

8582

2015-2016 Regular Sessions

I N A S S E M B L Y

November 18, 2015

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

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 ASSEM-
BLY, 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.

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

13 1. The board of elections, between August first and August fifth of
14 each year, shall send by first class mail on which is endorsed "ADDRESS
15 CORRECTION REQUESTED" and which contains a request that any such mail
16 received for persons not residing at the address be dropped back in the
17 mail, a communication, in a form approved by the state board of
18 elections, to every registered voter who has been registered without a
19 change of address since the beginning of such year, except that the
20 board of elections shall not be required to send such communications to
21 voters in inactive status. The communication shall notify the voter of
22 the days and hours of the ensuing primary and general elections, INCLUD-
23 ING THE DAYS AND HOURS FOR EARLY VOTING, the place where he OR SHE
24 appears by his OR HER registration records to be entitled to vote,
25 INCLUDING POLLING PLACES FOR EARLY VOTING, the fact that voters who have

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

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1 moved or will have moved from the address where they were last regis-
 2 tered must re-register or, that if such move was to another address in
 3 the same county or city, that such voter may either notify the board of
 4 elections of his OR HER new address or vote by paper ballot at the poll-
 5 ing place for his OR HER new address even if such voter has not re-re-
 6 gistered, or otherwise notified the board of elections of the change of
 7 address. If the location of the polling place for the voter's election
 8 district has been moved, the communication shall contain the following
 9 legend in bold type: "YOUR POLLING PLACE HAS BEEN CHANGED. YOU NOW VOTE
 10 AT.....". The communication shall also indicate whether the polling
 11 place is accessible to physically disabled voters, that a voter who will
 12 be out of the city or county on the day of the primary or general
 13 election or a voter who is ill or physically disabled may obtain an
 14 absentee ballot, that a physically disabled voter whose polling place is
 15 not accessible may request that his OR HER registration record be moved
 16 to an election district which has a polling place which is accessible,
 17 the phone number to call for applications to move a registration record
 18 or for absentee ballot applications, the phone number to call for the
 19 location of registration and polling places, the phone number to call to
 20 indicate that the voter is willing to serve on election day as an
 21 election inspector, poll clerk, interpreter or in other capacities, the
 22 phone number to call to obtain an application for registration by mail,
 23 and such other information concerning the elections or registration as
 24 the board may include. In lieu of sending such communication to every
 25 registered voter, the board of elections may send a single communication
 26 to a household containing more than one registered voter, provided that
 27 the names of all such voters appear as part of the address on such
 28 communication.

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

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

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

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

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

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

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

52 (K) VOTING AT EACH POLLING PLACE FOR EARLY VOTING SHALL BE CONDUCTED
 53 IN A MANNER CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE, WITH THE
 54 EXCEPTION OF THE TABULATION AND PROCLAMATION OF ELECTION RESULTS WHICH
 55 SHALL BE COMPLETED ACCORDING TO SUBDIVISIONS EIGHT AND NINE OF SECTION
 56 8-600 OF THIS ARTICLE.

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

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

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

8 (b) The second section of such report shall be reserved for the board
9 of inspectors to enter the name, address and registration serial number
10 of each person who is challenged on the day of election OR ON ANY DAY IN
11 WHICH THERE IS EARLY VOTING PURSUANT TO SECTION 8-600 OF THIS ARTICLE,
12 together with the reason for the challenge. If no voters are challenged,
13 the board of inspectors shall enter the words "No Challenges" across the
14 space reserved for such names. In lieu of preparing section two of the
15 challenge report, the board of elections may provide, next to the name
16 of each voter on the computer generated registration list, a place for
17 the inspectors of election to record the information required to be
18 entered in such section two, or provide at the end of such computer
19 generated registration list, a place for the inspectors of election to
20 enter such information.

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

23 TITLE VI
24 EARLY VOTING

25 SECTION 8-600. EARLY VOTING.

26 8-602. STATE BOARD OF ELECTIONS; POWERS AND DUTIES FOR EARLY
27 VOTING.

28 S 8-600. EARLY VOTING. 1. BEGINNING THE FOURTEENTH DAY PRIOR TO ANY
29 GENERAL, PRIMARY OR SPECIAL ELECTION FOR ANY PUBLIC OR PARTY OFFICE, AND
30 ENDING THE SECOND DAY PRIOR TO SUCH GENERAL, PRIMARY OR SPECIAL ELECTION
31 FOR SUCH PUBLIC OR PARTY OFFICE, PERSONS DULY REGISTERED AND ELIGIBLE TO
32 VOTE FOR CANDIDATES FOR SUCH OFFICE SHALL BE PERMITTED TO VOTE IN PERSON
33 BY BALLOT FOR A CANDIDATE FOR SUCH OFFICE. THE BOARD OF ELECTIONS OF
34 EACH COUNTY AND THE CITY OF NEW YORK SHALL ESTABLISH PROCEDURES, SUBJECT
35 TO APPROVAL OF THE STATE BOARD OF ELECTIONS, TO ENSURE THAT PERSONS WHO
36 VOTE DURING THE EARLY VOTING PERIOD SHALL NOT BE PERMITTED TO VOTE
37 SUBSEQUENTLY IN THE SAME ELECTION.

38 2. (A) THE BOARD OF ELECTIONS OF EACH COUNTY OR THE CITY OF NEW YORK
39 SHALL DESIGNATE ONE OR MORE POLLING PLACES FOR EARLY VOTING IN EACH
40 COUNTY, WHICH MAY INCLUDE THE OFFICES OF THE BOARD OF ELECTIONS, FOR
41 PERSONS TO VOTE EARLY PURSUANT TO THIS SECTION.

42 (B) A COUNTY WITH A POPULATION OF LESS THAN ONE HUNDRED FIFTY THOUSAND
43 SHALL HAVE ONE POLLING PLACE FOR EARLY VOTING DESIGNATED IN THE COUNTY.

44 (C) A COUNTY WITH A POPULATION OF ONE HUNDRED FIFTY THOUSAND OR MORE
45 AND LESS THAN THREE HUNDRED FIFTY THOUSAND SHALL HAVE THREE POLLING
46 PLACES FOR EARLY VOTING DESIGNATED IN THE COUNTY.

47 (D) A COUNTY WITH A POPULATION OF THREE HUNDRED FIFTY THOUSAND OR MORE
48 AND LESS THAN FIVE HUNDRED FIFTY THOUSAND SHALL HAVE FIVE POLLING PLACES
49 FOR EARLY VOTING DESIGNATED IN THE COUNTY.

50 (E) A COUNTY WITH A POPULATION OF FIVE HUNDRED FIFTY THOUSAND OR MORE
51 SHALL HAVE SEVEN POLLING PLACES FOR EARLY VOTING DESIGNATED IN THE COUN-
52 TY.

53 (F) IN ADDITION TO THE POLLING PLACES FOR EARLY VOTING REQUIRED IN
54 THIS SUBDIVISION, THE BOARD OF ELECTIONS OF EACH COUNTY OR THE CITY OF
55 NEW YORK MAY ESTABLISH ADDITIONAL POLLING PLACES FOR EARLY VOTING FOR

1 THE CONVENIENCE OF ELIGIBLE VOTERS WISHING TO VOTE DURING THE EARLY
2 VOTING PERIOD.

3 (G) IN THE CITY OF NEW YORK THE BOARD OF ELECTIONS MAY DESIGNATE, WITH
4 THE UNANIMOUS APPROVAL OF THE COMMISSIONERS FOR THE FIVE COUNTIES THERE-
5 OF, POLLING PLACES FOR EARLY VOTING ON A CITYWIDE BASIS, SUCH THAT THE
6 AGGREGATE NUMBER OF SUCH POLLING PLACES EQUALS OR EXCEEDS THE SUM OF THE
7 SITES OTHERWISE REQUIRED BY THIS SECTION FOR THE FIVE COUNTIES, WITHOUT
8 DESIGNATING THE NUMBER OTHERWISE REQUIRED TO BE DESIGNATED IN EACH COUN-
9 TY.

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

19 3. ANY PERSON ENTITLED TO VOTE EARLY MAY DO SO AT ANY POLLING PLACE
20 FOR EARLY VOTING ESTABLISHED PURSUANT TO SUBDIVISION TWO OF THIS SECTION
21 IN THE COUNTY WHERE SUCH VOTER IS REGISTERED TO VOTE PROVIDED, HOWEVER,
22 IF IT IS IMPRACTICAL TO PROVIDE EACH POLLING PLACE FOR EARLY VOTING ALL
23 APPROPRIATE BALLOTS FOR EACH ELECTION TO BE VOTED ON IN THE COUNTY OR TO
24 ENSURE THAT SUCH VOTER HAS NOT PREVIOUSLY VOTED EARLY DURING SUCH
25 ELECTION, THE BOARD OF ELECTIONS MAY DESIGNATE EACH POLLING PLACE FOR
26 EARLY VOTING ONLY FOR THOSE VOTERS REGISTERED TO VOTE IN A PORTION OF
27 THE COUNTY SERVED BY SUCH POLLING PLACE, PROVIDED THAT ALL VOTERS IN
28 EACH COUNTY SHALL HAVE ONE OR MORE POLLING PLACES AT WHICH THEY ARE
29 ELIGIBLE TO VOTE THROUGHOUT THE EARLY VOTING PERIOD.

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

33 (B) AT LEAST ONE POLLING PLACE FOR EARLY VOTING SHALL REMAIN OPEN
34 UNTIL NO EARLIER THAN EIGHT O'CLOCK IN THE EVENING ON AT LEAST TWO WEEK
35 DAYS IN EACH CALENDAR WEEK DURING THE EARLY VOTING PERIOD. IF POLLING
36 PLACES FOR EARLY VOTING ARE LIMITED TO VOTERS FROM CERTAIN AREAS PURSU-
37 ANT TO SUBDIVISION THREE OF THIS SECTION, POLLING PLACES THAT REMAIN
38 OPEN UNTIL NO EARLIER THAN EIGHT O'CLOCK SHALL BE DESIGNATED SUCH THAT
39 ANY PERSON ENTITLED TO VOTE EARLY MAY VOTE UNTIL NO EARLIER THAN EIGHT
40 O'CLOCK IN THE EVENING ON AT LEAST TWO WEEK DAYS DURING THE EARLY VOTING
41 PERIOD.

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

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

49 (E) HOURS OF OPERATION FOR POLLING PLACES FOR EARLY VOTING SHALL BE
50 DESIGNATED BY MAY FIRST OF EACH YEAR, ALONG WITH THE DESIGNATION OF
51 POLLING PLACES PURSUANT TO SUBDIVISION ONE OF SECTION 4-104 OF THIS
52 CHAPTER, AND SHALL BE EFFECTIVE FOR ONE YEAR THEREAFTER.

53 5. EACH BOARD OF ELECTIONS SHALL CREATE A COMMUNICATION PLAN TO INFORM
54 ELIGIBLE VOTERS OF THE OPPORTUNITY TO VOTE EARLY. SUCH PLAN MAY UTILIZE
55 ANY AND ALL MEDIA OUTLETS, INCLUDING SOCIAL MEDIA, AND SHALL PUBLICIZE:
56 THE LOCATION AND DATES AND HOURS OF OPERATION OF ALL POLLING PLACES FOR

1 EARLY VOTING; AN INDICATION OF WHETHER EACH POLLING PLACE IS ACCESSIBLE
2 TO VOTERS WITH PHYSICAL DISABILITIES; A CLEAR AND UNAMBIGUOUS NOTICE TO
3 VOTERS THAT IF THEY CAST A BALLOT DURING THE EARLY VOTING PERIOD THEY
4 WILL NOT BE ALLOWED TO VOTE ON ELECTION DAY; AND IF POLLING PLACES FOR
5 EARLY VOTING ARE LIMITED TO VOTERS FROM CERTAIN AREAS PURSUANT TO SUBDI-
6 VISION THREE OF THIS SECTION, THE LOCATION OF THE POLLING PLACES FOR
7 EARLY VOTING SERVING THE VOTERS OF EACH PARTICULAR CITY, TOWN OR OTHER
8 POLITICAL SUBDIVISION.

9 6. THE FORM OF PAPER BALLOTS, IF USED IN EARLY VOTING, SHALL COMPLY
10 WITH THE PROVISIONS OF ARTICLE SEVEN OF THIS CHAPTER THAT ARE APPLICABLE
11 TO VOTING BY PAPER BALLOT ON ELECTION DAY AND SUCH BALLOT SHALL BE CAST
12 IN THE SAME MANNER AS PROVIDED FOR IN SECTION 8-312 OF THIS ARTICLE,
13 PROVIDED HOWEVER THAT BALLOTS CAST DURING THE EARLY VOTING PERIOD SHALL
14 NOT BE CANVASSED UNTIL AFTER THE CLOSE OF THE POLLS ON ELECTION DAY.

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

18 8. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER, AT THE END OF
19 EACH DAY OF EARLY VOTING, ANY EARLY VOTING BALLOTS THAT HAVE NOT BEEN
20 SCANNED BECAUSE A BALLOT SCANNER WAS NOT AVAILABLE OR BECAUSE THE BALLOT
21 HAS BEEN ABANDONED BY THE VOTER AT THE BALLOT SCANNER SHALL BE CANVASSED
22 IN A MANNER CONSISTENT WITH SECTION 9-110 OF THIS CHAPTER, EXCEPT THAT
23 ANY BALLOTS THAT WOULD OTHERWISE BE SCANNED AT THE CLOSE OF THE POLLS
24 PURSUANT TO SUCH SECTION SHALL BE SCANNED AT THE CLOSE OF EACH DAY'S
25 EARLY VOTING.

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

35 S 8-602. STATE BOARD OF ELECTIONS; POWERS AND DUTIES FOR EARLY VOTING.
36 ANY RULE OR REGULATION NECESSARY FOR THE IMPLEMENTATION OF THE
37 PROVISIONS OF THIS TITLE SHALL BE PROMULGATED BY THE STATE BOARD OF
38 ELECTIONS PROVIDED THAT SUCH RULES AND REGULATIONS SHALL INCLUDE
39 PROVISIONS TO ENSURE THAT BALLOTS CAST EARLY, BY ANY METHOD ALLOWED
40 UNDER LAW, ARE COUNTED AND CANVASSED AS IF CAST ON ELECTION DAY. THE
41 STATE BOARD OF ELECTIONS SHALL PROMULGATE ANY OTHER RULES AND REGU-
42 LATIONS NECESSARY TO ENSURE AN EFFICIENT AND FAIR EARLY VOTING PROCESS
43 THAT RESPECTS THE PRIVACY OF THE VOTER. PROVIDED FURTHER THAT SUCH RULES
44 AND REGULATIONS SHALL REQUIRE THAT THE VOTING HISTORY RECORD FOR EACH
45 VOTER BE CONTINUALLY UPDATED TO REFLECT EACH INSTANCE OF EARLY VOTING BY
46 SUCH VOTER.

47 S 8. This act shall take effect on the first of January next succeed-
48 ing the date on which it shall have become a law and shall apply to any
49 election held one hundred twenty days or more after it shall have taken
50 effect.