

6519

I N S E N A T E

January 31, 2014

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 amending certain deadlines to facilitate the timely transmission of ballots to military voters stationed overseas; and to amend the public officers law, in relation to filling vacancies in elective offices

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

1 Section 1. Paragraph b of subdivision 1 of section 4-108 of the
2 election law, as amended by chapter 117 of the laws of 1985, is amended
3 to read as follows:
4 b. Whenever any proposal, proposition or referendum as provided by law
5 is to be submitted to a vote of the people of a county, city, town,
6 village or special district, at an election conducted by the board of
7 elections, the clerk of such political subdivision, at least [thirty-six
8 days] **THREE MONTHS** prior to the election at which such proposal, propo-
9 sition or referendum is to be submitted, shall transmit to each board of
10 elections a certified copy of the text of such proposal, proposition or
11 referendum and a statement of the form in which it is to be submitted.
12 If a special election is to be held, such transmittal shall also give
13 the date of such election.
14 S 2. Section 4-110 of the election law, as amended by chapter 434 of
15 the laws of 1984, is amended to read as follows:
16 S 4-110. Certification of primary election candidates; state board of
17 elections. The state board of elections not later than [thirty-six]
18 **FIFTY-FOUR** days before a primary election, shall certify to each county
19 board of elections: The name and residence of each candidate to be voted
20 for within the political subdivision of such board for whom a desig-
21 nation has been filed with the state board; the title of the office or
22 position for which the candidate is designated; the name of the party
23 upon whose primary ballot his name is to be placed; and the order in
24 which the names of the candidates are to be printed as determined by the
25 state board. Where an office or position is uncontested, such certif-
26 ication shall state such fact.

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

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1 S 3. Subdivision 1 of section 4-112 of the election law, as amended by
2 chapter 4 of the laws of 2011, is amended to read as follows:

3 1. The state board of elections, not later than [thirty-six]
4 FIFTY-FOUR days before a general election, or fifty-three days before a
5 special election, shall certify to each county board of elections the
6 name and residence of each candidate nominated in any valid certificate
7 filed with it or by the returns canvassed by it, the title of the office
8 for which nominated; the name of the party or body specified of which he
9 is a candidate; the emblem chosen to distinguish the candidates of the
10 party or body; and a notation as to whether or not any litigation is
11 pending concerning the candidacy. Upon the completion of any such liti-
12 gation, the state board of elections shall forthwith notify the appro-
13 priate county boards of elections of the results of such litigation.

14 S 4. Section 4-114 of the election law, as amended by chapter 4 of the
15 laws of 2011, is amended to read as follows:

16 S 4-114. Determination of candidates and questions; county board of
17 elections. The county board of elections, not later than the [thirty-
18 fifth] FIFTY-THIRD day before the day of a primary [or], general OR
19 SPECIAL election, [or the fifty-third day before a special election,]
20 shall determine the candidates duly nominated for public office and the
21 questions that shall appear on the ballot within the jurisdiction of
22 that board of elections.

23 S 5. Subdivision 1 of section 4-117 of the election law, as amended by
24 chapter 288 of the laws of 2009, is amended to read as follows:

25 1. The board of elections, [between August first and August fifth of
26 each year] NOT LESS THAN FORTY DAYS NOR MORE THAN FORTY-FIVE DAYS BEFORE
27 THE PRIMARY ELECTION IN EACH YEAR, shall send by first class mail on
28 which is endorsed "ADDRESS CORRECTION REQUESTED" and which contains a
29 request that any such mail received for persons not residing at the
30 address be dropped back in the mail, a communication, in a form approved
31 by the state board of elections, to every registered voter who has been
32 registered without a change of address since the beginning of such year,
33 except that the board of elections shall not be required to send such
34 communications to voters in inactive status. The communication shall
35 notify the voter of the days and hours of the ensuing primary and gener-
36 al elections, the place where he OR SHE appears by his OR HER registra-
37 tion records to be entitled to vote, the fact that voters who have moved
38 or will have moved from the address where they were last registered must
39 re-register or, that if such move was to another address in the same
40 county or city, that such voter may either notify the board of elections
41 of his OR HER new address or vote by paper ballot at the polling place
42 for his OR HER new address even if such voter has not re-registered, or
43 otherwise notified the board of elections of the change of address. If
44 the location of the polling place for the voter's election district has
45 been moved, the communication shall contain the following legend in bold
46 type: "YOUR POLLING PLACE HAS BEEN CHANGED. YOU NOW VOTE AT.....".
47 The communication shall also indicate whether the polling place is
48 accessible to physically disabled voters, that a voter who will be out
49 of the city or county on the day of the primary or general election or a
50 voter who is ill or physically disabled may obtain an absentee ballot,
51 that a physically disabled voter whose polling place is not accessible
52 may request that his OR HER registration record be moved to an election
53 district which has a polling place which is accessible, the phone number
54 to call for applications to move a registration record or for absentee
55 ballot applications, the phone number to call for the location of regis-
56 tration and polling places, the phone number to call to indicate that

1 the voter is willing to serve on election day as an election inspector,
2 poll clerk, interpreter or in other capacities, the phone number to call
3 to obtain an application for registration by mail, and such other infor-
4 mation concerning the elections or registration as the board may
5 include. In lieu of sending such communication to every registered
6 voter, the board of elections may send a single communication to a
7 household containing more than one registered voter, provided that the
8 names of all such voters appear as part of the address on such communi-
9 cation.

10 S 6. Subdivision 1 of section 6-108 of the election law, as amended by
11 chapter 160 of the laws of 1996, is amended to read as follows:

12 1. In any town in a county having a population of over seven hundred
13 fifty thousand inhabitants, as shown by the latest federal decennial or
14 special population census, party nominations of candidates for town
15 offices shall be made at the primary preceding the election. In any
16 other town, nominations of candidates for town offices shall be made by
17 caucus or primary election as the rules of the county committee shall
18 provide, except that the members of the county committee from a town may
19 adopt by a two-thirds vote, a rule providing that the party candidates
20 for town offices shall be nominated at the primary election. If a rule
21 adopted by the county committee of a political party or by the members
22 of the county committee from a town, provides that party candidates for
23 town offices, shall be nominated at a primary election, such rule shall
24 not apply to nor affect a primary held less than four months after a
25 certified copy of the rule shall have been filed with the board of
26 elections. After the filing of such a rule, the rule shall continue in
27 force until a certified copy of a rule revoking the same shall have been
28 filed with such board at least four months before a subsequent primary.
29 Such a caucus shall be held no earlier than the first day on which
30 designating petitions for the [fall] primary election may be signed.

31 S 7. Subdivisions 1 and 2 of section 6-147 of the election law, as
32 amended by chapter 434 of the laws of 1984, are amended to read as
33 follows:

34 1. The name of a person designated on more than one petition as a
35 candidate for a party position to be filled by two or more persons shall
36 be printed on the ballot with the group of candidates designated by the
37 petition first filed unless such person, in a certificate duly acknowl-
38 edged by him OR HER and filed with the board of elections not later than
39 the [eighth] TENTH Tuesday preceding the primary election or five days
40 after the board of elections mails such person notice of his designation
41 in more than one group, whichever is later, specifies another group in
42 which his OR HER name shall be printed.

43 2. A person designated as a candidate for the position of member of
44 the county committee in more than one election district shall be deemed
45 to have been designated in the lowest numbered election district unless
46 such person, in a certificate duly acknowledged by him OR HER, and filed
47 with the board of elections not later than the [eighth] TENTH Tuesday
48 preceding the primary election or five days after the board of elections
49 mails such person notice of his OR HER designation in more than one
50 election district whichever is later, specifies that he OR SHE wishes to
51 be deemed designated in a different election district.

52 S 8. Subdivisions 1, 4, 5, 6, 9, 11, 12 and 14 of section 6-158 of the
53 election law, subdivisions 1, 4, 11 and 12 as amended by chapter 434 of
54 the laws of 1984, subdivision 6 as amended by chapter 79 of the laws of
55 1992, and subdivision 9 as amended by chapter 517 of the laws of 1986,
56 are amended to read as follows:

1 1. A designating petition shall be filed not earlier than the [tenth
2 Monday] THIRTEENTH FRIDAY before, and not later than the [ninth Thurs-
3 day] TWELFTH WEDNESDAY preceding the primary election.

4 4. A petition of enrolled members of a party requesting an opportunity
5 to write in the name of an undesignated candidate for a public office or
6 party position at a primary election shall be filed not later than the
7 [eighth Thursday] ELEVENTH WEDNESDAY preceding the primary election.
8 However, where a designating petition has been filed and the person
9 named therein has declined such designation and another person has been
10 designated to fill the vacancy, then in that event, a petition for an
11 opportunity to ballot in a primary election shall be filed not later
12 than the [seventh Thursday] TENTH WEDNESDAY preceding such primary
13 election.

14 5. A judicial district convention shall be held not earlier than the
15 [Tuesday following the third Monday] FOURTH TUESDAY in [September]
16 AUGUST preceding the general election and not later than the [fourth
17 Monday] FOURTH THURSDAY in [September] AUGUST preceding such election.

18 6. A certificate of a party nomination made other than at the primary
19 election for an office to be filled at the time of a general election
20 shall be filed not later than seven days after the [fall] primary
21 election, except that a certificate of nomination for an office which
22 becomes vacant after the seventh day preceding such primary election
23 shall be filed not later than fourteen days after the creation of such
24 vacancy and except, further, that a certificate of party nomination of
25 candidates for elector of president and vice-president of the United
26 States shall be filed not later than fourteen days after the [fall]
27 primary election, and except still further that a certificate of party
28 nomination made at a judicial district convention shall be filed not
29 later than the day after the last day to hold such convention and the
30 minutes of such convention, duly certified by the chairman and secre-
31 tary, shall be filed within seventy-two hours after adjournment of the
32 convention. A certificate of party nomination for an office to be
33 filled at a special election shall be filed not later than ten days
34 following the issuance of a proclamation of such election.

35 9. A petition for an independent nomination for an office to be filled
36 at the time of a general election shall be filed not earlier than
37 [twelve] FOURTEEN weeks and not later than [eleven] THIRTEEN weeks
38 preceding such election. A petition for an independent nomination for an
39 office to be filled at a special election shall be filed not later than
40 twelve days following the issuance of a proclamation of such election. A
41 petition for trustee of the Long Island Power Authority shall be filed
42 not earlier than seven weeks and not later than six weeks preceding the
43 day of the election of such trustees.

44 11. A certificate of acceptance or declination of an independent nomi-
45 nation for an office to be filled at the time of a general election
46 shall be filed not later than the third day after the [eleventh] THIR-
47 TEENTH Tuesday preceding such election except that a candidate who files
48 such a certificate of acceptance for an office for which there have been
49 filed certificates or petitions designating more than one candidate for
50 the nomination of any party, may thereafter file a certificate of decli-
51 nation not later than the third day after the primary election. A
52 certificate of acceptance or declination of an independent nomination
53 for an office to be filled at a special election shall be filed not
54 later than fourteen days following the issuance of a proclamation of
55 such election.

12. A certificate to fill a vacancy caused by a declination of an independent nomination for an office to be filled at the time of a general election shall be filed not later than the sixth day after the [eleventh] THIRTEENTH Tuesday preceding such election. A certificate to fill a vacancy caused by a declination of an independent nomination for an office to be filled at a special election shall be filed not later than sixteen days following the issuance of a proclamation of such election.

14. A vacancy occurring [before September twentieth of] NOT LESS THAN THREE MONTHS BEFORE THE NEXT GENERAL ELECTION in any year in any office authorized to be filled at a general election, except in the offices of governor, lieutenant-governor, or United States senator shall be filled at the general election held next thereafter, unless otherwise provided by the constitution, or unless previously filled at a special election.

S 9. Paragraph (a) of subdivision 1 of section 8-100 of the election law, as amended by chapter 17 of the laws of 2007, is amended to read as follows:

(a) A primary election[, to be known as the fall primary,] shall be held on the [first Tuesday after the second Monday] THIRD TUESDAY in [September] AUGUST before every general election unless otherwise changed by an act of the legislature. In each year in which electors of president and vice president of the United States are to be elected an additional primary election, to be known as the [spring] PRESIDENTIAL primary, shall be held on the first Tuesday in February unless otherwise changed by an act of the legislature, for the purpose of electing delegates to the national convention, members of state and county committees and assembly district leaders and associate assembly district leaders.

S 10. Subdivision 1 of section 9-211 of the election law, as added by chapter 181 of the laws of 2005, is amended to read as follows:

1. Within fifteen days after each general or special election, and within [seven] FIFTEEN days after every primary or village election conducted by the board of elections, the board of elections or a bipartisan committee appointed by such board shall manually audit the voter verifiable audit records from three percent of voting machines or systems within the jurisdiction of such board. Voting machines or systems shall be selected for audit through a random, manual process. At least five days prior to the time fixed for such selection process, the board of elections shall send notice by first class mail to each candidate, political party and independent body entitled to have had watchers present at the polls in any election district in such board's jurisdiction. Such notice shall state the time and place fixed for such random selection process. The audit shall be conducted in the same manner, to the extent applicable, as a canvass of paper ballots. Each candidate, political party or independent body entitled to appoint watchers to attend at a polling place shall be entitled to appoint such number of watchers to observe the audit.

S 11. Paragraph (a) of subdivision 1 of section 10-108 of the election law, as amended by chapter 4 of the laws of 2011, is amended to read as follows:

(a) Ballots for military voters shall be mailed or otherwise distributed by the board of elections, in accordance with the preferred method of transmission designated by the voter pursuant to section 10-107 of this article, as soon as practicable but in any event not later than [thirty-two] FORTY-FIVE days before a primary or general election[; twenty-five days before], a New York city community school board district or city of Buffalo school district election[; fourteen days

1 before], OR a village election conducted by the board of elections; and
2 forty-five days before a special election. A voter who submits a mili-
3 tary ballot application shall be entitled to a military ballot thereaft-
4 er for each subsequent election through and including the next two regu-
5 larly scheduled general elections held in even numbered years, including
6 any run-offs which may occur; provided, however, such application shall
7 not be valid for any election held within seven days after its receipt.
8 Ballots shall also be mailed to any qualified military voter who is
9 already registered and who requests such military ballot from such board
10 of elections in a letter, which is signed by the voter and received by
11 the board of elections not later than the seventh day before the
12 election for which the ballot is requested and which states the address
13 where the voter is registered and the address to which the ballot is to
14 be mailed. The board of elections shall enclose with such ballot a form
15 of application for military ballot. In the case of a primary election,
16 the board shall deliver only the ballot of the party with which the
17 military voter is enrolled according to the military voter's registra-
18 tion records. In the event a primary election is uncontested in the
19 military voter's election district for all offices or positions except
20 the party position of member of the ward, town, city or county commit-
21 tee, no ballot shall be delivered to such military voter for such
22 election; and the military voter shall be advised of the reason why he
23 or she will not receive a ballot.

24 S 12. Subdivision 4 of section 11-204 of the election law, as amended
25 by chapter 4 of the laws of 2011, is amended to read as follows:

26 4. If the board of elections shall determine that the applicant making
27 the application provided for in this section is qualified to receive and
28 vote a special federal ballot, it shall, as soon as practicable after it
29 shall have so determined, or not later than [thirty-two] FORTY-FIVE days
30 before each general or primary [election and forty-five days before
31 each] OR special election in which such applicant is qualified to vote,
32 or three days after receipt of such an application, whichever is later,
33 mail to him or her at the residence address outside the United States
34 shown in his or her application, a special federal ballot, an inner
35 affirmation envelope and an outer envelope, or otherwise distribute same
36 to the voter in accordance with the preferred method of transmission
37 designated by the voter pursuant to section 11-203 of this title. The
38 board of elections shall also mail, or otherwise distribute in accord-
39 ance with the preferred method of transmission designated by the voter
40 pursuant to section 11-203 of this title, a special federal ballot to
41 every qualified special federal voter who is already registered and who
42 requests such special federal ballot from such board of elections in a
43 letter, which is signed by the voter and received by the board of
44 elections not later than the seventh day before the election for which
45 the ballot is first requested and which states the address where the
46 voter is registered and the address to which the ballot is to be mailed.
47 The board of elections shall enclose with such ballot a form of applica-
48 tion for a special federal ballot.

49 S 13. Subdivisions 1 and 4 of section 42 of the public officers law,
50 subdivision 1 as amended by chapter 878 of the laws of 1946 and subdivi-
51 sion 4 as amended by chapter 317 of the laws of 1954, are amended to
52 read as follows:

53 1. A vacancy occurring [before September twentieth of] NOT LESS THAN
54 THREE MONTHS BEFORE THE NEXT GENERAL ELECTION IN any year in any office
55 authorized to be filled at a general election, except in the offices of
56 governor or lieutenant-governor, shall be filled at the general election

1 held next thereafter, unless otherwise provided by the constitution, or
2 unless previously filled at a special election.
3 4. A special election shall not be held to fill a vacancy in the
4 office of a representative in congress unless such vacancy occurs on or
5 before the first day of July of the last year of the term of office, or
6 unless it occurs thereafter and a special session of congress is called
7 to meet before the next general election, or be called after [September]
8 AUGUST nineteenth of such year; nor to fill a vacancy in the office of
9 state senator or in the office of member of assembly, unless the vacancy
10 occurs before the first day of April of the last year of the term of
11 office, or unless the vacancy occurs in either such office of senator or
12 member of assembly after such first day of April and a special session
13 of the legislature be called to meet between such first day of April and
14 the next general election or be called after [September] AUGUST nine-
15 teenth in such year. If a special election to fill an office shall not
16 be held as required by law, the office shall be filled at the next
17 general election.
18 S 14. This act shall take effect immediately.