

5055

2011-2012 Regular Sessions

I N S E N A T E

May 3, 2011

Introduced by Sens. MARTINS, JOHNSON -- read twice and ordered printed,
and when printed to be committed to the Committee on Local Government

AN ACT to amend the town law, in relation to the types of voting
machines used in certain elections; and providing for the repeal of
certain provisions upon expiration thereof

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

1 Section 1. Section 212 of the town law, as amended by chapter 421 of
2 the laws of 2008, is amended to read as follows:
3 S 212. Annual election and notice thereof. The district commissioners
4 of such improvement district shall publish at the expense of the
5 district the notice of each election of improvement district commission-
6 ers held pursuant to this article. Such notice shall be published at
7 least once in one or more newspapers having general circulation in the
8 district and the first publication thereof shall be at least twenty days
9 before the day of such election. The notice of annual election shall
10 specify the time when and the place or places where such election shall
11 be held and the hours during which the polls will be open for the
12 receipt of ballots. Notice of such election shall also be posted on the
13 websites of the district and the town in which the district is located,
14 if such websites are maintained, on the signboard of the town, and
15 conspicuously posted in three or more designated public locations within
16 the district, on or about the day on which such notice is published.
17 Such election shall be held at a suitable place or places within the
18 district designated by the district commissioners and the polls shall
19 remain open from six o'clock in the evening until nine o'clock in the
20 evening and such additional consecutive hours prior thereto as the
21 district commissioners may determine and specify in the notice of such
22 election. The board of commissioners of such district shall designate
23 for each district election not less than two nor more than four resident
24 taxpayers to act as election inspectors and ballot clerks for each

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

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1 designated polling place. The board of commissioners shall fix the
2 compensation of such election inspectors and ballot clerks in an amount
3 not to exceed ten dollars per hour each for every hour or part thereof
4 of such service and such compensation shall be a charge against the
5 district. The board of commissioners shall cause to be prepared the
6 ballots for all elections, and may authorize the use of voting machines
7 [approved by the secretary of state], INCLUDING LEVER VOTING MACHINES,
8 at any annual or special election of the district. WHEN USING VOTING
9 MACHINES AS DESCRIBED IN ARTICLE SEVEN OF THE ELECTION LAW, SUCH VOTING
10 MACHINES SHALL BE USED in accordance with THE PROVISIONS CONTAINED IN
11 article nine of the election law. PROVIDED, HOWEVER, THAT NOTHING IN
12 THIS SECTION SHALL BE CONSTRUED TO REQUIRE THE BOARD OF ELECTIONS TO
13 MAINTAIN THE CARE, CUSTODY OR CONTROL OF LEVER VOTING MACHINES. After
14 the polls shall have been closed at any election, the election inspec-
15 tors and ballot clerks at each polling place shall immediately canvass
16 the ballots cast and shall publicly announce the result of the vote at
17 that polling place. Within twenty-four hours the chairman of the board
18 of commissioners, election inspectors and ballot clerks shall execute
19 and file a certificate of the result of the canvass with the board of
20 commissioners of the improvement district and with the clerk of the town
21 in which said district is located.

22 S 2. Subdivision 29 of section 176 of the town law, as added by chap-
23 ter 568 of the laws of 1949, is amended to read as follows:

24 29. May authorize the use of voting machines, INCLUDING LEVER VOTING
25 MACHINES, at any annual or special election held within the fire
26 district [and]. WHEN USING VOTING MACHINES AS DESCRIBED IN ARTICLE SEVEN
27 OF THE ELECTION LAW, such voting [machine] MACHINES shall be used in
28 accordance with the provisions contained in article nine of the election
29 law. PROVIDED, HOWEVER, THAT NOTHING IN THIS SECTION SHALL BE CONSTRUED
30 TO REQUIRE THE BOARD OF ELECTIONS TO MAINTAIN THE CARE, CUSTODY OR
31 CONTROL OF LEVER VOTING MACHINES.

32 S 3. Section 212 of the town law, as amended by chapter 421 of the
33 laws of 2008, is amended to read as follows:

34 S 212. Annual election and notice thereof. The district commissioners
35 of such improvement district shall publish at the expense of the
36 district the notice of each election of improvement district commission-
37 ers held pursuant to this article. Such notice shall be published at
38 least once in one or more newspapers having general circulation in the
39 district and the first publication thereof shall be at least twenty days
40 before the day of such election. The notice of annual election shall
41 specify the time when and the place or places where such election shall
42 be held and the hours during which the polls will be open for the
43 receipt of ballots. Notice of such election shall also be posted on the
44 websites of the district and the town in which the district is located,
45 if such websites are maintained, on the signboard of the town, and
46 conspicuously posted in three or more designated public locations within
47 the district, on or about the day on which such notice is published.
48 Such election shall be held at a suitable place or places within the
49 district designated by the district commissioners and the polls shall
50 remain open from six o'clock in the evening until nine o'clock in the
51 evening and such additional consecutive hours prior thereto as the
52 district commissioners may determine and specify in the notice of such
53 election. The board of commissioners of such district shall designate
54 for each district election not less than two nor more than four resident
55 taxpayers to act as election inspectors and ballot clerks for each
56 designated polling place. The board of commissioners shall fix the

1 compensation of such election inspectors and ballot clerks in an amount
2 not to exceed ten dollars per hour each for every hour or part thereof
3 of such service and such compensation shall be a charge against the
4 district. The board of commissioners shall cause to be prepared the
5 ballots for all elections, and may authorize the use of voting machines
6 [approved by the secretary of state] at any annual or special election
7 of the district in accordance with article nine of the election law.
8 After the polls shall have been closed at any election, the election
9 inspectors and ballot clerks at each polling place shall immediately
10 canvass the ballots cast and shall publicly announce the result of the
11 vote at that polling place. Within twenty-four hours the chairman of the
12 board of commissioners, election inspectors and ballot clerks shall
13 execute and file a certificate of the result of the canvass with the
14 board of commissioners of the improvement district and with the clerk of
15 the town in which said district is located.

16 S 4. Subdivisions 12 and 13 of section 213-b of the town law, as added
17 by chapter 400 of the laws of 1985, are amended to read as follows:

18 12. If the inspectors of election shall have received an envelope, and
19 upon opening the same no ballot shall be found therein, the inspectors
20 shall make a memorandum showing that the ballot is missing. When the
21 casting of absentee voters' ballots shall have been completed, the
22 inspectors shall ascertain the number of such ballots which have been
23 deposited in the ballot box by deducting from the number of envelopes
24 opened the number of missing ballots, and shall make a separate return
25 thereof in duplicate. The number of absentee voters' ballots deposited
26 in the ballot box shall be added to the number of other ballots deposit-
27 ed in the ballot box in order to determine the number of all ballots to
28 be accounted for in the ballot box. Such ballots shall then be counted
29 or canvassed by the inspectors of election along with the other ballots
30 cast at such district election, or, where voting machines are used, AS
31 PROVIDED IN SECTION TWO HUNDRED TWELVE OF THIS ARTICLE, shall be added
32 to the votes recorded on such machines.

33 13. The provisions of this section shall apply to absentee ballots at
34 improvement district elections, notwithstanding any other provision of
35 law. The provisions of any other law as they relate to improvement
36 district elections not inconsistent herewith shall apply to the conduct
37 of such elections. PROVIDED, HOWEVER, THAT NOTHING IN THIS SECTION SHALL
38 BE CONSTRUED TO REQUIRE THE BOARD OF ELECTIONS TO MAINTAIN THE CARE,
39 CUSTODY OR CONTROL OF LEVER VOTING MACHINES.

40 S 5. Subdivisions 4 and 12 of section 175-b of the town law, as
41 amended by chapter 401 of the laws of 1996, are amended to read as
42 follows:

43 4. Ballots for absentee voters shall be, as nearly as practicable, in
44 the same form as those to be voted at the district election; if the vote
45 at such election shall be by ballot, the absentee ballot shall conform
46 to that part of the regular ballot which relates to the election of
47 district members; if the vote of such election shall be by voting
48 machine, PURSUANT TO SUBDIVISION TWENTY-NINE OF SECTION ONE HUNDRED
49 SEVENTY-SIX OF THIS ARTICLE, the absentee ballot shall [conform as
50 closely as possible to the manner in which the names of the candidates
51 appear on the voting machines, except that the absentee ballot shall
52 also contain a space for a write-in or write-ins] BE, AS NEARLY PRACTI-
53 CABLE, IN THE SAME FORM AS THOSE TO BE VOTED IN THE DISTRICT ON ELECTION
54 DAY AND SHALL CONTAIN A SPACE FOR A WRITE-IN OR WRITE-INS. On the back
55 of such absentee ballots shall be printed the words "Official Ballot,
56 Absentee Voter," followed by the words "For Officers of fire district."

1 12. If the election inspectors shall have received an envelope, and
2 upon opening the same no ballot shall be found therein, the election
3 inspectors shall make a memorandum showing that the ballot is missing.
4 When the casting of absentee voters' ballots shall have been completed,
5 the election inspectors shall ascertain the number of such ballots which
6 have been deposited in the ballot box by deducting from the number of
7 envelopes opened the number of missing ballots, and shall make a sepa-
8 rate return thereof in duplicate. The number of absentee voters' ballots
9 deposited in the ballot box shall be added to the number of other
10 ballots deposited in the ballot box in order to determine the number of
11 all ballots to be accounted for in the ballot box. Such ballots shall
12 then be counted or canvassed by the election inspectors along with the
13 other ballots cast at such district election, or, where voting machines
14 are used[,] PURSUANT TO SUBDIVISION TWENTY-NINE OF SECTION ONE HUNDRED
15 SEVENTY-SIX OF THIS ARTICLE, SUCH BALLOTS shall be added to the votes
16 recorded on such machines.

17 S 6. Subdivision 4 of section 175-b of the town law, as amended by
18 chapter 401 of the laws of 1996, is amended to read as follows:

19 4. Ballots for absentee voters shall be, as nearly as practicable, in
20 the same form as those to be voted at the district election; if the vote
21 at such election shall be by ballot, the absentee ballot shall conform
22 to that part of the regular ballot which relates to the election of
23 district members; if the vote of such election shall be by voting
24 machine, the absentee ballot shall [conform as closely as possible to
25 the manner in which the names of the candidates appear on the voting
26 machines, except that the absentee ballot shall also contain a space for
27 a write-in or write-ins] BE, AS NEARLY PRACTICABLE, IN THE SAME FORM AS
28 THOSE TO BE VOTED IN THE DISTRICT ON ELECTION DAY AND SHALL CONTAIN A
29 SPACE FOR A WRITE-IN OR WRITE-INS. On the back of such absentee ballots
30 shall be printed the words "Official Ballot, Absentee Voter," followed
31 by the words "For Officers of fire district."

32 S 7. This act shall take effect immediately provided, however, that
33 sections one, two, four and five of this act shall expire and be deemed
34 repealed December 31, 2010, when upon such date the provisions of
35 sections three and six of this act shall take effect.