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

6398--A

2011-2012 Regular Sessions

I N A S S E M B L Y

March 16, 2011

Introduced by M. of A. KAVANAGH, LUPARDO, STEVENSON, THIELE, LIFTON -- Multi-Sponsored by -- M. of A. P. RIVERA -- read once and referred to the Committee on Election Law -- 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

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:

Section 1. Legislative findings. The current system of voting often results in the election of a candidate that does not have the majority support of the electorate when there are three or more candidates running for an elective office. Further, where there are three or more candidates for an elective office, voters often will not vote for their preferred candidate to avoid "wasting" their vote on a "spoiler" candidate. Rather, they will vote against a candidate they dislike, by voting for a leading candidate that they perceive as the lesser of two evils. The result of the current system in multi-candidate races can be the election of candidates that lack majority support.

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

There are several potential benefits to the instant runoff voting method. First, voters are free to mark their ballot for the candidate

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

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

The instant runoff voting method has been the subject of increasing interest across the nation. It has already been adopted by local referenda in California, Vermont, and Massachusetts. It is under consideration in many other states.

It is the purpose of this act to permit the use of the instant runoff voting method on a trial basis in certain local elections at the option of local governments in the years 2012, 2013 and 2014. This pilot program would permit the state legislature to evaluate the broader application of the instant runoff voting method to elections in New York state.

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

ARTICLE 18
INSTANT RUNOFF VOTING METHOD

SECTION 18-100. DEFINITIONS.
18-102. INSTANT RUNOFF VOTING METHOD AUTHORIZED IN CERTAIN CASES.
18-104. INSTANT RUNOFF VOTING METHOD; BALLOTS.
18-106. INSTANT RUNOFF VOTING METHOD; PROCEDURES.
18-108. VOTER EDUCATION.
18-110. CONSTRUCTION.

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

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

S 18-102. INSTANT RUNOFF VOTING METHOD AUTHORIZED IN CERTAIN CASES. 1. FOR ELECTIONS TO BE HELD IN THE YEARS TWO THOUSAND THIRTEEN, TWO THOUSAND FOURTEEN, AND TWO THOUSAND FIFTEEN, LOCAL GOVERNMENTS ARE HEREBY AUTHORIZED TO CONDUCT ELECTIONS UTILIZING THE INSTANT RUNOFF VOTING METHOD FOR THE FOLLOWING ELECTIONS: (A) MEMBER OF THE BOARD OF EDUCATION IN THE CASE OF A SCHOOL DISTRICT, (B) COUNTY EXECUTIVE AND COUNTY LEGISLATOR IN THE CASE OF A COUNTY, (C) MAYOR, MEMBER OF CITY COUNCIL, PUBLIC ADVOCATE, COMPTROLLER, AND BOROUGH PRESIDENT, IN THE CASE OF A CITY, (D) TOWN SUPERVISOR AND MEMBER OF TOWN COUNCIL IN THE CASE OF A TOWN, AND (E) MAYOR AND VILLAGE TRUSTEE IN THE CASE OF A VILLAGE. "ELECTION" SHALL INCLUDE THE GENERAL ELECTION AND PRIMARY, WHERE APPLICABLE.

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

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

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

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

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

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

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

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

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

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

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

3. CANDIDATES WITH THE FEWEST VOTES SHALL CONTINUE TO BE ELIMINATED, WITH THE VOTES FOR SUCH CANDIDATES TRANSFERRED TO THE CANDIDATE WHO WAS

EACH VOTER'S NEXT CHOICE ON THE BALLOT UNTIL A CANDIDATE RECEIVES A MAJORITY OF THE VOTES CAST, EXCLUDING BLANK AND VOID BALLOTS. WHEN A CANDIDATE RECEIVES A MAJORITY OF THE VOTES CAST, THAT CANDIDATE SHALL BE DECLARED ELECTED.

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

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

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

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

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

S 4. This act shall take effect immediately, and shall expire December 31, 2017 when upon such date the provisions of this act shall be deemed repealed.