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

8582--A

2015-2016 Regular Sessions

I N A S S E M B L Y

November 18, 2015

Introduced by M. of A. KAVANAGH, CUSICK, BLAKE -- read once and referred to the Committee on Election Law -- recommitted to the Committee on Election Law in accordance with Assembly Rule 3, sec. 2 -- 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; and to repeal certain provisions of such law relating thereto

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 ARTICLE, ELECTION INSPECTORS OR POLL CLERKS, IF ANY, AT POLLING PLACES FOR EARLY VOTING, 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 POLLING PLACE FOR EARLY VOTING SHALL BE EQUALLY DIVIDED BETWEEN THE MAJOR POLITICAL PARTIES. THE BOARD OF ELECTIONS SHALL ASSIGN STAFF AND PROVIDE THE RESOURCES THEY REQUIRE TO ENSURE WAIT TIMES AT EARLY VOTING SITES DO NOT EXCEED THIRTY MINUTES.

S 2. Section 4-117 of the election law is amended by adding a new subdivision 1-a to read as follows:

1-A. THE NOTICE REQUIRED BY SUBDIVISION ONE OF THIS SECTION SHALL INCLUDE THE DATES, HOURS AND LOCATIONS OF EARLY VOTING FOR THE GENERAL AND PRIMARY ELECTION. THE BOARD OF ELECTIONS MAY SATISFY THE NOTICE REQUIREMENT OF THIS SUBDIVISION BY PROVIDING IN THE NOTICE INSTRUCTIONS TO OBTAIN THE REQUIRED EARLY VOTING INFORMATION FROM A WEBSITE OF THE BOARD OF ELECTIONS AND PROVIDING A PHONE NUMBER TO CALL FOR SUCH INFORMATION.

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

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S 3. Subdivision 2 of section 8-100 of the election law is REPEALED and a new subdivision 2 is added to read as follows:

2. (A) THE BOARD OF ELECTIONS OF EACH COUNTY AND OF THE CITY OF NEW YORK SHALL DESIGNATE HOURS POLLS SHALL BE OPEN FOR VOTING, SUBJECT TO THE REQUIREMENTS OF THIS SUBDIVISION.

(B) IN THE CITY OF NEW YORK OR IN THE COUNTY OF NASSAU, SUFFOLK, WESTCHESTER, ROCKLAND, ORANGE, PUTNAM OR ERIE, FOR A PRIMARY ELECTION, THE DESIGNATED TIME POLLS SHALL OPEN SHALL BE NO EARLIER THAN SIX O'CLOCK AND NO LATER THAN SEVEN O'CLOCK IN THE MORNING.

(C) IN ANY COUNTY OTHER THAN IN THE CITY OF NEW YORK OR THE COUNTIES OF NASSAU, SUFFOLK, WESTCHESTER, ROCKLAND, ORANGE, PUTNAM OR ERIE, FOR A PRIMARY ELECTION THE DESIGNATED TIME POLLS SHALL OPEN SHALL BE NO EARLIER THAN ELEVEN O'CLOCK IN THE MORNING AND NO LATER THAN TWELVE O'CLOCK NOON.

(D) FOR A GENERAL, SPECIAL, OR OTHER ELECTION, EXCEPT AS OTHERWISE PROVIDED BY LAW, THE DESIGNATED TIME POLLS SHALL OPEN SHALL BE NO EARLIER THAN SIX O'CLOCK AND NO LATER THAN SEVEN O'CLOCK IN THE MORNING.

(E) FOR ANY PRIMARY, GENERAL, SPECIAL, OR OTHER ELECTION, EXCEPT AS OTHERWISE PROVIDED BY LAW, THE DESIGNATED TIME POLLS SHALL CLOSE SHALL BE NO EARLIER THAN EIGHT O'CLOCK AND NO LATER THAN NINE O'CLOCK IN THE EVENING.

S 4. 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 POLLING PLACE FOR EARLY VOTING 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 AND NINE OF SECTION 8-600 OF THIS ARTICLE.

S 5. 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 6. 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 7. 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 THIRTEENTH DAY PRIOR TO ANY GENERAL, PRIMARY OR SPECIAL ELECTION FOR ANY PUBLIC OR PARTY OFFICE, AND ENDING ON AND INCLUDING THE SECOND DAY PRIOR TO SUCH GENERAL, PRIMARY OR SPECIAL ELECTION FOR SUCH PUBLIC OR PARTY OFFICE, PERSONS DULY REGISTERED AND ELIGIBLE TO VOTE AT SUCH ELECTION SHALL BE PERMITTED TO VOTE AS PROVIDED IN THIS TITLE. THE BOARD OF ELECTIONS OF EACH COUNTY AND THE CITY OF NEW YORK SHALL ESTABLISH PROCEDURES, SUBJECT TO APPROVAL OF THE STATE BOARD OF ELECTIONS, TO ENSURE THAT PERSONS WHO VOTE DURING THE EARLY VOTING PERIOD SHALL NOT BE PERMITTED TO VOTE SUBSEQUENTLY IN THE SAME ELECTION.

2. (A) THE BOARD OF ELECTIONS OF EACH COUNTY OR THE CITY OF NEW YORK SHALL DESIGNATE POLLING PLACES FOR EARLY VOTING IN EACH COUNTY, WHICH MAY INCLUDE THE OFFICES OF THE BOARD OF ELECTIONS, FOR PERSONS TO VOTE EARLY PURSUANT TO THIS SECTION. THERE SHALL BE SO DESIGNATED AT LEAST ONE EARLY VOTING POLLING PLACE FOR EVERY FULL INCREMENT OF FIFTY THOUSAND REGISTERED VOTERS IN EACH COUNTY; PROVIDED, HOWEVER, THE NUMBER OF EARLY VOTING POLLING PLACES IN A COUNTY SHALL NOT BE REQUIRED TO BE GREATER THAN SEVEN, AND A COUNTY WITH FEWER THAN FIFTY THOUSAND VOTERS SHALL HAVE AT LEAST ONE EARLY VOTING POLLING PLACE.

(B) THE BOARD OF ELECTIONS OF EACH COUNTY OR THE CITY OF NEW YORK MAY ESTABLISH ADDITIONAL POLLING PLACES FOR EARLY VOTING IN EXCESS OF THE MINIMUM NUMBER REQUIRED BY THIS SUBDIVISION FOR THE CONVENIENCE OF ELIGIBLE VOTERS WISHING TO VOTE DURING THE EARLY VOTING PERIOD.

(C) NOTWITHSTANDING THE MINIMUM NUMBER OF EARLY VOTING POLL SITES OTHERWISE REQUIRED BY THIS SUBDIVISION, FOR ANY PRIMARY OR SPECIAL ELECTION, UPON MAJORITY VOTE OF THE BOARD OF ELECTIONS, THE NUMBER OF EARLY VOTING SITES MAY BE REDUCED IF THE BOARD OF ELECTIONS REASONABLY DETERMINES A LESSER NUMBER OF SITES IS SUFFICIENT TO MEET THE NEEDS OF EARLY VOTERS.

(D) POLLING PLACES FOR EARLY VOTING SHALL BE LOCATED TO ENSURE, TO THE EXTENT PRACTICABLE, THAT ELIGIBLE VOTERS HAVE ADEQUATE EQUITABLE ACCESS, TAKING INTO CONSIDERATION POPULATION DENSITY, TRAVEL TIME TO THE POLLING PLACE, PROXIMITY TO OTHER LOCATIONS OR COMMONLY USED TRANSPORTATION ROUTES AND SUCH OTHER FACTORS THE BOARD OF ELECTIONS OF THE COUNTY OR THE CITY OF NEW YORK DEEMS APPROPRIATE. THE PROVISIONS OF SECTION 4-104 OF THIS CHAPTER, EXCEPT SUBDIVISIONS FOUR AND FIVE OF SUCH SECTION, SHALL APPLY TO THE DESIGNATION OF POLLING PLACES FOR EARLY VOTING EXCEPT TO THE EXTENT SUCH PROVISIONS ARE INCONSISTENT WITH THIS SECTION.

3. ANY PERSON PERMITTED TO VOTE EARLY MAY DO SO AT ANY POLLING PLACE FOR EARLY VOTING ESTABLISHED PURSUANT TO SUBDIVISION TWO OF THIS SECTION IN THE COUNTY WHERE SUCH VOTER IS REGISTERED TO VOTE. PROVIDED, HOWEVER, (A) IF IT IS IMPRACTICAL TO PROVIDE EACH POLLING PLACE FOR EARLY VOTING ALL APPROPRIATE BALLOTS FOR EACH ELECTION TO BE VOTED ON IN THE COUNTY, OR (B) IF PERMITTING SUCH PERSONS TO VOTE EARLY AT ANY POLLING PLACE ESTABLISHED FOR EARLY VOTING WOULD MAKE IT IMPRACTICAL TO ENSURE THAT SUCH VOTER HAS NOT PREVIOUSLY VOTED EARLY DURING SUCH ELECTION, THE BOARD OF ELECTIONS MAY DESIGNATE EACH POLLING PLACE FOR EARLY VOTING ONLY FOR THOSE VOTERS REGISTERED TO VOTE IN A PORTION OF THE COUNTY TO BE SERVED BY SUCH POLLING PLACE FOR EARLY VOTING, PROVIDED THAT ALL VOTERS IN EACH COUNTY SHALL HAVE ONE OR MORE POLLING PLACES AT WHICH THEY ARE ELIGIBLE TO VOTE THROUGHOUT THE EARLY VOTING PERIOD ON A SUBSTANTIALLY EQUAL BASIS.

4. (A) POLLS SHALL BE OPEN FOR EARLY VOTING FOR AT LEAST EIGHT HOURS BETWEEN SEVEN O'CLOCK IN THE MORNING AND EIGHT O'CLOCK IN THE EVENING EACH WEEK DAY DURING THE EARLY VOTING PERIOD.

(B) AT LEAST ONE POLLING PLACE FOR EARLY VOTING SHALL REMAIN OPEN UNTIL EIGHT O'CLOCK IN THE EVENING ON AT LEAST TWO WEEK DAYS IN EACH CALENDAR WEEK DURING THE EARLY VOTING PERIOD. IF POLLING PLACES FOR EARLY VOTING ARE LIMITED TO VOTERS FROM CERTAIN AREAS PURSUANT TO SUBDIVISION THREE OF THIS SECTION, POLLING PLACES THAT REMAIN OPEN UNTIL EIGHT O'CLOCK SHALL BE DESIGNATED SUCH THAT ANY PERSON ENTITLED TO VOTE EARLY MAY VOTE UNTIL EIGHT O'CLOCK IN THE EVENING ON AT LEAST TWO WEEK DAYS DURING THE EARLY VOTING PERIOD.

(C) POLLS SHALL BE OPEN FOR EARLY VOTING FOR AT LEAST FIVE HOURS BETWEEN NINE O'CLOCK IN THE MORNING AND SIX O'CLOCK IN THE EVENING ON EACH SATURDAY, SUNDAY AND LEGAL HOLIDAY DURING THE EARLY VOTING PERIOD.

(D) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT ANY BOARD OF ELECTIONS FROM ESTABLISHING A GREATER NUMBER OF HOURS FOR VOTING DURING THE EARLY VOTING PERIOD BEYOND THE NUMBER OF HOURS REQUIRED IN THIS SUBDIVISION.

(E) EARLY VOTING POLLING PLACES AND THEIR HOURS OF OPERATION FOR EARLY VOTING AT A GENERAL ELECTION SHALL BE DESIGNATED BY MAY FIRST OF EACH YEAR PURSUANT TO SUBDIVISION ONE OF SECTION 4-104 OF THIS CHAPTER. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE OF SECTION 4-104 OF THIS CHAPTER REQUIRING POLL SITE DESIGNATION BY MAY FIRST, EARLY VOTING POLLING PLACES AND THEIR HOURS OF OPERATION FOR EARLY VOTING FOR A PRIMARY OR SPECIAL ELECTION SHALL BE MADE NOT LATER THAN FORTY-FIVE DAYS BEFORE SUCH PRIMARY OR SPECIAL ELECTION.

5. EACH BOARD OF ELECTIONS SHALL CREATE A COMMUNICATION PLAN TO INFORM ELIGIBLE VOTERS OF THE OPPORTUNITY TO VOTE EARLY. SUCH PLAN MAY UTILIZE ANY AND ALL MEDIA OUTLETS, INCLUDING SOCIAL MEDIA, AND SHALL PUBLICIZE: THE LOCATION AND DATES AND HOURS OF OPERATION OF ALL POLLING PLACES FOR EARLY VOTING; AN INDICATION OF WHETHER EACH POLLING PLACE IS ACCESSIBLE TO VOTERS WITH PHYSICAL DISABILITIES; A CLEAR AND UNAMBIGUOUS NOTICE TO VOTERS THAT IF THEY CAST A BALLOT DURING THE EARLY VOTING PERIOD THEY WILL NOT BE ALLOWED TO VOTE ELECTION DAY; AND IF POLLING PLACES FOR EARLY VOTING ARE LIMITED TO VOTERS FROM CERTAIN AREAS PURSUANT TO SUBDIVISION THREE OF THIS SECTION, THE LOCATION OF THE POLLING PLACES FOR EARLY VOTING SERVING THE VOTERS OF EACH PARTICULAR CITY, TOWN OR OTHER POLITICAL SUBDIVISION.

6. THE FORM OF PAPER BALLOTS 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 BE SECURED IN THE MANNER OF VOTED BALLOTS CAST ON ELECTION DAY AND SUCH BALLOTS SHALL NOT BE CANVASSED OR EXAMINED UNTIL AFTER THE CLOSE OF THE POLLS ON ELECTION DAY, AND NO UNOFFICIAL TABULATIONS OF ELECTION RESULTS SHALL BE PRINTED OR VIEWED IN ANY MANNER UNTIL AFTER THE CLOSE OF POLLS 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 THE END OF EACH DAY OF EARLY VOTING, ANY EARLY VOTING BALLOTS THAT HAVE NOT BEEN SCANNED BECAUSE A BALLOT SCANNER WAS NOT AVAILABLE OR BECAUSE THE BALLOT HAS BEEN ABANDONED BY THE VOTER AT THE BALLOT SCANNER SHALL BE CAST IN A MANNER CONSISTENT WITH SECTION 9-110 OF THIS CHAPTER, EXCEPT THAT ANY BALLOTS THAT WOULD OTHERWISE BE SCANNED AT THE CLOSE OF THE POLLS PURSUANT TO SUCH SECTION SHALL BE SCANNED AT THE CLOSE OF EACH DAY'S EARLY VOTING.

9. THE BOARD OF ELECTIONS SHALL SECURE ALL BALLOTS AND SCANNERS USED FOR EARLY VOTING FROM THE BEGINNING OF THE EARLY VOTING PERIOD THROUGH THE CLOSE OF THE POLLS OF THE ELECTION ON ELECTION DAY. AS SOON AS THE POLLS OF THE ELECTION ARE CLOSED ON ELECTION DAY, AND NOT BEFORE, INSPECTORS OR BOARD OF ELECTIONS EMPLOYEES SHALL FOLLOW ALL RELEVANT PROVISIONS OF ARTICLE NINE OF THIS CHAPTER THAT ARE NOT INCONSISTENT WITH THIS SECTION, FOR CANVASSING, PROCESSING, RECORDING, AND ANNOUNCING RESULTS OF VOTING AT POLLING PLACES FOR EARLY VOTING, AND SECURING BALLOTS, SCANNERS, AND OTHER ELECTION MATERIALS.

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 8. This act shall take effect on the first of January next succeeding the date on which it shall have become a law and shall apply to any election held 120 days or more after it shall have taken effect.