

8582--B

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, SIMON, BENEDETTO, LINARES, SEPULVEDA, DINOWITZ, ROSENTHAL, GOTTFRIED, QUART -- 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 -- again reported from said committee with amendments, 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:

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

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

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1 BOARD OF ELECTIONS AND PROVIDING A PHONE NUMBER TO CALL FOR SUCH INFOR-  
2 MATION.

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

5 2. Polls shall be open for voting during the following hours: a prima-  
6 ry election from twelve o'clock noon until nine o'clock in the evening,  
7 except in the city of New York and the counties of Nassau, Suffolk,  
8 Westchester, Rockland, Orange, Putnam and Erie, and in such city or  
9 county from [six] SEVEN o'clock in the morning until nine o'clock in the  
10 evening; the general election from six o'clock in the morning until nine  
11 o'clock in the evening; a special election called by the governor pursu-  
12 ant to the public officers law, and, except as otherwise provided by  
13 law, every other election, from [six] SEVEN o'clock in the morning until  
14 nine o'clock in the evening; EARLY VOTING HOURS SHALL BE AS PROVIDED IN  
15 SECTION 8-600 OF THIS ARTICLE.

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

18 (K) VOTING AT EACH POLLING PLACE FOR EARLY VOTING SHALL BE CONDUCTED  
19 IN A MANNER CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE, WITH THE  
20 EXCEPTION OF THE TABULATION AND PROCLAMATION OF ELECTION RESULTS WHICH  
21 SHALL BE COMPLETED ACCORDING TO SUBDIVISIONS EIGHT AND NINE OF SECTION  
22 8-600 OF THIS ARTICLE.

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

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

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

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

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

45 TITLE VI  
46 EARLY VOTING

47 SECTION 8-600. EARLY VOTING.

48 8-602. STATE BOARD OF ELECTIONS; POWERS AND DUTIES FOR EARLY  
49 VOTING.

50 S 8-600. EARLY VOTING. 1. BEGINNING THE EIGHTH DAY PRIOR TO ANY GENER-  
51 AL, PRIMARY OR SPECIAL ELECTION FOR ANY PUBLIC OR PARTY OFFICE, AND  
52 ENDING ON AND INCLUDING THE SECOND DAY PRIOR TO SUCH GENERAL, PRIMARY OR  
53 SPECIAL ELECTION FOR SUCH PUBLIC OR PARTY OFFICE, PERSONS DULY REGIS-  
54 TERED AND ELIGIBLE TO VOTE AT SUCH ELECTION SHALL BE PERMITTED TO VOTE  
55 AS PROVIDED IN THIS TITLE. THE BOARD OF ELECTIONS OF EACH COUNTY AND  
56 THE CITY OF NEW YORK SHALL ESTABLISH PROCEDURES, SUBJECT TO APPROVAL OF

1 THE STATE BOARD OF ELECTIONS, TO ENSURE THAT PERSONS WHO VOTE DURING THE  
2 EARLY VOTING PERIOD SHALL NOT BE PERMITTED TO VOTE SUBSEQUENTLY IN THE  
3 SAME ELECTION.

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

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

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

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

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

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

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

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

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

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

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

28 6. THE FORM OF PAPER BALLOTS USED IN EARLY VOTING SHALL COMPLY WITH  
29 THE PROVISIONS OF ARTICLE SEVEN OF THIS CHAPTER THAT ARE APPLICABLE TO  
30 VOTING BY PAPER BALLOT ON ELECTION DAY AND SUCH BALLOT SHALL BE CAST IN  
31 THE SAME MANNER AS PROVIDED FOR IN SECTION 8-312 OF THIS ARTICLE,  
32 PROVIDED, HOWEVER, THAT BALLOTS CAST DURING THE EARLY VOTING PERIOD  
33 SHALL BE SECURED IN THE MANNER OF VOTED BALLOTS CAST ON ELECTION DAY AND  
34 SUCH BALLOTS SHALL NOT BE CANVASSED OR EXAMINED UNTIL AFTER THE CLOSE OF  
35 THE POLLS ON ELECTION DAY, AND NO UNOFFICIAL TABULATIONS OF ELECTION  
36 RESULTS SHALL BE PRINTED OR VIEWED IN ANY MANNER UNTIL AFTER THE CLOSE  
37 OF POLLS ON ELECTION DAY.

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

41 8. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER, AT THE END OF  
42 EACH DAY OF EARLY VOTING, ANY EARLY VOTING BALLOTS THAT HAVE NOT BEEN  
43 SCANNED BECAUSE A BALLOT SCANNER WAS NOT AVAILABLE OR BECAUSE THE BALLOT  
44 HAS BEEN ABANDONED BY THE VOTER AT THE BALLOT SCANNER SHALL BE CAST IN A  
45 MANNER CONSISTENT WITH SECTION 9-110 OF THIS CHAPTER, EXCEPT THAT SUCH  
46 BALLOTS WHICH CANNOT THEN BE CAST ON A BALLOT SCANNER SHALL BE HELD  
47 INVIOLE AND UNEXAMINED AND SHALL BE DULY SECURED UNTIL AFTER THE CLOSE  
48 OF POLLS ON ELECTION DAY WHEN SUCH BALLOTS SHALL BE EXAMINED AND  
49 CANVASSED IN A MANNER CONSISTENT WITH SUBDIVISION TWO OF SECTION 9-110  
50 OF THIS CHAPTER.

51 9. THE BOARD OF ELECTIONS SHALL SECURE ALL BALLOTS AND SCANNERS USED  
52 FOR EARLY VOTING FROM THE BEGINNING OF THE EARLY VOTING PERIOD THROUGH  
53 THE CLOSE OF THE POLLS ON ELECTION DAY; PROVIDED, HOWEVER, THE STATE  
54 BOARD OF ELECTIONS MAY BY REGULATION DULY ADOPTED BY A MAJORITY OF SUCH  
55 BOARD ESTABLISH A PROCEDURE WHEREBY BALLOT SCANNERS USED FOR EARLY  
56 VOTING MAY ALSO BE USED ON ELECTION DAY IF THE PORTABLE MEMORY DEVICES

1 USED DURING EARLY VOTING CONTAINING THE EARLY VOTING ELECTION INFORMA-  
2 TION AND VOTE TABULATIONS ARE PROPERLY SECURED APART FROM THE SCANNERS,  
3 AND THE RESULTS THEREFROM SHALL BE DULY CANVASSED AFTER THE CLOSE OF  
4 POLLS ON ELECTION DAY.

5 10. AFTER THE CLOSE OF POLLS ON ELECTION DAY, INSPECTORS OR BOARD OF  
6 ELECTIONS EMPLOYEES APPOINTED TO CANVASS BALLOTS CAST DURING EARLY  
7 VOTING SHALL FOLLOW ALL RELEVANT PROVISIONS OF ARTICLE NINE OF THIS  
8 CHAPTER THAT ARE NOT INCONSISTENT WITH THIS SECTION, FOR CANVASSING,  
9 PROCESSING, RECORDING, AND ANNOUNCING RESULTS OF VOTING AT POLLING PLAC-  
10 ES FOR EARLY VOTING, AND SECURING BALLOTS, SCANNERS, AND OTHER ELECTION  
11 MATERIALS. SUCH CANVASS MAY OCCUR AT THE OFFICES OF THE BOARD OF  
12 ELECTIONS, AT THE EARLY VOTING POLLING PLACE OR SUCH OTHER LOCATION  
13 DESIGNATED BY THE BOARD OF ELECTIONS.

14 11. NOTWITHSTANDING THE REQUIREMENTS OF THIS TITLE REQUIRING THE  
15 CANVASS OF BALLOTS CAST DURING EARLY VOTING AFTER THE CLOSE OF POLLS ON  
16 ELECTION DAY, SUCH CANVASS MAY BEGIN ONE HOUR BEFORE THE SCHEDULED CLOSE  
17 OF POLLS ON ELECTION DAY PROVIDED THE BOARD OF ELECTIONS ADOPTS PROCE-  
18 DURES TO PREVENT THE PUBLIC RELEASE OF ELECTION RESULTS PRIOR TO THE  
19 CLOSE OF POLLS ON ELECTION DAY AND SUCH PROCEDURES SHALL BE CONSISTENT  
20 WITH THE REGULATIONS OF THE STATE BOARD OF ELECTIONS AND SHALL BE FILED  
21 WITH THE STATE BOARD OF ELECTIONS AT LEAST THIRTY DAYS BEFORE THEY SHALL  
22 BE EFFECTIVE.

23 S 8-602. STATE BOARD OF ELECTIONS; POWERS AND DUTIES FOR EARLY VOTING.  
24 ANY RULE OR REGULATION NECESSARY FOR THE IMPLEMENTATION OF THE  
25 PROVISIONS OF THIS TITLE SHALL BE PROMULGATED BY THE STATE BOARD OF  
26 ELECTIONS PROVIDED THAT SUCH RULES AND REGULATIONS SHALL INCLUDE  
27 PROVISIONS TO ENSURE THAT BALLOTS CAST EARLY, BY ANY METHOD ALLOWED  
28 UNDER LAW, ARE COUNTED AND CANVASSED AS IF CAST ON ELECTION DAY. THE  
29 STATE BOARD OF ELECTIONS SHALL PROMULGATE ANY OTHER RULES AND REGU-  
30 LATIONS NECESSARY TO ENSURE AN EFFICIENT AND FAIR EARLY VOTING PROCESS  
31 THAT RESPECTS THE PRIVACY OF THE VOTER. PROVIDED, FURTHER, THAT SUCH  
32 RULES AND REGULATIONS SHALL REQUIRE THAT THE VOTING HISTORY RECORD FOR  
33 EACH VOTER BE CONTINUALLY UPDATED TO REFLECT EACH INSTANCE OF EARLY  
34 VOTING BY SUCH VOTER.

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