 CANVASS OR POLL.

16 (III) THE NUMERICAL SIZE OF THE TOTAL CANVASS OR POLL SAMPLE, THE
17 GEOGRAPHIC AREA COVERED BY THE CANVASS OR POLL AND ANY SPECIAL CHARAC-
18 TERISTICS OF THE POPULATION INCLUDED IN THE CANVASS OR POLL SAMPLE.

19 (IV) THE EXACT WORDING OF THE QUESTIONS ASKED IN THE CANVASS OR POLL
20 AND THE SEQUENCE OF SUCH QUESTIONS.

21 (V) THE METHOD OF CANVASSING OR POLLING WHETHER BY PERSONAL INTERVIEW,
22 TELEPHONE, MAIL OR OTHER.

23 (VI) THE TIME PERIOD DURING WHICH THE CANVASS OR POLL WAS CONDUCTED.

24 (VII) THE NUMBER OF PERSONS IN THE CANVASS OR POLL SAMPLE; THE NUMBER
25 CONTACTED WHO RESPONDED TO EACH SPECIFIC CANVASS OR POLL QUESTION; THE
26 NUMBER OF PERSONS CONTACTED WHO DID NOT SO RESPOND.

27 (VIII) THE RESULTS OF THE CANVASS OR POLL.

28 S 2. Section 14-106 of the election law, as amended by chapter 8 of
29 the laws of 1978, is amended to read as follows:

30 S 14-106. Political advertisements and literature. The statements
31 required to be filed under the provisions of this article next succeed-
32 ing a primary, general or special election shall be accompanied by a
33 facsimile or copy of all advertisements, pamphlets, circulars, flyers,
34 brochures, letterheads and other printed matter purchased or produced
35 and a schedule of all radio or television time, AND OF ANY CANVASSING
36 DESIGNED OR SPECIFICALLY DIRECTED TO PERSUADE POTENTIAL VOTERS AND
37 CONDUCTED EITHER IN PERSON OR BY TELEPHONE, AS DESCRIBED IN PARAGRAPH
38 (A) OF SUBDIVISION ONE OF SECTION 3-106 OF THIS CHAPTER, and scripts
39 used therein, purchased in connection with such election by or under the
40 authority of the person filing the statement or the committee or the
41 person on whose behalf it is filed, as the case may be. Such facsimiles,
42 copies, schedules and scripts shall be preserved by the officer with
43 whom or the board with which it is required to be filed for a period of
44 one year from the date of filing thereof.

45 S 3. The election law is amended by adding a new section 17-153 to
46 read as follows:

47 S 17-153. UNLAWFUL CANVASSING. IT SHALL BE UNLAWFUL FOR ANY CANDI-
48 DATE, POLITICAL COMMITTEE OR CONSTITUTED COMMITTEE, OR FOR AN AGENT OR
49 EMPLOYEE OF, OR CONTRACTOR OR FIRM HIRED BY, ANY OF THE FOREGOING, OR
50 FOR ANY OTHER COMMITTEE, ASSOCIATION, PARTNERSHIP, CORPORATION, CAMPAIGN
51 WORKER OR VOLUNTEER OR OTHER PERSON, TO INITIATE, COMMISSION, SPONSOR OR
52 PARTICIPATE IN A CANVASS CONDUCTED EITHER IN PERSON OR BY TELEPHONE FROM
53 A LIST OF NAMES OF POTENTIAL VOTERS NOT DERIVED FROM A SCIENTIFICALLY
54 MEASURABLE AND RANDOM SAMPLING TECHNIQUE AND WHICH CONTACT OR CANVASS IS
55 DESIGNED TO PERSUADE VOTERS RATHER THAN TO GATHER A RANDOM SAMPLE OF
56 OPINION, OF POTENTIAL VOTERS RESPECTING ONE OR MORE OF SUCH VOTER'S

1 PREFERENCES AMONG CANDIDATES OR FOR WHOM SUCH VOTER WILL VOTE, OR SOLIC-
2 ITING SUCH VOTER'S OPINION ON A CAMPAIGN ISSUE, PRECEDED BY ONE OR MORE
3 MISREPRESENTATIONS FROM THE KINDS DESCRIBED IN PARAGRAPH (A) OF SUBDIVI-
4 SION ONE OF SECTION 3-106 OF THIS CHAPTER, IN ANY INSTANCE IN CONNECTION
5 WITH A SUBSEQUENT PRIMARY, GENERAL, SPECIAL OR SCHOOL BOARD ELECTION TO
6 BE HELD WITHIN THIS STATE UNLESS AT THE BEGINNING OF THE EXECUTION OF
7 THE CANVASS, THE PERSON IN DIRECT CONTACT WITH THE POTENTIAL VOTER IDEN-
8 TIFIES TO THE POTENTIAL VOTER THE TRUE NAME OF THE SPONSOR OR SOURCE, OF
9 THE CANVASS, INCLUDING THE TRUE NAME, IF ANY, OF THE SPECIFIC CANDIDATE
10 OR COMMITTEE SUPPORTING A CANDIDATE ON BEHALF OF WHOM THE PERSON IN
11 DIRECT CONTACT WITH THE POTENTIAL VOTER WILL BE ASKING QUESTIONS OR
12 IMPARTING INFORMATION; AND, IF THE NAME OF THE COMMITTEE OR OTHER ENTITY
13 OR PERSON WHICH HAS OR WHO HAS INITIATED, COMMISSIONED, SPONSORED OR
14 PARTICIPATED IN THE TELEPHONE OR IN-PERSON CANVASS OF POTENTIAL VOTERS
15 DOES NOT INCLUDE THE NAME OF THE CANDIDATE AFFILIATED WITH OR SUPPORTED
16 BY SUCH COMMITTEE, OTHER ENTITY OR PERSON, THEN THE CANDIDATE'S NAME
17 MUST BE DISCLOSED AT THE BEGINNING OF THE EXECUTION OF SUCH CANVASS, IN
18 ADDITION TO THE NAME OF SUCH COMMITTEE, OTHER ENTITY OR PERSON.

19 ANY CANDIDATE, POLITICAL COMMITTEE OR CONSTITUTED COMMITTEE, OR AGENT
20 OR EMPLOYEE OF, OR CONTRACTOR OR FIRM HIRED BY, ANY OF THE FOREGOING, OR
21 ANY OTHER COMMITTEE, ASSOCIATION, PARTNERSHIP, CORPORATION, CAMPAIGN
22 WORKER OR VOLUNTEER OR OTHER PERSON, WHO OR WHICH VIOLATES ANY OF THE
23 FOREGOING PROVISIONS OF THIS SECTION SHALL BE GUILTY OF A CLASS A MISDE-
24 MEANOR, WHICH SHALL BE PUNISHABLE AS PROVIDED IN THE PENAL LAW NOTWITH-
25 STANDING THE PROVISIONS OF SECTION 17-166 OF THIS ARTICLE.

26 S 4. This act shall take effect on the first of December next succeed-
27 ing the date on which it shall have become a law, provided, however,
28 that effective immediately, the addition, amendment and repeal of any
29 rules and regulations necessary for the implementation of this act on
30 its effective date are authorized and directed to be made and completed
31 on or before such effective date.