

2414

2011-2012 Regular Sessions

I N S E N A T E

January 20, 2011

Introduced by Sens. PERKINS, ADAMS, ADDABBO -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

AN ACT to amend the election law, the municipal home rule law and the administrative code of the city of New York, in relation to the determination of a winner of a primary election; and to repeal certain provisions of the election law and the administrative code of the city of New York relating thereto

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

1 Section 1. Section 6-160 of the election law is amended by adding a
2 new subdivision 3 to read as follows:
3 3. THE INDIVIDUAL WHO RECEIVES THE HIGHEST PERCENTAGE OF THE TOTAL
4 VOTES CAST AT THE PRIMARY SHALL BE DEEMED THE WINNER OF THE PRIMARY.
5 S 2. Section 6-162 of the election law is REPEALED.
6 S 3. Paragraph (b) of subdivision 1 of section 8-100 of the election
7 law is REPEALED and paragraph (c), as relettered by chapter 373 of the
8 laws of 1978, is relettered paragraph (b).
9 S 4. Paragraph d of subdivision 1 of section 15-104 of the election
10 law, as amended by chapter 684 of the laws of 2006, is amended to read
11 as follows:
12 d. Except as otherwise provided by law, to be elected in a village
13 election, a candidate must receive more votes than any other candidate
14 for the office. In the event of a tie at a village election, [a run-off
15 election shall be conducted pursuant to the provisions of section 15-126
16 of this article; provided, however, that if all candidates receiving an
17 equal number of votes agree to waive a run-off election,] the election
18 shall be determined according to the provisions of paragraph [d] B of
19 subdivision two of section 15-126 of this article.
20 S 5. Subdivision 2 of section 15-126 of the election law, as amended
21 by chapter 684 of the laws of 2006, is amended to read as follows:

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

LBD07177-01-1

1 2. a. The person or persons eligible and receiving the highest number
2 of votes for an office shall be elected thereto.

3 b. In the event that more eligible persons than the number remaining
4 to be elected receive for the same office or offices an equal number of
5 votes, the [board of trustees shall conduct a run-off election. Such
6 run-off election shall be held on the first Tuesday at least ten days
7 after the final certification of such tie result, subject to the
8 provisions of paragraph b of subdivision three of section 15-104 of this
9 article, provided, however, that the only persons who shall be deemed
10 nominated shall be those persons who shall have received such equal
11 number of votes. The order of the candidates names on the ballot shall
12 be determined by a drawing conducted by a village clerk, in the presence
13 of all those persons who received such equal number of votes, or a
14 representative of such persons.

15 c. Such run-off election may be waived and the selection made by lot
16 as otherwise provided by this section if each person who shall have
17 received such equal number of votes shall file with the village clerk,
18 no later than two days after such final certification of such tie
19 result, a written notice of consent that such selection be made by lot.

20 d. If a waiver of such run-off election shall occur, the] village
21 clerk, no later than two days after receiving written notice [of consent
22 that such selection be made by lot], shall certify such facts in writing
23 to any supreme court justice within the judicial district in which such
24 village is located and shall within three days summon the candidates
25 before him or her and he or she shall by lot determine which of them
26 shall be elected.

27 S 6. Section 16-116 of the election law is amended to read as follows:

28 S 16-116. Proceedings; provisions in relation thereto. A special
29 proceeding under the foregoing provisions of this article shall be heard
30 upon a verified petition and such oral or written proof as may be
31 offered, and upon such notice to such officers, persons or committees as
32 the court or justice shall direct, and shall be summarily determined.
33 The proceeding shall have preference over all other causes in all
34 courts. The petition in any such proceeding instituted by the state or
35 other board of elections shall be verified by the persons specified in
36 accordance with rules promulgated by the state board of elections. [In
37 the city of New York, a proceeding relating to a run-off primary brought
38 pursuant to this article shall have first preference over all other
39 proceedings.]

40 S 7. Paragraph f of subdivision 1 of section 11 of the municipal home
41 rule law, as amended by chapter 21 of the laws of 1992, is amended to
42 read as follows:

43 f. Applies to or affects any provision of paragraph [(c)] (B) of
44 subdivision one of section 8-100 of the election law, the labor law,
45 sections two, three and four of chapter one thousand eleven of the laws
46 of nineteen hundred sixty-eight, entitled "An act in relation to the
47 maximum hours of labor of certain municipal and fire district firemen
48 and the holidays of firemen and policemen, repealing certain sections of
49 the labor law relating thereto, and to amend the municipal home rule
50 law, in relation thereto," as amended, the volunteer [firemen's] FIRE-
51 FIGHTERS' benefit law, or the [workmen's] WORKERS' compensation law or
52 changes any provision of the multiple residence law or the multiple
53 dwelling law, except that in a city of one million persons or more, the
54 provisions of local law for the enforcement of the housing code which is
55 not less restrictive than the multiple dwelling law may be applied in
56 the enforcement of the multiple dwelling law.

1 S 8. Subdivision 10 of section 3-702 of the administrative code of the
2 city of New York, as amended by local law number 12 of the city of New
3 York for the year 2003, is amended to read as follows:

4 10. The term "covered election" shall mean any primary, [run-off
5 primary,] special[, run-off special] or general election for nomination
6 for election, or election, to the office of mayor, public advocate,
7 comptroller, borough president or member of the city council.

8 S 9. Paragraph (f) of subdivision 1 of section 3-703 of the adminis-
9 trative code of the city of New York, as amended by local law number 105
10 of the city of New York for the year 2005, is amended to read as
11 follows:

12 (f) not accept and his or her principal committee or authorized
13 committees must not accept, either directly or by transfer, any contrib-
14 ution or contributions from any one individual, partnership, political
15 committee, labor organization or other entity for all covered elections
16 held in the same calendar year in which he or she is a participating
17 candidate or a non-participating candidate which in the aggregate: (i)
18 for the office of mayor, public advocate or comptroller shall exceed
19 four thousand five hundred dollars, or (ii) for borough president, shall
20 exceed three thousand five hundred dollars, or (iii) for member of the
21 city council, shall exceed two thousand five hundred dollars; provided
22 that a participating candidate and his or her principal committee or a
23 non-participating candidate and his or her authorized committees may
24 accept additional contributions which do not exceed one half the amount
25 of the applicable limitation for any [run-off primary election,] addi-
26 tional day for voting held pursuant to section 3-108 of the New York
27 state election law, special election to fill a vacancy, [run-off special
28 election to fill a vacancy,] delayed or otherwise postponed election, or
29 election held pursuant to court order which is a covered election and in
30 which the candidate seeks nomination for election or election; and
31 provided further that for the purposes of this paragraph, contributions
32 made by different labor organizations shall not be aggregated or treated
33 as contributions from a single contributor for purposes of the contrib-
34 ution limit that is set forth in this paragraph if those labor organiza-
35 tions make contributions from different accounts, maintain separate
36 accounts with different signatories, do not share a majority of members
37 of their governing boards, and do not share a majority of the officers
38 of their governing boards; and provided further that if state law
39 prescribes a contribution limitation of a lesser amount, this paragraph
40 shall not be deemed to authorize acceptance of a contribution in excess
41 of such lesser amount. The maximum contributions set forth in this
42 paragraph shall be adjusted in accordance with subdivision seven of this
43 section;

44 S 10. Subdivision 1-a of section 3-703 of the administrative code of
45 the city of New York, as amended by local law number 67 of the city of
46 New York for the year 2007, is amended to read as follows:

47 1-a. Notwithstanding any inconsistent provision of this section, a
48 participating candidate or his or her principal committee may not
49 accept, either directly or by transfer, any contribution or contrib-
50 utions for a covered election in which he or she is a participating
51 candidate from a natural person who has business dealings with the city,
52 as that term is defined in subdivision eighteen of section 3-702 of this
53 chapter, if the aggregate of such contributions to such candidate from
54 such person for all covered elections in the same calendar year exceeds:
55 (i) for the office of mayor, public advocate or comptroller four hundred
56 dollars; (ii) for borough president three hundred twenty dollars; and

1 (iii) for member of the city council two hundred fifty dollars; provided
2 that a participating candidate or his or her principal committee may
3 accept additional contributions which do not exceed one half the amount
4 of the applicable limitation for any [run-off primary election,] addi-
5 tional day for voting held pursuant to section 3-108 of the New York
6 state election law, special election to fill a vacancy, [run-off special
7 election to fill a vacancy,] delayed or otherwise postponed election, or
8 election held pursuant to court order which is a covered election and in
9 which the candidate seeks nomination for election or election. Any
10 contribution made pursuant to this section shall not be a matchable
11 contribution. For purposes of this subdivision, "person" shall include
12 any chief executive officer, chief financial officer and/or chief oper-
13 ating officer of an entity which has business dealings with the city,
14 any person employed in a senior managerial capacity regarding such an
15 entity, or any person with an interest in such an entity which exceeds
16 ten percent of the entity. For purposes of this subdivision, the phrase
17 "senior managerial capacity" shall mean a high level supervisory capaci-
18 ty, either by virtue of title or duties, in which substantial discretion
19 and oversight is exercised over the solicitation, letting or adminis-
20 tration of business transactions with the city, including contracts,
21 franchises, concessions, grants, economic development agreements and
22 applications for land use approvals. Notwithstanding any provision of
23 this subdivision, the limitations on contributions contained herein
24 shall not apply to any contribution made by a natural person who has
25 business dealings with the city to a participating candidate or his or
26 her principal committee where such participating candidate is the
27 contributor, or where such participating candidate is the contributor's
28 parent, spouse, domestic partner, sibling, child, grandchild, aunt,
29 uncle, cousin, niece or nephew by blood or by marriage.

30 S 11. Subdivision 5 of section 3-705 of the administrative code of the
31 city of New York is REPEALED.

32 S 12. Paragraph (b) of subdivision 1 of section 3-706 of the adminis-
33 trative code of the city of New York, as amended by local law number 34
34 of the city of New York for the year 2007, is amended to read as
35 follows:

36 (b) [(i) The expenditure limitation in a run-off primary election held
37 pursuant to section 6-162 of the New York state election law or a run-
38 off special election held to fill a vacancy shall be one half the amount
39 of the applicable limitation provided for an election for such office
40 pursuant to the provisions of paragraph (a) of this subdivision.

41 (ii)] The board shall promulgate rules to provide for a separate
42 expenditure limit applicable to campaign expenditures for an additional
43 day for voting held pursuant to section 3-108 of the New York state
44 election law, an election held pursuant to court order, or a delayed or
45 otherwise postponed election.

46 S 13. Subdivision 3 of section 3-706 of the administrative code of the
47 city of New York, as amended by local law number 58 of the city of New
48 York for the year 2004, subparagraph (iii) of paragraph (a) and subpara-
49 graph (iii) of paragraph (b) as amended by local law number 67 of the
50 city of New York for the year 2007, is amended to read as follows:

51 3. (a) If any candidate in any covered election chooses not to file a
52 certification as a participating or limited participating candidate
53 pursuant to this chapter, and where the campaign finance board has
54 determined that such candidate and his or her authorized committees have
55 spent or contracted or have obligated to spend, or received in loans or
56 contributions, or both, an amount which, in the aggregate, exceeds half

1 the applicable expenditure limit for such office fixed by subdivision
2 one of this section, then:

3 (i) such expenditure limit applicable to participating candidates and
4 limited participating candidates in such election for such office shall
5 be increased to one hundred fifty percent of such limit; and

6 (ii) the principal committees of such participating candidates shall
7 receive payment for qualified campaign expenditures of five dollars for
8 each one dollar of matchable contributions, up to one thousand two
9 hundred fifty dollars in public funds per contributor (or up to six
10 hundred twenty five dollars in public funds per contributor in the case
11 of a special election); provided, however, that [(A) participating
12 candidates in a run-off election shall receive public funds for such
13 election pursuant to subdivision five of section 3-705 and shall not
14 receive any additional public funds pursuant to this section, and (B)]
15 in no case shall a principal committee receive in public funds an amount
16 exceeding two-thirds of the expenditure limitation provided for such
17 office in subdivision one of this section.

18 (iii) for elections occurring after January first, two thousand eight,
19 the campaign finance board shall promulgate rules to provide that the
20 principal committees of such participating candidates shall receive
21 payment for qualified campaign expenditures that will provide the high-
22 est allowable matchable contribution to be matched by an amount up to
23 one thousand two hundred fifty dollars in public funds per contributor
24 (or up to six hundred twenty five dollars in public funds per contribu-
25 tor in the case of special election); provided, however, that [(A)
26 participating candidates in a run-off election shall receive public
27 funds for such election pursuant to subdivision five of section 3-705
28 and shall not receive any additional public funds pursuant to this
29 section, and (B)] in no case shall a principal committee receive in
30 public funds an amount exceeding two-thirds of the expenditure limita-
31 tion provided for such office in subdivision one of this section.

32 (b) If any candidate in any covered election chooses not to file a
33 certification as a participating or limited participating candidate
34 pursuant to this chapter, and where the campaign finance board has
35 determined that such candidate and his or her authorized committees have
36 spent or contracted or have obligated to spend, or received in loans or
37 contributions, or both, an amount which, in the aggregate, exceeds three
38 times the applicable expenditure limit for such office fixed by subdivi-
39 sion one of this section, then:

40 (i) such expenditure limit shall no longer apply to participating
41 candidates and limited participating candidates in such election for
42 such office; and

43 (ii) the principal committees of such participating candidates shall
44 receive payment for qualified campaign expenditures of six dollars for
45 each one dollar of matchable contributions, up to one thousand five
46 hundred dollars in public funds per contributor (or up to seven hundred
47 fifty dollars in public funds per contributor in the case of a special
48 election); provided, however, that [(A) participating candidates in a
49 run-off election shall receive public funds for such election pursuant
50 to subdivision five of section 3-705 and shall not receive any addi-
51 tional public funds pursuant to this section, and (B)] in no case shall
52 a principal committee receive in public funds an amount exceeding one
53 hundred twenty-five percent of the expenditure limitation provided for
54 such office in subdivision one of this section.

55 (iii) for elections occurring after January first, two thousand eight,
56 the campaign finance board shall promulgate rules to provide that the

1 principal committees of such participating candidates shall receive
2 payment for qualified campaign expenditures that will provide the high-
3 est allowable matchable contribution to be matched by an amount up to
4 one thousand five hundred dollars in public funds per contributor (or up
5 to seven hundred fifty dollars in public funds per contributor in the
6 case of special election); provided, however, that [(A) participating
7 candidates in a run-off election shall receive public funds for such
8 election pursuant to subdivision five of section 3-705 and shall not
9 receive any additional public funds pursuant to this section, and (B)]
10 in no case shall a principal committee receive in public funds an amount
11 exceeding one hundred twenty-five percent of the expenditure limitation
12 provided for such office in subdivision one of this section.

13 S 14. Subdivision 6 of section 3-709 of the administrative code of the
14 city of New York is REPEALED.

15 S 15. Paragraph (b) of subdivision 1 of section 3-709.5 of the admin-
16 istrative code of the city of New York is REPEALED and paragraphs (c)
17 and (d) are relettered paragraphs (b) and (c).

18 S 16. Subdivision 4 of section 3-709.5 of the administrative code of
19 the city of New York, as amended by local law number 58 of the city of
20 New York for the year 2004, is amended to read as follows:

21 4. Organizations which are not affiliated with any political party or
22 with any holder of or candidate for public office, which have not
23 endorsed any candidate in the pending primary, special, OR general[, or
24 run-off] election for the city-wide office shall be eligible to sponsor
25 one or more of the required debates. The rules for conducting such
26 debates shall be solely the responsibility of the organizations selected
27 but shall not be made final without consultation with the campaign
28 finance board. The organizations selected shall be responsible for
29 choosing the date, time and location of the debates.

30 S 17. Subparagraph (ii) of paragraph (b) of subdivision 5 of section
31 3-709.5 of the administrative code of the city of New York, as amended
32 by local law number 34 of the city of New York for the year 2007, is
33 amended to read as follows:

34 (ii) If a debate sponsor has determined that a non-participating
35 candidate has met all the non-partisan, objective, and non-discriminato-
36 ry criteria applicable to participating candidates or limited partic-
37 ipating candidates for access to any of the primary, general, or special
38 election debates, the sponsor may invite that candidate to participate
39 in such debate. [In the case of a run-off primary election or a run-off
40 special election, the sponsor may invite a non-participating candidate
41 to participate in such debate. However, if a non-participating candidate
42 does not accept such invitation to debate or does not appear at such
43 debate, the debate shall go forward as scheduled; provided, however, if
44 there is only one participating candidate or limited participating
45 candidate participating in any such debate, such debate shall be
46 canceled.]

47 S 18. Subdivision 9 of section 3-709.5 of the administrative code of
48 the city of New York, as amended by local law number 58 of the city of
49 New York for the year 2004, is amended to read as follows:

50 9. If a candidate fails to participate in any debate required under
51 this section before an election, the candidate shall be liable for
52 return of any public matching funds previously received pursuant to the
53 certification filed by the candidate in connection with the election for
54 which such debate is held, shall be ineligible to receive any further
55 matching funds for that election, and may be subject to a civil penalty
56 pursuant to section 3-711. For purposes of this subdivision, each prima-

1 ry, general, OR special [or run-off] election shall be considered a
2 separate election.
3 S 19. This act shall take effect immediately.