

S T A T E   O F   N E W   Y O R K

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6767--A

2011-2012 Regular Sessions

I N   A S S E M B L Y

March 28, 2011

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Introduced by M. of A. DenDEKKER -- read once and referred to the  
Committee on Election Law -- committee discharged, bill amended,  
ordered reprinted as amended and recommitted to said committee

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 ASSEM-  
BLY, 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

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

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

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

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

35 S 3. This act shall take effect immediately.