

9811

I N A S S E M B L Y

April 12, 2016

Introduced by M. of A. KAVANAGH -- read once and referred to the Committee on Election Law

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:

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

3 9. NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF THIS ARTICLE,
4 ELECTION INSPECTORS OR POLL CLERKS, IF ANY, AT POLLING PLACES FOR EARLY
5 VOTING, SHALL CONSIST OF EITHER BOARD OF ELECTIONS EMPLOYEES WHO SHALL
6 BE APPOINTED BY THE COMMISSIONERS OF SUCH BOARD OR DULY QUALIFIED INDI-
7 VIDUALS, APPOINTED IN THE MANNER SET FORTH IN THIS SECTION. APPOINTMENTS
8 TO THE OFFICES OF ELECTION INSPECTOR OR POLL CLERK IN EACH POLLING PLACE
9 FOR EARLY VOTING SHALL BE EQUALLY DIVIDED BETWEEN THE MAJOR POLITICAL
10 PARTIES. THE BOARD OF ELECTIONS SHALL ASSIGN STAFF AND PROVIDE THE
11 RESOURCES THEY REQUIRE TO ENSURE WAIT TIMES AT EARLY VOTING SITES DO NOT
12 EXCEED THIRTY MINUTES.

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

15 1-A. THE NOTICE REQUIRED BY SUBDIVISION ONE OF THIS SECTION SHALL
16 INCLUDE THE DATES, HOURS AND LOCATIONS OF EARLY VOTING FOR THE GENERAL
17 AND PRIMARY ELECTION. THE BOARD OF ELECTIONS MAY SATISFY THE NOTICE
18 REQUIREMENT OF THIS SUBDIVISION BY PROVIDING IN THE NOTICE INSTRUCTIONS
19 TO OBTAIN THE REQUIRED EARLY VOTING INFORMATION FROM A WEBSITE OF THE
20 BOARD OF ELECTIONS AND PROVIDING A PHONE NUMBER TO CALL FOR SUCH INFOR-
21 MATION.

22 S 3. Subdivision 2 of section 8-100 of the election law, as amended by
23 chapter 335 of the laws of 2000, is amended to read as follows:

24 2. Polls shall be open for voting during the following hours: a prima-
25 ry election from twelve o'clock noon until nine o'clock in the evening,
26 except in the city of New York and the counties of Nassau, Suffolk,
27 Westchester, Rockland, Orange, Putnam and Erie, and in such city or
28 county from [six] SEVEN o'clock in the morning until nine o'clock in the
29 evening; the general election from six o'clock in the morning until nine

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

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1 o'clock in the evening; a special election called by the governor pursu-
2 ant to the public officers law, and, except as otherwise provided by
3 law, every other election, from [six] SEVEN o'clock in the morning until
4 nine o'clock in the evening; EARLY VOTING HOURS SHALL BE AS PROVIDED IN
5 SECTION 8-600 OF THIS ARTICLE.

6 S 4. Subdivision 1 of section 8-102 of the election law is amended by
7 adding a new paragraph (k) to read as follows:

8 (K) VOTING AT EACH POLLING PLACE FOR EARLY VOTING SHALL BE CONDUCTED
9 IN A MANNER CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE, WITH THE
10 EXCEPTION OF THE TABULATION AND PROCLAMATION OF ELECTION RESULTS WHICH
11 SHALL BE COMPLETED ACCORDING TO SUBDIVISIONS EIGHT AND NINE OF SECTION
12 8-600 OF THIS ARTICLE.

13 S 5. Section 8-104 of the election law is amended by adding a new
14 subdivision 7 to read as follows:

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

17 S 6. Paragraph (b) of subdivision 2 of section 8-508 of the election
18 law, as amended by chapter 200 of the laws of 1996, is amended to read
19 as follows:

20 (b) The second section of such report shall be reserved for the board
21 of inspectors to enter the name, address and registration serial number
22 of each person who is challenged on the day of election OR ON ANY DAY IN
23 WHICH THERE IS EARLY VOTING PURSUANT TO SECTION 8-600 OF THIS ARTICLE,
24 together with the reason for the challenge. If no voters are chal-
25 lenged, the board of inspectors shall enter the words "No Challenges"
26 across the space reserved for such names. In lieu of preparing section
27 two of the challenge report, the board of elections may provide, next to
28 the name of each voter on the computer generated registration list, a
29 place for the inspectors of election to record the information required
30 to be entered in such section two, or provide at the end of such comput-
31 er generated registration list, a place for the inspectors of election
32 to enter such information.

33 S 7. Article 8 of the election law is amended by adding a new title 6
34 to read as follows:

35 TITLE VI
36 EARLY VOTING

37 SECTION 8-600. EARLY VOTING.

38 8-602. STATE BOARD OF ELECTIONS; POWERS AND DUTIES FOR EARLY
39 VOTING.

40 S 8-600. EARLY VOTING. 1. BEGINNING THE EIGHTH DAY PRIOR TO ANY GENER-
41 AL, PRIMARY OR SPECIAL ELECTION FOR ANY PUBLIC OR PARTY OFFICE, AND
42 ENDING ON AND INCLUDING THE SECOND DAY PRIOR TO SUCH GENERAL, PRIMARY OR
43 SPECIAL ELECTION FOR SUCH PUBLIC OR PARTY OFFICE, PERSONS DULY REGIS-
44 TERED AND ELIGIBLE TO VOTE AT SUCH ELECTION SHALL BE PERMITTED TO VOTE
45 AS PROVIDED IN THIS TITLE. THE BOARD OF ELECTIONS OF EACH COUNTY AND
46 THE CITY OF NEW YORK SHALL ESTABLISH PROCEDURES, SUBJECT TO APPROVAL OF
47 THE STATE BOARD OF ELECTIONS, TO ENSURE THAT PERSONS WHO VOTE DURING THE
48 EARLY VOTING PERIOD SHALL NOT BE PERMITTED TO VOTE SUBSEQUENTLY IN THE
49 SAME ELECTION.

50 2. (A) THE BOARD OF ELECTIONS OF EACH COUNTY OR THE CITY OF NEW YORK
51 SHALL DESIGNATE POLLING PLACES FOR EARLY VOTING IN EACH COUNTY, WHICH
52 MAY INCLUDE THE OFFICES OF THE BOARD OF ELECTIONS, FOR PERSONS TO VOTE
53 EARLY PURSUANT TO THIS SECTION. THERE SHALL BE SO DESIGNATED AT LEAST
54 ONE EARLY VOTING POLLING PLACE FOR EVERY FULL INCREMENT OF FIFTY THOU-
55 SAND REGISTERED VOTERS IN EACH COUNTY; PROVIDED, HOWEVER, THE NUMBER OF
56 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.

1 NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE OF SECTION 4-104 OF
2 THIS CHAPTER REQUIRING POLL SITE DESIGNATION BY MAY FIRST, EARLY VOTING
3 POLLING PLACES AND THEIR HOURS OF OPERATION FOR EARLY VOTING FOR A
4 PRIMARY OR SPECIAL ELECTION SHALL BE MADE NOT LATER THAN FORTY-FIVE DAYS
5 BEFORE SUCH PRIMARY OR SPECIAL ELECTION.

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

18 6. THE FORM OF PAPER BALLOTS USED IN EARLY VOTING SHALL COMPLY WITH
19 THE PROVISIONS OF ARTICLE SEVEN OF THIS CHAPTER THAT ARE APPLICABLE TO
20 VOTING BY PAPER BALLOT ON ELECTION DAY AND SUCH BALLOT SHALL BE CAST IN
21 THE SAME MANNER AS PROVIDED FOR IN SECTION 8-312 OF THIS ARTICLE,
22 PROVIDED, HOWEVER, THAT BALLOTS CAST DURING THE EARLY VOTING PERIOD
23 SHALL BE SECURED IN THE MANNER OF VOTED BALLOTS CAST ON ELECTION DAY AND
24 SUCH BALLOTS SHALL NOT BE CANVASSED OR EXAMINED UNTIL AFTER THE CLOSE OF
25 THE POLLS ON ELECTION DAY, AND NO UNOFFICIAL TABULATIONS OF ELECTION
26 RESULTS SHALL BE PRINTED OR VIEWED IN ANY MANNER UNTIL AFTER THE CLOSE
27 OF POLLS ON ELECTION DAY.

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

31 8. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER, AT THE END OF
32 EACH DAY OF EARLY VOTING, ANY EARLY VOTING BALLOTS THAT HAVE NOT BEEN
33 SCANNED BECAUSE A BALLOT SCANNER WAS NOT AVAILABLE OR BECAUSE THE BALLOT
34 HAS BEEN ABANDONED BY THE VOTER AT THE BALLOT SCANNER SHALL BE CAST IN A
35 MANNER CONSISTENT WITH SECTION 9-110 OF THIS CHAPTER, EXCEPT THAT SUCH
36 BALLOTS WHICH CANNOT THEN BE CAST ON A BALLOT SCANNER SHALL BE HELD
37 INVIOLE AND UNEXAMINED AND SHALL BE DULY SECURED UNTIL AFTER THE CLOSE
38 OF POLLS ON ELECTION DAY WHEN SUCH BALLOTS SHALL BE EXAMINED AND
39 CANVASSED IN A MANNER CONSISTENT WITH SUBDIVISION TWO OF SECTION 9-110
40 OF THIS CHAPTER.

41 9. THE BOARD OF ELECTIONS SHALL SECURE ALL BALLOTS AND SCANNERS USED
42 FOR EARLY VOTING FROM THE BEGINNING OF THE EARLY VOTING PERIOD THROUGH
43 THE CLOSE OF THE POLLS ON ELECTION DAY; PROVIDED, HOWEVER, THE STATE
44 BOARD OF ELECTIONS MAY BY REGULATION DULY ADOPTED BY A MAJORITY OF SUCH
45 BOARD ESTABLISH A PROCEDURE WHEREBY BALLOT SCANNERS USED FOR EARLY
46 VOTING MAY ALSO BE USED ON ELECTION DAY IF THE PORTABLE MEMORY DEVICES
47 USED DURING EARLY VOTING CONTAINING THE EARLY VOTING ELECTION INFORMA-
48 TION AND VOTE TABULATIONS ARE PROPERLY SECURED APART FROM THE SCANNERS,
49 AND THE RESULTS THEREFROM SHALL BE DULY CANVASSED AFTER THE CLOSE OF
50 POLLS ON ELECTION DAY.

51 10. AFTER THE CLOSE OF POLLS ON ELECTION DAY, INSPECTORS OR BOARD OF
52 ELECTIONS EMPLOYEES APPOINTED TO CANVASS BALLOTS CAST DURING EARLY
53 VOTING SHALL FOLLOW ALL RELEVANT PROVISIONS OF ARTICLE NINE OF THIS
54 CHAPTER THAT ARE NOT INCONSISTENT WITH THIS SECTION, FOR CANVASSING,
55 PROCESSING, RECORDING, AND ANNOUNCING RESULTS OF VOTING AT POLLING PLAC-
56 ES FOR EARLY VOTING, AND SECURING BALLOTS, SCANNERS, AND OTHER ELECTION

1 MATERIALS. SUCH CANVASS MAY OCCUR AT THE OFFICES OF THE BOARD OF
2 ELECTIONS, AT THE EARLY VOTING POLLING PLACE OR SUCH OTHER LOCATION
3 DESIGNATED BY THE BOARD OF ELECTIONS.

4 11. NOTWITHSTANDING THE REQUIREMENTS OF THIS TITLE REQUIRING THE
5 CANVASS OF BALLOTS CAST DURING EARLY VOTING AFTER THE CLOSE OF POLLS ON
6 ELECTION DAY, SUCH CANVASS MAY BEGIN ONE HOUR BEFORE THE SCHEDULED CLOSE
7 OF POLLS ON ELECTION DAY PROVIDED THE BOARD OF ELECTIONS ADOPTS PROCE-
8 DURES TO PREVENT THE PUBLIC RELEASE OF ELECTION RESULTS PRIOR TO THE
9 CLOSE OF POLLS ON ELECTION DAY AND SUCH PROCEDURES SHALL BE CONSISTENT
10 WITH THE REGULATIONS OF THE STATE BOARD OF ELECTIONS AND SHALL BE FILED
11 WITH THE STATE BOARD OF ELECTIONS AT LEAST THIRTY DAYS BEFORE THEY SHALL
12 BE EFFECTIVE.

13 S 8-602. STATE BOARD OF ELECTIONS; POWERS AND DUTIES FOR EARLY VOTING.
14 ANY RULE OR REGULATION NECESSARY FOR THE IMPLEMENTATION OF THE
15 PROVISIONS OF THIS TITLE SHALL BE PROMULGATED BY THE STATE BOARD OF
16 ELECTIONS PROVIDED THAT SUCH RULES AND REGULATIONS SHALL INCLUDE
17 PROVISIONS TO ENSURE THAT BALLOTS CAST EARLY, BY ANY METHOD ALLOWED
18 UNDER LAW, ARE COUNTED AND CANVASSED AS IF CAST ON ELECTION DAY. THE
19 STATE BOARD OF ELECTIONS SHALL PROMULGATE ANY OTHER RULES AND REGU-
20 LATIONS NECESSARY TO ENSURE AN EFFICIENT AND FAIR EARLY VOTING PROCESS
21 THAT RESPECTS THE PRIVACY OF THE VOTER. PROVIDED, FURTHER, THAT SUCH
22 RULES AND REGULATIONS SHALL REQUIRE THAT THE VOTING HISTORY RECORD FOR
23 EACH VOTER BE CONTINUALLY UPDATED TO REFLECT EACH INSTANCE OF EARLY
24 VOTING BY SUCH VOTER.

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