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

689--A

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. SILVER, CUSICK, WRIGHT, FARRELL, GOTTFRIED, WEINSTEIN, GLICK, BROOK-KRASNY, CYMBROWITZ, AUBRY, BRENNAN, LENTOL, KAVANAGH, WEISENBERG, PERRY, MAISEL, WEPRIN -- Multi-Sponsored by -- M. of A. ABINANTI, BARRETT, BARRON, BENEDETTO, BRAUNSTEIN, BRONSON, BUCHWALD, CAHILL, CLARK, COOK, DenDEKKER, DINOWITZ, ENGLEBRIGHT, GALEF, GIBSON, GUNTHER, HENNESSEY, HEVESI, JACOBS, JAFFEE, KELLNER, KIM, LAVINE, LIFTON, LUPARDO, MAGNARELLI, MARKEY, MAYER, McDONALD, MILLER, MORELLE, MOYA, O'DONNELL, OTIS, PAULIN, PEOPLES-STOKES, PRETLOW, QUART, RAMOS, ROBERTS, ROBINSON, ROSA, ROSENTHAL, ROZIC, RUSSELL, SANTABARBARA, SCARBOROUGH, SCHIMEL, SEPULVEDA, SIMOTAS, SKARTADOS, SKOUFIS, SOLAGES, STEVENSON, STIRPE, SWEENEY, THIELE, TITONE -- read once and referred to the Committee on Election Law -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, in relation to early voting

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

Section 1. Section 3-400 of the election law is amended by adding a new subdivision 9 to read as follows:

9. NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF THIS SECTION, ELECTION INSPECTORS OR POLL CLERKS, IF ANY, AT EARLY VOTING LOCATIONS, SHALL CONSIST OF EITHER BOARD OF ELECTIONS EMPLOYEES WHO SHALL BE APPOINTED BY THE COMMISSIONERS OF SUCH BOARD OR DULY QUALIFIED INDIVIDUALS, APPOINTED IN THE MANNER SET FORTH IN THIS SECTION. APPOINTMENTS TO THE OFFICES OF ELECTION INSPECTOR OR POLL CLERK IN EACH EARLY VOTING LOCATION SHALL BE EQUALLY DIVIDED BETWEEN THE MAJOR POLITICAL PARTIES.

S 2. Subdivision 1 of section 4-117 of the election law, as amended by chapter 288 of the laws of 2009, is amended to read as follows:

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

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1. The board of elections, between August first and August fifth of each year, shall send by first class mail on which is endorsed "ADDRESS CORRECTION REQUESTED" and which contains a request that any such mail received for persons not residing at the address be dropped back in the mail, a communication, in a form approved by the state board of elections, to every registered voter who has been registered without a change of address since the beginning of such year, except that the board of elections shall not be required to send such communications to voters in inactive status. The communication shall notify the voter of the days and hours of the ensuing primary and general elections, INCLUDING THE DAYS AND HOURS FOR EARLY VOTING AND THE LOCATIONS THEREFOR, the place where he appears by his registration records to be entitled to vote, the fact that voters who have moved or will have moved from the address where they were last registered must re-register or, that if such move was to another address in the same county or city, that such voter may either notify the board of elections of his new address or vote by paper ballot at the polling place for his new address even if such voter has not re-registered, or otherwise notified the board of elections of the change of address. If the location of the polling place for the voter's election district has been moved, the communication shall contain the following legend in bold type: "YOUR POLLING PLACE HAS BEEN CHANGED. YOU NOW VOTE AT.....". The communication shall also indicate whether the polling place is accessible to physically disabled voters, that a voter who will be out of the city or county on the day of the primary or general election or a voter who is ill or physically disabled may obtain an absentee ballot, that a physically disabled voter whose polling place is not accessible may request that his registration record be moved to an election district which has a polling place which is accessible, the phone number to call for applications to move a registration record or for absentee ballot applications, the phone number to call for the location of registration and polling places, the phone number to call to indicate that the voter is willing to serve on election day as an election inspector, poll clerk, interpreter or in other capacities, the phone number to call to obtain an application for registration by mail, and such other information concerning the elections or registration as the board may include. In lieu of sending such communication to every registered voter, the board of elections may send a single communication to a household containing more than one registered voter, provided that the names of all such voters appear as part of the address on such communication.

S 3. Subdivision 1 of section 8-102 of the election law is amended by adding a new paragraph (k) to read as follows:

(K) VOTING AT EACH EARLY VOTING SITE SHALL BE CONDUCTED IN A MANNER CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE, WITH THE EXCEPTION OF THE TABULATION AND PROCLAMATION OF ELECTION RESULTS WHICH SHALL BE COMPLETED ACCORDING TO SUBDIVISIONS EIGHT, NINE, AND TEN OF SECTION 8-600 OF THIS ARTICLE.

S 4. Section 8-104 of the election law is amended by adding a new subdivision 7 to read as follows:

7. THIS SECTION SHALL APPLY ON ALL EARLY VOTING DAYS AS PROVIDED FOR IN SECTION 8-600 OF THIS ARTICLE.

S 5. Paragraph (b) of subdivision 2 of section 8-508 of the election law, as amended by chapter 200 of the laws of 1996, is amended to read as follows:

(b) The second section of such report shall be reserved for the board of inspectors to enter the name, address and registration serial number

of each person who is challenged on the day of election OR ON ANY DAY IN WHICH THERE IS EARLY VOTING PURSUANT TO SECTION 8-600 OF THIS ARTICLE, together with the reason for the challenge. If no voters are challenged, the board of inspectors shall enter the words "No Challenges" across the space reserved for such names. In lieu of preparing section two of the challenge report, the board of elections may provide, next to the name of each voter on the computer generated registration list, a place for the inspectors of election to record the information required to be entered in such section two, or provide at the end of such computer generated registration list, a place for the inspectors of election to enter such information.

S 6. Article 8 of the election law is amended by adding a new title 6 to read as follows:

TITLE VI
EARLY VOTING

SECTION 8-600. EARLY VOTING.
8-602. STATE BOARD OF ELECTIONS; POWERS AND DUTIES FOR EARLY VOTING.

S 8-600. EARLY VOTING. 1. BEGINNING THE THIRD THURSDAY PRIOR TO ANY GENERAL ELECTION FOR ANY PUBLIC OR PARTY OFFICE, AND THE SECOND THURSDAY PRIOR TO ANY PRIMARY OR SPECIAL ELECTION FOR ANY PUBLIC OR PARTY OFFICE, AND ENDING ON THE THURSDAY IMMEDIATELY PRECEDING A GENERAL, PRIMARY OR SPECIAL ELECTION FOR ANY PUBLIC OR PARTY OFFICE, PERSONS DULY REGISTERED AND ELIGIBLE TO VOTE FOR CANDIDATES FOR SUCH OFFICE SHALL BE PERMITTED TO VOTE IN PERSON BY BALLOT FOR A CANDIDATE FOR SUCH OFFICE. VOTERS WHO CAST A VOTE AT AN EARLY VOTING SITE DURING THE EARLY VOTING PERIOD SHALL BE PROHIBITED FROM VOTING ON ELECTION DAY.

2. THE BOARD OF ELECTIONS OF EACH COUNTY SHALL DESIGNATE AT LEAST FIVE POLLING SITES, INCLUDING THE BOARD OF ELECTIONS ITSELF, IN EACH COUNTY OR BOROUGH IN THE CITY OF NEW YORK, FOR PERSONS TO VOTE EARLY PURSUANT TO THIS SECTION. SUCH POLLING SITES SHALL BE GEOGRAPHICALLY LOCATED SO AS TO PROVIDE ALL VOTERS IN THE COUNTY AN EQUAL OPPORTUNITY TO CAST A BALLOT, INSOFAR AS IS PRACTICABLE. IN THE EVENT THAT THE BOARD OF ELECTIONS DETERMINES THAT THE NUMBER OF EARLY VOTING SITES IS INSUFFICIENT DUE TO THE NUMBER OF VOTERS WHO ARE VOTING EARLY, THE BOARD OF ELECTIONS MAY ESTABLISH ADDITIONAL EARLY VOTING SITES FOR THE CONVENIENCE OF ELIGIBLE VOTERS WISHING TO VOTE AT SUCH EARLY VOTING SITES. FURTHER, THE BOARD OF ELECTIONS SHALL GIVE ADEQUATE NOTICE TO ELIGIBLE VOTERS OF SUCH ADDITIONAL EARLY VOTING SITES. THE PROVISIONS OF SECTION 4-104 OF THIS CHAPTER SHALL APPLY TO THE DESIGNATION OF POLLING PLACES FOR EARLY VOTING EXCEPT WHERE SUCH PROVISIONS ARE INCONSISTENT WITH THIS SUBDIVISION.

3. ANY PERSON ENTITLED TO VOTE EARLY MAY DO SO AT ANY EARLY VOTING SITE ESTABLISHED PURSUANT TO SUBDIVISION TWO OF THIS SECTION IN THE COUNTY WHERE SUCH VOTER IS REGISTERED TO VOTE PROVIDED, HOWEVER, IF IT IS IMPRACTICAL FOR THE COUNTY BOARD OF ELECTIONS TO PROVIDE EACH EARLY VOTING SITE ALL APPROPRIATE BALLOTS FOR EACH ELECTION TO BE VOTED ON IN THE COUNTY OR SUCH BOARD OF ELECTIONS IS UNABLE TO ENSURE THAT SUCH VOTER HAS NOT PREVIOUSLY VOTED EARLY DURING SUCH ELECTION, THE BOARD OF ELECTIONS SHALL PROVIDE APPROPRIATE FORMS OF BALLOTS ONLY FOR THOSE VOTERS REGISTERED TO VOTE IN THE AREA SERVED BY SUCH EARLY VOTING SITE AS DESIGNATED BY THE BOARD OF ELECTIONS.

4. POLLS SHALL BE OPEN FOR EARLY VOTING FROM EIGHT O'CLOCK IN THE MORNING UNTIL EIGHT O'CLOCK IN THE EVENING EACH WEEK DAY AND FROM NINE O'CLOCK IN THE MORNING UNTIL FIVE O'CLOCK IN THE AFTERNOON ON SATURDAY AND SUNDAY. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT ANY

BOARD OF ELECTIONS FROM EXTENDING HOURS FOR EARLY VOTING PAST THE TIMES SPECIFIED HEREIN.

5. THE BOARD OF ELECTIONS SHALL CREATE A COMMUNICATION PLAN THAT IS EASILY ACCESSIBLE AND UNDERSTOOD BY ALL VOTERS. SUCH COMMUNICATIONS PLAN SHALL UTILIZE ANY AND ALL MEDIA OUTLETS, INCLUDING SOCIAL MEDIA. INFORMATION TO BE PROVIDED SHALL INCLUDE THE LOCATION OF ALL EARLY VOTING SITES AND A NOTATION WHETHER SUCH SITES ARE ACCESSIBLE TO DISABLED VOTERS, DATES AND HOURS OF OPERATION, A CLEAR AND UNAMBIGUOUS MESSAGE TO VOTERS NOTIFYING THEM THAT IF SUCH VOTERS CAST A BALLOT DURING THE EARLY VOTING PERIOD THEN THEY WILL NOT BE ALLOWED TO VOTE ON ELECTION DAY; AND IF EARLY VOTING POLLING PLACES ARE REGIONALIZED PURSUANT TO SUBDIVISION THREE OF THIS SECTION, THE LOCATION OF THE EARLY VOTING POLLING PLACE SERVING THE VOTERS OF ANY PARTICULAR CITY, TOWN OR OTHER POLITICAL SUBDIVISION.

6. THE FORM OF PAPER BALLOTS, IF USED IN EARLY VOTING, SHALL COMPLY WITH THE PROVISIONS OF ARTICLE SEVEN OF THIS CHAPTER THAT ARE APPLICABLE TO VOTING BY PAPER BALLOT ON ELECTION DAY AND SUCH BALLOT SHALL BE CAST IN THE SAME MANNER AS PROVIDED FOR IN SECTION 8-312 OF THIS ARTICLE, PROVIDED HOWEVER THAT BALLOTS CAST DURING THE EARLY VOTING PERIOD SHALL NOT BE CANVASSED UNTIL NINE O'CLOCK IN THE EVENING ON ELECTION DAY.

7. VOTERS CASTING BALLOTS PURSUANT TO THIS TITLE SHALL BE SUBJECT TO CHALLENGE AS PROVIDED IN SECTIONS 8-500, 8-502 AND 8-504 OF THIS ARTICLE.

8. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER, AT NINE O'CLOCK IN THE EVENING ON ELECTION DAY, THE REMOVABLE ELECTRONIC OR COMPUTERIZED DEVICES IN USE BY ALL VOTING SCANNERS USED DURING THE EARLY VOTING PERIOD SHALL BE PROCESSED, IN A MANNER NOT INCONSISTENT WITH ARTICLE NINE OF THIS CHAPTER, BY BIPARTISAN TEAMS OF BOARD OF ELECTIONS EMPLOYEES OR ELECTION INSPECTORS AS DESIGNATED BY THE BOARD OF ELECTIONS. THEREAFTER, TABULATED RESULTS TAPES SHALL BE PRODUCED AND A CANVASS SHEET REFLECTING THE AGGREGATED VOTE RESULTS OF EARLY VOTING SHALL BE COMPLETED AND SIGNED BY SAID BIPARTISAN CANVASS TEAMS.

9. NOTWITHSTANDING ANY PROVISIONS OF THIS CHAPTER, AT THE END OF EACH DAY OF EARLY VOTING, ANY EARLY VOTING BALLOTS THAT WERE NOT ABLE TO BE SCANNED AT ANY EARLY VOTING SITE SHALL BE SCANNED BY A BIPARTISAN TEAM OF INSPECTORS ASSIGNED TO SUCH EARLY VOTE SITE. ANY SUCH BALLOTS THAT REMAIN UNSCANNED BECAUSE THE SCANNER WAS UNAVAILABLE, OR BECAUSE OF AN OVERVOTE OR BLANK BALLOT WARNING ON THE BALLOT SCANNER SCREEN, SHALL BE RETURNED TO THE BOARD OF ELECTIONS UNCOUNTED. AT NINE O'CLOCK IN THE EVENING ON ELECTION DAY AT THE BOARD OF ELECTIONS, SUCH UNSCANNED BALLOTS SHALL BE CANVASSED BY BIPARTISAN TEAMS OF BOARD OF ELECTIONS EMPLOYEES OR ELECTION INSPECTORS AS DESIGNATED BY THE BOARD OF ELECTIONS. THE VOTES FROM SUCH BALLOTS SHALL BE RECORDED ON TALLY SHEETS AND BE SIGNED BY SAID BIPARTISAN CANVASS TEAMS. RESULTS TABULATED ON SAID TALLY SHEETS SHALL BE ADDED TO THE TABULATED RESULTS TAPES TOTALS, AND THE SIGNED TALLY SHEETS SHALL BE AFFIXED TO CORRESPONDING EARLY VOTING CANVASS SHEETS.

10. UPON THE COMPLETION OF THE CANVASS OF ALL EARLY VOTING BALLOTS CAST, THE REMOVABLE ELECTRONIC OR COMPUTERIZED DEVICES USED IN ALL EARLY VOTING SCANNERS SHALL BE USED TO PRODUCE THE UNOFFICIAL TALLY OF RESULTS AS REQUIRED IN SECTION 9-126 OF THIS CHAPTER.

S 8-602. STATE BOARD OF ELECTIONS; POWERS AND DUTIES FOR EARLY VOTING. ANY RULE OR REGULATION NECESSARY FOR THE IMPLEMENTATION OF THE PROVISIONS OF THIS TITLE SHALL BE PROMULGATED BY THE STATE BOARD OF ELECTIONS PROVIDED THAT SUCH RULES AND REGULATIONS SHALL INCLUDE PROVISIONS TO ENSURE THAT BALLOTS CAST EARLY, BY ANY METHOD ALLOWED

UNDER LAW, ARE COUNTED AND CANVASSED AS IF CAST ON ELECTION DAY. THE STATE BOARD OF ELECTIONS SHALL PROMULGATE ANY OTHER RULES AND REGULATIONS NECESSARY TO ENSURE AN EFFICIENT AND FAIR EARLY VOTING PROCESS THAT RESPECTS THE PRIVACY OF THE VOTER. PROVIDED FURTHER THAT SUCH RULES AND REGULATIONS SHALL REQUIRE THAT THE VOTING HISTORY RECORD FOR EACH VOTER BE CONTINUALLY UPDATED TO REFLECT EACH INSTANCE OF EARLY VOTING BY SUCH VOTER.

S 7. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.