

5211

2011-2012 Regular Sessions

I N S E N A T E

May 3, 2011

Introduced by Sen. O'MARA -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

AN ACT to amend the election law, in relation to the preservation of unused ballots

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

1 Section 1. Subdivision 2 of section 3-222 of the election law, as
2 amended by chapter 163 of the laws of 1994, is amended to read as
3 follows:
4 2. [Write-in] VOTED ballots shall be preserved for two years after
5 such election and the packages thereof may be opened and the contents
6 examined only upon order of a court or judge of competent jurisdiction,
7 or by direction of such committee of the senate and assembly if the
8 ballots relate to the election under investigation by such committee,
9 and at the expiration of such time, such ballots may be disposed of at
10 the discretion of the officer or board having charge of them.
11 S 2. Subdivisions 3, 4, and 5 of section 3-222 of the election law, as
12 amended by chapter 163 of the laws of 1994, are amended to read as
13 follows:
14 3. Except as hereinafter provided, packages of protested, void and
15 wholly blank ballots, OPEN packages of unused ballots and all absentee
16 and military, special federal, special presidential and emergency
17 ballots and ballot envelopes, if any, opened or unopened, shall be
18 preserved for two years after the election. SEALED PACKAGES OF UNUSED
19 BALLOTS SHALL BE RETAINED FOR FOUR MONTHS, AND MAY THEN BE DESTROYED,
20 PROVIDED A CERTIFICATE ARTICULATING THE ELECTION DISTRICT IDENTIFYING
21 DATA AND NUMBERS OF SUCH BALLOTS IS FILED WITH THE BALANCE OF BALLOTS
22 DESCRIBED IN THIS SECTION, FOR THE BALANCE OF THE TWO YEAR RETENTION
23 PERIOD. Except as hereinafter provided, boxes containing voted paper
24 ballots, IF ANY shall be preserved inviolate for four months after the
25 election, or until one month before the next election occurring within

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

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1 five months after a preceding election if such boxes are needed for use
2 at such next election and if the officer or board in charge of such
3 voted paper ballots is required by law to furnish ballot boxes therefor.
4 Provided, however, that such ballot boxes and such packages may be
5 opened, and their contents and the absentee and military, special feder-
6 al, special presidential and emergency ballots and ballot envelopes may
7 be examined, upon the order of any court or justice of competent juris-
8 diction. Boxes and envelopes containing absentee, military and emergency
9 ballots voted at a general or special election, for the office of member
10 of the senate or assembly, packages of void, protested and wholly blank
11 ballots, unopened absentee and military ballot envelopes and the pack-
12 ages of unused ballots, in connection with such election, also may be
13 opened, and their contents and such envelopes also may be examined, by
14 direction of a committee of the senate or assembly to investigate and
15 report on contested elections of members of the legislature. Unless
16 otherwise ordered or directed by such a court, justice or committee,
17 such boxes shall be opened and their contents and such packages and the
18 envelopes containing voted ballots and ballot envelopes shall be
19 destroyed, at the expiration of the period during which they are
20 required by the provisions of this section to be preserved, except that
21 instead of being destroyed, they may be sold and the proceeds paid over
22 in the manner provided with respect to the sale of books, records and
23 papers pertaining to an election.

24 [4. The results of the annual test of each voting machine of a type
25 approved after September first, nineteen hundred eighty-six, which is
26 required by this chapter, shall be preserved for two years.

27 5.] 4. All records and documents pertaining to ballot label program-
28 ming and ballot label programming data for any election for any voting
29 machine of a type approved after September first, nineteen hundred
30 eighty-six and all records pertaining to the PERIODIC MAINTENANCE test-
31 ing of any such programming and programming data or the testing of any
32 such machine in connection with any such election shall be preserved for
33 two years after such election.

34 S 3. This act shall take effect immediately.