

6636

I N S E N A T E

February 21, 2014

Introduced by Sen. MARCHIONE -- 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 removing the requirement that party emblems be included in ballot design

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

- 1 Section 1. Subdivision 18 of section 1-104 of the election law, as
2 amended by chapter 181 of the laws of 2005, is amended to read as
3 follows:
4 18. The word "ballot" when referring to voting machines or systems
5 means that portion of the cardboard or paper or other material or elec-
6 tronic display within the ballot frame containing the name of the candi-
7 date and [the emblem of] the party organization by which he was nomi-
8 nated, of the form of submission of a proposed constitutional amendment,
9 proposition referendum or question as provided in this chapter, with the
10 word "yes" for voting for any question or the word "no" for voting
11 against any question except that where the question or proposition is
12 submitted only to the voters of a territory wholly within a county or
13 city, such form shall be determined by the county board of elections.
14 Such statement and the title shall be printed and/or displayed in the
15 largest type or display which it is practicable to use in the space
16 provided.
17 S 2. Subdivisions 1 and 2 of section 2-124 of the election law, subdi-
18 vision 2 as amended by chapter 9 of the laws of 1978, are amended to
19 read as follows:
20 1. The state committee of a party shall select a name [and emblem] to
21 distinguish the candidates of the party for public office in all
22 districts of the state, and shall file in the office of the state board
23 of elections, a certificate executed by its chairman and secretary,
24 setting forth the name [and showing the emblem so selected].
25 2. The name of a party shall be in the English language and shall not
26 include the words "American", "United States", "National", "New York
27 State", "Empire State", or any abbreviation thereof, nor the name or
28 part of the name, or an abbreviation of the name, of an existing party.

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

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1 [The emblem chosen may be a star, an animal, an anchor, or any other
2 proper symbol, but may not be the same as or similar to any emblem,
3 insignia, symbol or flag used by any political or governmental body,
4 agency or entity nor any religious emblem, insignia, symbol or flag, nor
5 the portrait of any person, nor the representation of a coin or of the
6 currency of the United States.] The name [and emblem] chosen shall not
7 be similar to or likely to create confusion with the name [or emblem] of
8 any other existing party or independent body.

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

11 1. The state board of elections not later than thirty-six days before
12 a general election, or fifty-three days before a special election, shall
13 certify to each county board of elections the name and residence of each
14 candidate nominated in any valid certificate filed with it or by the
15 returns canvassed by it, the title of the office for which nominated;
16 the name of the party or body specified of which he is a candidate; [the
17 emblem chosen to distinguish the candidates of the party or body;] and a
18 notation as to whether or not any litigation is pending concerning the
19 candidacy. Upon the completion of any such litigation, the state board
20 of elections shall forthwith notify the appropriate county boards of
21 elections of the results of such litigation.

22 S 4. Subdivision 1 of section 6-128 of the election law is amended to
23 read as follows:

24 1. When an independent body becomes a party at a general election by
25 qualifying under the requirements set by law, nominations shall, prior
26 to and including the first general election thereafter, be made as
27 provided by the rules of such party. A certificate of such nominations
28 shall contain:

29 (a) The name of the party filing the nominations.

30 (b) The title of the office for which the nomination is made and the
31 name and residence address of the person so nominated.

32 (c) The names of the members of the committee, if any, appointed to
33 fill vacancies in nominations.

34 (d) [A description and representation of the party's emblem.

35 (e)] The name of the committee making the nomination.

36 [(f)] (E) A certified copy of the party rules describing the rule-mak-
37 ing body and nomination process.

38 [(g)] (F) An affidavit containing a statement by the presiding officer
39 and secretary of the committee that they are such officers and the
40 statements in the certificate are true.

41 S 5. Subdivision 3 of section 6-138 of the election law, as amended by
42 chapter 305 of the laws of 1992, paragraph (a) as amended by chapter 306
43 of the laws of 1992, is amended to read as follows:

44 3. a. The name selected for the independent body making the nomination
45 shall be in English characters and shall not include the name or part of
46 the name or an abbreviation of the name or part of the name, nor shall
47 the [emblem or] name be of such a configuration as to create the possi-
48 bility of confusion with the [emblem or] name of a then existing party,
49 or the [emblem or] name of an independent body selected by a previously
50 filed independent nominating petition for the same office.

51 b. Notwithstanding the requirements of paragraph a of this subdivi-
52 sion, if the [emblem or] name selected for an independent body on any
53 independent nominating petition is the same as that selected by any
54 previously filed independent nominating petition for the same office,
55 the board of elections with which such later petition was filed shall,
56 not later than two days after the filing of such later filed petition,

1 send notice of such duplicate selection of [emblem or] name by first-
2 class mail, to the candidate for such office who was nominated by such
3 later filed petition, and that the candidate to whom such notice is
4 required to be sent may file with such board of elections, not later
5 than seven days after such notice was mailed, a certificate selecting a
6 different [emblem or] name.

7 c. A person who has been nominated or who expects to be nominated as
8 the candidate of an independent body for the office of President of the
9 United States at any election for such office may, not later than three
10 days after the last day to file nominating petitions, file with the
11 state board of elections, a special certificate which shall be irrev-
12 ocable, stating that such person does not wish to permit candidates for
13 any other office, except the office of Vice-President of the United
14 States, to appear on the ballot with the same name [and emblem] as the
15 independent body which has nominated or will nominate such candidate for
16 the office of President.

17 d. Not later than seven days after the last day to file nominating
18 petitions, the state board of elections shall notify each local board of
19 elections of the name of each candidate for President of the United
20 States who has filed such a special certificate, together with the name
21 [and emblem] of the independent body selected on the petition which
22 nominated such candidate.

23 e. If any candidate has been nominated for any other office by a peti-
24 tion which selected the same name [or emblem] for an independent body as
25 the name [or emblem] selected on the petition which nominated a candi-
26 date for President of the United States who has filed a special certif-
27 icate pursuant to paragraph c of this subdivision, the board of
28 elections with which the petition nominating such candidate for such
29 other office was filed shall, not later than ten days after the last day
30 to file nominating petitions, send to each such candidate, by first
31 class mail, notice that a special certificate pursuant to paragraph c of
32 this subdivision has been filed and that the candidate to whom such
33 notice is sent may file with such board of elections, not later than
34 seven days after such notice was mailed, a certificate selecting a
35 different name [and emblem].

36 f. If [such a petition shall not show an emblem, or if] the petition
37 shall fail to select a name for such independent body, or if pursuant to
38 the provisions of paragraph b or paragraph e of this subdivision, a
39 candidate shall fail to select another [emblem or] name for such inde-
40 pendent body, the officer or board in whose office the petition is filed
41 shall select [an emblem or] A name [or both] to distinguish the candi-
42 dates nominated thereby. The name [and emblem] shown upon such petition
43 or selected by a candidate authorized to make such selection by para-
44 graph b or paragraph e of this subdivision, or selected by an officer or
45 board shall also conform to the requirements of this chapter with
46 respect to names [or emblems] permitted to be selected by a party.

47 g. Nothing contained in this subdivision shall preclude a court of
48 competent jurisdiction from rejecting an independent nominating petition
49 if the court determines that fraud was involved in the selection of a
50 name [or emblem].

51 S 6. Paragraph a of subdivision 1 of section 6-140 of the election
52 law, as amended by chapter 235 of the laws of 2000, is amended to read
53 as follows:

54 a. Each sheet of an independent nominating petition shall be signed in
55 ink, shall contain the following information and shall be in substan-
56 tially the following form:

1 I, the undersigned, do hereby state that I am a registered voter of
 2 the political unit for which a nomination for public office is hereby
 3 being made, that my present place of residence is truly stated opposite
 4 my signature hereto, and that I do hereby nominate the following named
 5 person (or persons) as a candidate (or as candidates) for election to
 6 public office (or public offices) to be voted for at the election to be
 7 held on the day of, 20...., and that I
 8 select the name (fill in name) as the name
 9 of the independent body making the nomination (or nominations) [and
 10 (fill in emblem) as the emblem of such body].

11			Place of residence
12			(also post office
13	Name of	Public	address
14	Candidate	Office	if not identical)
15	.....	.....	.....
16	.....	.....	.....

17 I do hereby appoint (here insert the names
 18 and addresses of at least three persons, all of whom shall be registered
 19 voters within such political unit), as a committee to fill vacancies in
 20 accordance with the provisions of the election law.
 21 In witness whereof, I have hereunto set my hand, the day and year
 22 placed opposite my signature.

23	Date	Name of Signer	Residence
24	.....	.....	.....
25	.....	.....	.....
26			Town or city (except
27			in the city of New
28			York, the county)
			
			

29 S 7. Subdivisions 1 and 3 of section 6-206 of the election law, subdivi-
 30 vision 1 as amended by chapter 447 of the laws of 2006, and subdivision
 31 3 as added by chapter 359 of the laws of 1989, are amended to read as
 32 follows:

33 1. Independent nominations for elective village offices shall be made
 34 by a petition containing the signatures in ink of residents of the
 35 village who are registered with the appropriate county board of
 36 elections at the time of signing. The sheets of such a petition shall be
 37 numbered. A signer need not himself or herself fill in the date or resi-
 38 dence. Each sheet of such petition must be in substantially the follow-
 39 ing form and shall contain all the information required therein:

40 VILLAGE INDEPENDENT NOMINATING PETITION

41 I, the undersigned, do hereby state that I am a registered voter of
 42 the Village of....., that my present place of residence is truly stat-
 43 ed opposite my signature, and I do hereby nominate the following named
 44 person (or persons) as a candidate (or as candidates) for election to
 45 public office (or public offices) to be voted for at the election to be
 46 held on the....day of....., 20...., and that I select the
 47 name..... (fill in name) as the name of the independent body
 48 making the nomination (or nominations) [and....(fill in emblem) as the
 49 emblem of such body].

1	Name of			
2	Candidate	Public Office	Term	Residence
3				
4				

5 I do hereby appoint (insert names and addresses of at least three
6 persons, all of whom shall be registered voters within such village) as
7 a committee to fill vacancies in accordance with the provisions of the
8 election law.

9 In witness whereof, I have signed this petition on the day and year
10 stated before my signature.

11	Date	Signature	Residence
12			
13			

14 STATEMENT OF WITNESS

15 I, state that I am a duly qualified voter and
16 now reside at (residence address) in the Village
17 of in the State of New York in the County of
18 Each of the voters whose names are subscribed to
19 this petition sheet containing (fill in number) signa-
20 tures, subscribed his or her name in my presence.

21 I understand that this statement will be accepted for all purposes as
22 the equivalent of an affidavit and, if it contains a material false
23 statement, shall subject me to the same penalties as if I had been duly
24 sworn.

25	.....	.....
26	Date	Signature of witness

27 3. The name selected for the independent body making the nomination
28 shall be in the English language and shall not include the name or part
29 of the name, or an abbreviation of the name or of part of the name, of a
30 then existing party. The name [and emblem] shown upon such petition
31 shall conform to the requirements of this chapter, relating to party
32 names [and party emblems]. If [such a petition shall not show an emblem,
33 or] the petition shall fail to select a name for such independent body,
34 the board of elections shall select [an emblem or] A name, [or both] to
35 distinguish the candidates nominated thereby.

36 S 8. Subdivision 4 of section 15-108 of the election law, as amended
37 by chapter 447 of the laws of 2006, is amended to read as follows:

38 4. Independent nominations for elective village offices shall be made
39 by a petition containing the signatures in ink of residents of the
40 village who are registered with the appropriate county board of
41 elections at the time of signing or who are residents of the village who
42 were on the list of registered voters for the last village election in
43 such village. The sheets of such a petition shall be numbered. Such
44 petition must set forth in each instance the correct date of signing,
45 the name of the signer and his or her present address, and may set forth
46 a committee to fill vacancies consisting of at least three persons qual-
47 ified to vote in the village election and their residence within the
48 village. A signer need not himself or herself fill in the date or resi-
49 dence. Each sheet of such petition must be in substantially the follow-
50 ing form and shall contain all the information required therein except
51 as may otherwise be permitted by law.

1 VILLAGE INDEPENDENT NOMINATING PETITION

2 I, the undersigned, do hereby state that I am a registered voter of
 3 the Village of, that my present place of residence is truly
 4 stated opposite my signature, and I do hereby nominate the following
 5 named person (or persons) as a candidate (or as candidates) for election
 6 to public office (or public offices) to be voted for at the election to
 7 be held on the day of, 20....., and that I select the
 8 name (fill in name) as the name of the independent body
 9 making the nomination (or nominations) [and (fill in emblem) as
 10 the emblem of such body].

11	Name of Candidate	Public Office	Term	Residence
12				
13				

14 I do hereby appoint _ _ _ _
 15 Name

Residence

16
 17
 18 as a committee to fill vacancies in accordance with the provisions of
 19 the election law.
 20 IN WITNESS WHEREOF, I have signed this petition on the day and year
 21 stated before my signature.

22	Date	Signature	Residence
23			
24			

25 STATEMENT OF WITNESS

26 I, state that I am a duly qualified voter and now
 27 reside at (residence address) in the Village
 28 of in the State of New York in the County of Each
 29 of the voters whose names are subscribed to this petition sheet,
 30 containing (fill in number) signatures, subscribed his or her
 31 name in my presence.
 32 I understand that this statement will be accepted for all purposes as
 33 the equivalent of an affidavit and, if it contains a material false
 34 statement, shall subject me to the same penalties as if I had been duly
 35 sworn.

36 Date
 37 Signature of Witness

38 S 9. Subdivision 1 of section 16-104 of the election law is amended to
 39 read as follows:

40 1. The form and content of any ballot, or portion thereof, to be used
 41 in an election, and the right to use any [emblem design,] color, party
 42 or independent body name, may be contested in a proceeding instituted in
 43 the supreme court by any aggrieved candidate or by the chairman of any
 44 party committee or independent body.

45 S 10. This act shall take effect immediately.