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

10191

I N A S S E M B L Y

May 10, 2012

Introduced by M. of A. SCHIMEL -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to clarifying the number of signatures required on an independent nominating petition in a municipality with less than a thousand residents, declination of office and filling vacancies, establishing residency at the time of nomination in village elections, paper ballots counted by hand in village elections and eliminating the ability of a candidate to timely file via mailing with postmark before midnight of the last date to file a petition

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

Section 1. Subdivision 6 of section 15-108 of the election law is amended to read as follows:

6. An independent nominating petition for a village office must be signed by at least one hundred voters in villages containing a population of five thousand or more; by at least seventy-five voters in villages containing a population of three thousand and less than five thousand; and by at least fifty voters in villages containing a population of one thousand and less than three thousand; and in villages containing a population of less than one thousand by voters numbering at least five per centum of the number of [voters] THOSE PERSONS REGISTERED TO VOTE at the last regular village election. For the purposes of this section, the population of a village shall be determined by the last federal decennial or local special population census federally supervised pursuant to section twenty of the general municipal law.

S 2. The opening paragraph of section 15-128 of the election law is designated subdivision 1 and a new subdivision 2 is added to read as follows:

2. A PERSON ELECTED MAY DECLINE THE OFFICE TO WHICH HE OR SHE WAS ELECTED BY NOTIFYING THE VILLAGE CLERK IN WRITING. THE FILING OF A WRITTEN DECLINATION WITH THE VILLAGE CLERK CREATES A VACANCY IN THE OFFICE EFFECTIVE AT THE START OF THE OFFICIAL YEAR FOLLOWING THE ELECTION. THE VACANCY SHALL BE FILLED AFTER THE START OF THE OFFICIAL YEAR BY THE

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

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MAYOR, EXCEPT THAT A VACANCY IN THE OFFICE OF MAYOR SHALL BE FILLED BY THE BOARD OF TRUSTEES, IN THE SAME MANNER AND FOR THE PERIODS OF TIME SET FORTH IN SECTION 3-312 OF THE VILLAGE LAW.

S 3. Section 15-108 of the election law is amended by adding a new subdivision 11 to read as follows:

11. AN INDIVIDUAL RUNNING FOR ELECTED OFFICE MUST BE A RESIDENT OF THE VILLAGE BY THE LAST DAY TO FILE A CERTIFICATE OF PARTY NOMINATION IF SUCH INDIVIDUAL IS NOMINATED AT A PARTY PRIMARY OR CAUCUS, NOT LATER THAN FORTY-SEVEN DAYS PRIOR TO THE VILLAGE ELECTION PURSUANT TO PARAGRAPH (A) OF SUBDIVISION SEVEN OF THIS SECTION, OR BY THE LAST DAY TO FILE AN INDEPENDENT NOMINATING PETITION IF SUCH INDIVIDUAL IS NOMINATED BY THE FILING OF AN INDEPENDENT NOMINATING PETITION, NOT LATER THAN THIRTY-FIVE DAYS PRIOR TO THE VILLAGE ELECTION PURSUANT TO PARAGRAPH (A) OF SUBDIVISION EIGHT OF THIS SECTION.

S 4. The election law is amended by adding a new section 15-115 to read as follows:

S 15-115. PAPER BALLOTS COUNTED BY HAND IN VILLAGE ELECTIONS. 1. FOR VILLAGES CONDUCTING AN ELECTION WHERE PAPER BALLOTS ARE TO BE COUNTED BY HAND, THE FORMAT OF THE BALLOTS SHALL CONFORM TO THE REQUIREMENTS OF THIS SECTION. THIS SECTION SHALL NOT APPLY TO ELECTIONS WHERE SCANNER MACHINES ARE USED.

2. PAPER BALLOTS SHALL BE PRINTED ON PAPER OF A QUALITY, SIZE, COLOR, AND WEIGHT THAT HAD BEEN APPROVED BY THE STATE BOARD OF ELECTIONS PRIOR TO THE SEVENTH DAY OF JULY, TWO THOUSAND TEN.

3. ALL PAPER BALLOTS OF THE SAME KIND FOR THE SAME POLLING PLACE SHALL BE IDENTICAL. A DIFFERENT, BUT IN EACH CASE UNIFORM STYLE AND SIZE OF TYPE, SHALL BE USED FOR PRINTING THE NAMES OF CANDIDATES, THE TITLES OF OFFICES, POLITICAL DESIGNATIONS, AND THE READING FORM OF ALL QUESTIONS SUBMITTED. THE NAMES OF CANDIDATES SHALL BE PRINTED IN CAPITAL LETTERS IN BLACK-FACED TYPE.

4. EACH BALLOT SHALL BE PRINTED ON THE SAME SHEET WITH A STUB WHICH SHALL BE SEPARATED THEREFROM BY A HORIZONTAL LINE OF PERFORATIONS EXTENDING ACROSS THE ENTIRE WIDTH OF THE BALLOT. ON THE FACE OF THE STUB SHALL BE PRINTED THE INSTRUCTIONS TO THE VOTER. ON THE BACK OF THE STUB IMMEDIATELY ABOVE THE CENTER OF THE INDORSEMENT ON THE BACK OF THE BALLOT, SHALL BE PRINTED "NO. ....." THE BLANK TO BE FILLED WITH CONSECUTIVE NUMBER OF BALLOTS BEGINNING WITH "NO. 1", AND INCREASING IN REGULAR NUMERICAL ORDER.

5. ON THE BACK OF THE BALLOT, BELOW THE LINE OF PERFORATIONS, JUST TO THE RIGHT OF CENTER, AND OUTSIDE WHEN THE BALLOT IS FOLDED, AND ON THE FRONT OF THE BALLOT, DIRECTLY BELOW THE PERFORATED LINE, SHALL BE PRINTED THE FOLLOWING INDORSEMENT, THE BLANKS PROPERLY FILLED IN:

"OFFICIAL BALLOT FOR VILLAGE OFFICERS.

(DATE OF ELECTION.)

(FACSIMILE OF THE SIGNATURE OF OFFICER OR OFFICERS PROVIDING THE BALLOT.)"

6. ON THE STUB AT THE TOP OF THE BALLOT OR ON THE EDGE OF SUCH BALLOT SHALL BE PRINTED IN HEAVY BLACK TYPE THE FOLLOWING INSTRUCTIONS:

"INSTRUCTIONS

(1) MARK ONLY WITH A PEN HAVING BLUE OR BLACK INK OR WITH A PENCIL HAVING BLACK LEAD.

(2) TO VOTE FOR A CANDIDATE WHOSE NAME IS PRINTED ON THIS BALLOT MAKE A SINGLE CROSS X MARK OR A CHECK V MARK IN ONE OF THE SQUARES TO THE RIGHT OF AN EMBLEM OPPOSITE HIS OR HER NAME.

(3) TO VOTE FOR A PERSON WHOSE NAME IS NOT PRINTED ON THIS BALLOT WRITE OR STAMP HIS OR HER NAME ON A BLANK LINE UNDER THE NAMES OF THE CANDIDATES FOR THAT OFFICE.
(4) TO VOTE YES OR NO ON A PROPOSAL MAKE A SINGLE X OR V MARK IN THE SQUARE OPPOSITE YOUR VOTE.
(5) ANY OTHER MARK OR WRITING, OR ANY ERASURE MADE ON THIS BALLOT OUTSIDE THE VOTING SQUARES OR BLANK SPACES PROVIDED FOR VOTING WILL VOID THIS ENTIRE BALLOT.
(6) DO NOT OVERVOTE. IF YOU SELECT A GREATER NUMBER OF CANDIDATES THAN THERE ARE VACANCIES TO BE FILLED, YOUR BALLOT WILL BE VOID FOR THAT PUBLIC OFFICE OR PARTY POSITION.
(7) IF YOU TEAR, OR DEFACE, OR WRONGLY MARK THIS BALLOT, RETURN IT AND OBTAIN ANOTHER. DO NOT ATTEMPT TO CORRECT MISTAKES ON THE BALLOT BY MAKING ERASURES OR CROSS OUTS. ERASURES OR CROSS OUTS MAY INVALIDATE ALL OR PART OF YOUR BALLOT. PRIOR TO SUBMITTING YOUR BALLOT, IF YOU MAKE A MISTAKE IN COMPLETING THE BALLOT OR WISH TO CHANGE YOUR BALLOT CHOICES, YOU MAY OBTAIN AND COMPLETE A NEW BALLOT. YOU HAVE A RIGHT TO A REPLACEMENT BALLOT UPON RETURN OF THE ORIGINAL BALLOT."

7. EACH SUCH BALLOT SHALL BE PRINTED IN SECTIONS IN WHICH THE CANDIDATES' NAMES, EMBLEMS AND POLITICAL DESIGNATIONS, THE BALLOT PROPOSALS AND OTHER REQUISITE MATTER SHALL EACH BE BOXED IN BY HEAVY BLACK LINES. ON THE BALLOT SHALL BE VOTING SQUARES IN WHICH VOTERS MAY MAKE THEIR VOTING MARKS. ALL VOTING SQUARES SHALL BE BOUNDED BY HEAVY BLACK LINES, THE PERPENDICULAR LINES TO BE NOT LESS THAN ONE-SIXTEENTH OF AN INCH WIDE. THE VOTING SQUARES AND THE SPACES OCCUPIED BY THE EMBLEM SHALL HAVE A DEPTH AND WIDTH OF FIVE-SIXTEENTHS OF AN INCH. NO VOTING SQUARES SHALL BE PROVIDED IN FRONT OF THE BLANK SPACES PROVIDED FOR A VOTER TO WRITE IN A NAME.

8. THE SPACE FOR THE TITLE OF AN OFFICE SHALL BE THREE-EIGHTHS OF AN INCH, AND THE NAME OF A CANDIDATE OR FOR WRITING IN A NAME, ONE-FOURTH OF AN INCH, IN DEPTH. AT THE LEFT OF THE NAME OF EACH DESIGNATED CANDIDATE SHALL BE AN ENCLOSED VOTING SPACE, THREE-EIGHTHS OF AN INCH IN WIDTH AND APPROXIMATELY ONE-FOURTH OF AN INCH IN DEPTH, BOUNDED ABOVE, BELOW AND TO THE RIGHT BY BLACK LINES, HEAVIER THAN THOSE WHICH SEPARATE THE SPACES CONTAINING THE NAMES OF CANDIDATES. TO THE LEFT OF VOTING SPACES WHICH DO NOT ADJOIN A VERTICAL LINE DIVIDING TWO PARTS, THERE SHALL BE A HEAVY BLACK VERTICAL LINE APPROXIMATELY ONE-EIGHTH OF AN INCH IN WIDTH. NO VOTING SPACE SHALL BE PROVIDED IN THE SPACE FOR WRITING IN NAMES. IN SUCH CASE, THE SPACE CORRESPONDING TO A VOTING SPACE SHALL BE ALL BLACK.

9. BELOW THE NAMES OF THE CANDIDATES FOR EACH OFFICE OR POSITION THERE SHALL BE PRINTED AS MANY BLANK SPACES, FOR WRITING IN NAMES OF PERSONS FOR WHOM THE VOTER DESIRES TO VOTE, AS THERE ARE PERSONS TO BE NOMINATED OR ELECTED.

10. IN CASE THE SECTIONS SHALL BE SO NUMEROUS AS TO MAKE THE BALLOT UNWIELDY IF THEY ARE PRINTED IN ONE COLUMN, THEY MAY BE PRINTED IN AS MANY COLUMNS AS SHALL BE NECESSARY, AND IN THAT CASE, IN ORDER TO PRODUCE A RECTANGULAR BALLOT, BLANK SECTIONS MAY BE USED.

11. THE NAMES OF PARTIES OR INDEPENDENT BODIES WHICH CONTAIN MORE THAN FIFTEEN LETTERS MAY, WHENEVER LIMITATIONS OF SPACE SO REQUIRE, BE PRINTED ON THE BALLOT IN AN ABBREVIATED FORM. IN PRINTING THE NAMES OF CANDIDATES WHOSE FULL NAMES CONTAIN MORE THAN FIFTEEN LETTERS, ONLY THE SURNAME MUST BE PRINTED IN FULL. THE OFFICER OR BOARD CHARGED WITH THE DUTY OF PREPARING THE BALLOTS SHALL REQUEST EACH SUCH CANDIDATE TO INDICATE, IN WRITING, THE SHORTENED FORM IN WHICH, SUBJECT TO THIS RESTRICTION, HIS NAME SHALL BE PRINTED. IF NO SUCH INDICATION IS

RECEIVED FROM SUCH CANDIDATE WITHIN THE TIME SPECIFIED IN THE REQUEST, SUCH OFFICER OR BOARD SHALL MAKE THE NECESSARY DETERMINATION. NO EMBLEM SHALL OCCUPY A SPACE LONGER IN ANY DIRECTION THAN THE VOTING SQUARE TO WHICH IT RELATES.

S 5. Section 15-108 of the election law is amended by adding a new subdivision 12 to read as follows:

12. NOTWITHSTANDING THE PROVISIONS OF SECTION 1-106 OF THIS CHAPTER, ALL PAPERS REQUIRED TO BE FILED PURSUANT TO THIS ARTICLE WHICH ARE DELIVERED IN PERSON OR SENT BY MAIL TO THE VILLAGE ELECTION OFFICER AS DEFINED IN SECTION 15-124 OF THIS ARTICLE SHALL BE DEEMED TIMELY FILED WHEN RECEIVED BY THE VILLAGE ELECTION OFFICER ON OR BEFORE FIVE P.M. ON THE LAST DAY TO FILE ANY SUCH PAPERS. FAILURE OF THE POST OFFICE OR ANY OTHER PERSON OR ENTITY TO DELIVER SUCH PAPERS ON OR BEFORE FIVE P.M. ON THE LAST DAY TO FILE SHALL BE A FATAL DEFECT.

S 6. This act shall take effect immediately.