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

5055--A

Cal. No. 780

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 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 212 of the town law, as amended by chapter 421 of the laws of 2008, is amended to read as follows:

S 212. Annual election and notice thereof. The district commissioners of such improvement district shall publish at the expense of the district the notice of each election of improvement district commissioners held pursuant to this article. Such notice shall be published at least once in one or more newspapers having general circulation in the district and the first publication thereof shall be at least twenty days before the day of such election. The notice of annual election shall specify the time when and the place or places where such election shall be held and the hours during which the polls will be open for the receipt of ballots. Notice of such election shall also be posted on the websites of the district and the town in which the district is located, if such websites are maintained, on the signboard of the town, and conspicuously posted in three or more designated public locations within the district, on or about the day on which such notice is published. Such election shall be held at a suitable place or places within the district designated by the district commissioners and the polls shall remain open from six o'clock in the evening until nine o'clock in the evening and such additional consecutive hours prior thereto as the district commissioners may determine and specify in the notice of such

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

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election. The board of commissioners of such district shall designate for each district election not less than two nor more than four resident taxpayers to act as election inspectors and ballot clerks for each designated polling place. The board of commissioners shall fix the compensation of such election inspectors and ballot clerks in an amount not to exceed ten dollars per hour each for every hour or part thereof of such service and such compensation shall be a charge against the district. The board of commissioners shall cause to be prepared the ballots for all elections, and may authorize the use of voting machines [approved by the secretary of state], INCLUDING LEVER VOTING MACHINES, at any annual or special election of the district. WHEN USING VOTING MACHINES AS DESCRIBED IN ARTICLE SEVEN OF THE ELECTION LAW, SUCH VOTING MACHINES SHALL BE USED in accordance with THE PROVISIONS CONTAINED IN article nine of the election law. PROVIDED, HOWEVER, THAT NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE THE BOARD OF ELECTIONS TO MAINTAIN THE CARE, CUSTODY OR CONTROL OF LEVER VOTING MACHINES. After the polls shall have been closed at any election, the election inspectors and ballot clerks at each polling place shall immediately canvass the ballots cast and shall publicly announce the result of the vote at that polling place. Within twenty-four hours the chairman of the board of commissioners, election inspectors and ballot clerks shall execute and file a certificate of the result of the canvass with the board of commissioners of the improvement district and with the clerk of the town in which said district is located.

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

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

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

S 212. Annual election and notice thereof. The district commissioners of such improvement district shall publish at the expense of the district the notice of each election of improvement district commissioners held pursuant to this article. Such notice shall be published at least once in one or more newspapers having general circulation in the district and the first publication thereof shall be at least twenty days before the day of such election. The notice of annual election shall specify the time when and the place or places where such election shall be held and the hours during which the polls will be open for the receipt of ballots. Notice of such election shall also be posted on the websites of the district and the town in which the district is located, if such websites are maintained, on the signboard of the town, and conspicuously posted in three or more designated public locations within the district, on or about the day on which such notice is published. Such election shall be held at a suitable place or places within the district designated by the district commissioners and the polls shall remain open from six o'clock in the evening until nine o'clock in the evening and such additional consecutive hours prior thereto as the district commissioners may determine and specify in the notice of such election. The board of commissioners of such district shall designate

for each district election not less than two nor more than four resident taxpayers to act as election inspectors and ballot clerks for each designated polling place. The board of commissioners shall fix the compensation of such election inspectors and ballot clerks in an amount not to exceed ten dollars per hour each for every hour or part thereof of such service and such compensation shall be a charge against the district. The board of commissioners shall cause to be prepared the ballots for all elections, and may authorize the use of voting machines [approved by the secretary of state] at any annual or special election of the district in accordance with article nine of the election law. After the polls shall have been closed at any election, the election inspectors and ballot clerks at each polling place shall immediately canvass the ballots cast and shall publicly announce the result of the vote at that polling place. Within twenty-four hours the chairman of the board of commissioners, election inspectors and ballot clerks shall execute and file a certificate of the result of the canvass with the board of commissioners of the improvement district and with the clerk of the town in which said district is located.

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

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

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

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

4. Ballots for absentee voters shall be, as nearly as practicable, in the same form as those to be voted at the district election; if the vote at such election shall be by ballot, the absentee ballot shall conform to that part of the regular ballot which relates to the election of district members; if the vote of such election shall be by voting machine, PURSUANT TO SUBDIVISION TWENTY-NINE OF SECTION ONE HUNDRED SEVENTY-SIX OF THIS ARTICLE, the absentee ballot shall [conform as closely as possible to the manner in which the names of the candidates appear on the voting machines, except that the absentee ballot shall also contain a space for a write-in or write-ins] BE, AS NEARLY PRACTICABLE, IN THE SAME FORM AS THOSE TO BE VOTED IN THE DISTRICT ON ELECTION

DAY AND SHALL CONTAIN A SPACE FOR A WRITE-IN OR WRITE-INS. On the back of such absentee ballots shall be printed the words "Official Ballot, Absentee Voter," followed by the words "For Officers of fire district."

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

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

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

S 7. This act shall take effect immediately provided, however, that sections one, two, four and five of this act shall expire and be deemed repealed December 31, 2012, when upon such date the provisions of sections three and six of this act shall take effect.