

2436

2015-2016 Regular Sessions

I N S E N A T E

January 23, 2015

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

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

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

1 Section 1. The election law is amended by adding a new section 5-108
2 to read as follows:
3 S 5-108. VOTER PROTECTION. 1. THE TERMS USED IN THIS SECTION SHALL
4 HAVE THE FOLLOWING MEANINGS:
5 A. THE TERM "BOARD" SHALL MEAN THE STATE BOARD OF ELECTIONS PROVIDED
6 FOR BY SECTION 3-100 OF THIS CHAPTER;
7 B. THE TERM "ELECTION" SHALL MEAN ANY FEDERAL, STATE OR LOCAL ELECTION
8 HELD IN THE STATE;
9 C. THE TERM "COUNTY BOARD OF ELECTIONS" SHALL HAVE THE MEANING SET
10 FORTH IN SECTION 1-104 OF THIS CHAPTER;
11 D. THE TERM "ELECTION OFFICER" SHALL HAVE THE MEANING SET FORTH IN
12 SECTION 1-104 OF THIS CHAPTER;
13 2. A PERSON IS GUILTY OF VOTER INTIMIDATION IF HE OR SHE USES OR
14 THREATENS FORCE, VIOLENCE OR ANY TACTIC OF COERCION OR INTIMIDATION TO
15 INDUCE OR COMPEL ANY OTHER PERSON TO:
16 A. VOTE OR REFRAIN FROM VOTING;
17 B. VOTE OR REFRAIN FROM VOTING FOR ANY PARTICULAR CANDIDATE OR BALLOT
18 MEASURE; OR
19 C. REFRAIN FROM REGISTERING TO VOTE.
20 3. A PERSON IS GUILTY OF VOTER SUPPRESSION IF HE OR SHE KNOWINGLY
21 ATTEMPTS TO PREVENT OR DETER ANOTHER PERSON FROM VOTING OR REGISTERING
22 TO VOTE BASED ON FRAUDULENT, DECEPTIVE OR SPURIOUS GROUNDS OR INFORMA-
23 TION. VOTER SUPPRESSION INCLUDES:
24 A. CHALLENGING ANOTHER PERSON'S RIGHT TO REGISTER OR VOTE BASED ON
25 KNOWINGLY FALSE INFORMATION;

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

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1 B. ATTEMPTING TO INDUCE ANOTHER PERSON TO REFRAIN FROM REGISTERING OR
2 VOTING BY PROVIDING THAT PERSON WITH KNOWINGLY FALSE INFORMATION; OR

3 C. ATTEMPTING TO INDUCE ANOTHER PERSON TO REFRAIN FROM REGISTERING OR
4 VOTING AT THE PROPER PLACE OR TIME BY PROVIDING THAT PERSON WITH KNOW-
5 INGLY FALSE INFORMATION ABOUT THE DATE, TIME, PLACE OR MANNER OF THE
6 ELECTION.

7 4. A. LOCAL ELECTION SUPERVISORS MUST POST A VOTER'S BILL OF RIGHTS
8 AT EVERY POLLING PLACE, INCLUDE IT WITH EVERY DISTRIBUTION OF OFFICIAL
9 SAMPLE BALLOTS, AND OFFER IT TO VOTERS AT POLLING PLACES, IN ACCORDANCE
10 WITH PROCEDURES APPROVED BY THE BOARD. THE TEXT OF THIS DOCUMENT WILL
11 BE:

12 "VOTER'S BILL OF RIGHTS

13 EVERY REGISTERED VOTER IN THIS STATE HAS THE RIGHT TO:

14 1. INSPECT A SAMPLE BALLOT BEFORE VOTING.

15 2. CAST A BALLOT IF HE OR SHE IS IN LINE WHEN THE POLLS ARE CLOSING.

16 3. ASK FOR AND RECEIVE ASSISTANCE IN VOTING, INCLUDING ASSISTANCE IN
17 LANGUAGES OTHER THAN ENGLISH WHERE REQUIRED BY FEDERAL OR STATE LAW.

18 4. RECEIVE A REPLACEMENT BALLOT IF HE OR SHE MAKES A MISTAKE PRIOR TO
19 THE BALLOT BEING CAST.

20 5. CAST A PROVISIONAL BALLOT IF HIS OR HER ELIGIBILITY TO VOTE IS IN
21 QUESTION.

22 6. VOTE FREE FROM COERCION OR INTIMIDATION BY ELECTION OFFICERS OR ANY
23 OTHER PERSON.

24 7. CAST A BALLOT USING VOTING EQUIPMENT THAT ACCURATELY COUNTS ALL
25 VOTES."

26 B. IN ANY POLITICAL SUBDIVISION OR PRECINCT WHERE FEDERAL OR STATE LAW
27 REQUIRES THE BALLOT TO BE MADE AVAILABLE IN A LANGUAGE OTHER THAN
28 ENGLISH, THE VOTER'S BILL OF RIGHTS WILL ALSO BE MADE AVAILABLE IN SUCH
29 LANGUAGE OR LANGUAGES.

30 5. THE BOARD WILL CREATE A MANUAL OF UNIFORM POLLING PLACE PROCEDURES
31 AND ADOPT THE MANUAL BY REGULATION. LOCAL ELECTION SUPERVISORS WILL
32 ENSURE THAT THE MANUALS ARE AVAILABLE IN HARD COPY OR ELECTRONIC FORM AT
33 EVERY PRECINCT IN THE SUPERVISORS' JURISDICTIONS ON ELECTION DAY. THE
34 MANUAL WILL GUIDE LOCAL ELECTION OFFICERS IN THE PROPER IMPLEMENTATION
35 OF ELECTION LAWS AND PROCEDURES. THE MANUAL WILL BE INDEXED BY SUBJECT
36 AND WRITTEN IN CLEAR, UNAMBIGUOUS LANGUAGE. THE MANUAL WILL PROVIDE
37 SPECIFIC EXAMPLES OF COMMON PROBLEMS ENCOUNTERED AT THE POLLS ON
38 ELECTION DAY, AND DETAIL SPECIFIC PROCEDURES FOR RESOLVING THOSE PROB-
39 LEMS. THE MANUAL WILL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

40 A. REGULATIONS GOVERNING SOLICITATION BY INDIVIDUALS AND GROUPS AT THE
41 POLLING PLACE;

42 B. PROCEDURES TO BE FOLLOWED WITH RESPECT TO VOTERS WHOSE NAMES ARE
43 NOT ON THE PRECINCT REGISTER;

44 C. PROPER OPERATION OF THE VOTING SYSTEM;

45 D. BALLOT HANDLING PROCEDURES;

46 E. PROCEDURES GOVERNING SPOILED BALLOTS;

47 F. PROCEDURES TO BE FOLLOWED AFTER THE POLLS CLOSE;

48 G. RIGHTS OF VOTERS AT THE POLLS;

49 H. PROCEDURES FOR HANDLING EMERGENCY SITUATIONS;

50 I. PROCEDURES FOR HANDLING AND PROCESSING PROVISIONAL BALLOTS; AND

51 J. SECURITY PROCEDURES.

52 S 2. The election law is amended by adding a new section 17-133 to
53 read as follows:

54 S 17-133. ILLEGAL VOTER SUPPRESSION. ANY PERSON WHO:

1 1. COMMITS VOTER INTIMIDATION OR CONSPIRES TO COMMIT VOTER INTIM-
2 IDATION WILL BE GUILTY OF A FELONY, PUNISHABLE BY UP TO THREE YEARS IN
3 PRISON AND A FINE OF UP TO ONE HUNDRED THOUSAND DOLLARS; OR

4 2. COMMITS VOTER SUPPRESSION OR CONSPIRES TO COMMIT VOTER SUPPRESSION
5 WILL BE GUILTY OF A FELONY, PUNISHABLE BY UP TO TWO YEARS IN PRISON AND
6 A FINE OF FIFTY THOUSAND DOLLARS; OR

7 3. WILLFULLY VIOLATES ANY OTHER PART OF SECTION 5-108 OF THIS CHAPTER
8 WILL BE GUILTY OF A MISDEMEANOR, PUNISHABLE BY UP TO ONE YEAR IN PRISON,
9 A FINE OF UP TO TEN THOUSAND DOLLARS, OR BOTH.

10 THE BOARD WILL PROMULGATE ALL REGULATIONS NECESSARY TO ENFORCE THIS
11 SECTION. IN ADDITION TO CRIMINAL AND REGULATORY SANCTIONS, THIS SECTION
12 MAY BE ENFORCED BY THE ATTORNEY GENERAL UNDER SECTION SEVENTY OF THE
13 EXECUTIVE LAW.

14 S 3. The election law is amended by adding a new section 17-135 to
15 read as follows:

16 S 17-135. VOTE DILUTION. 1. NO VOTING QUALIFICATION OR PREREQUISITE
17 TO VOTING OR STANDARD, PRACTICE, OR PROCEDURE SHALL BE IMPOSED OR
18 APPLIED BY THE STATE OR ANY POLITICAL SUBDIVISION IN A MANNER WHICH
19 RESULTS IN A DENIAL OR ABRIDGEMENT OF THE RIGHT OF ANY CITIZEN TO VOTE
20 ON ACCOUNT OF RACE OR COLOR, RELIGION, GENDER, GENDER PREFERENCE OR
21 DISABILITY, OR IN CONTRAVENTION OF THE GUARANTEES SET FORTH IN THE
22 CONSTITUTION OF THE STATE OF NEW YORK, OR AS OTHERWISE PROVIDED IN THIS
23 SECTION.

24 2. A VIOLATION OF SUBDIVISION ONE OF THIS SECTION IS ESTABLISHED IF,
25 BASED ON THE TOTALITY OF CIRCUMSTANCES, IT IS SHOWN THAT THE POLITICAL
26 PROCESSES LEADING TO NOMINATION OR ELECTION IN THE STATE OR POLITICAL
27 SUBDIVISION ARE NOT EQUALLY OPEN TO PARTICIPATION BY MEMBERS OF A CLASS
28 OF CITIZENS PROTECTED BY SUBDIVISION ONE OF THIS SECTION IN THAT ITS
29 MEMBERS HAVE LESS OPPORTUNITY THAN OTHER MEMBERS OF THE ELECTORATE TO
30 PARTICIPATE IN THE POLITICAL PROCESS AND TO ELECT REPRESENTATIVES OF
31 THEIR CHOICE. THE EXTENT TO WHICH MEMBERS OF A PROTECTED CLASS HAVE BEEN
32 ELECTED TO OFFICE IN THE STATE OR POLITICAL SUBDIVISION IS ONE CIRCUM-
33 STANCE WHICH MAY BE CONSIDERED; PROVIDED HOWEVER THAT NOTHING IN THIS
34 SECTION ESTABLISHES A RIGHT TO HAVE MEMBERS OF A PROTECTED CLASS ELECTED
35 IN NUMBERS EQUAL TO THEIR PROPORTION IN THE POPULATION.

36 S 4. Article 8 of the election law is amended by adding a new title 6
37 to read as follows:

38 TITLE VI
39 PRECLEARANCE

40 SECTION 8-600. PRECLEARANCE.

41 S 8-600. PRECLEARANCE. 1. A. WHENEVER THE STATE OR ANY POLITICAL
42 SUBDIVISION OR MUNICIPAL CORPORATION SHALL ENACT OR SEEK TO ADMINISTER
43 ANY VOTING QUALIFICATION OR PREREQUISITE TO VOTING, OR STANDARD, PRACTICE,
44 OR PROCEDURE WITH RESPECT TO VOTING DIFFERENT FROM THAT IN FORCE
45 OR EFFECT ON JANUARY FIRST, TWO THOUSAND FIFTEEN, SUCH STATE OR SUBDIVI-
46 SION OR MUNICIPAL CORPORATION MAY INSTITUTE AN ACTION IN SUPREME COURT
47 FOR A DECLARATORY JUDGMENT THAT SUCH QUALIFICATION, PREREQUISITE, STAND-
48 ARD, PRACTICE, OR PROCEDURE NEITHER HAS THE PURPOSE NOR WILL HAVE THE
49 EFFECT OF DENYING OR ABRIDGING THE RIGHT TO VOTE ON ACCOUNT OF RACE OR
50 COLOR, RELIGION, GENDER, GENDER IDENTITY, SEXUAL ORIENTATION OR DISABIL-
51 ITY, OR IN CONTRAVENTION OF THE GUARANTEES SET FORTH IN THE CONSTITUTION
52 OF THE STATE OF NEW YORK, AND UNLESS AND UNTIL THE COURT ENTERS SUCH
53 JUDGMENT NO PERSON SHALL BE DENIED THE RIGHT TO VOTE FOR FAILURE TO
54 COMPLY WITH SUCH QUALIFICATION, PREREQUISITE, STANDARD, PRACTICE, OR
55 PROCEDURE; PROVIDED HOWEVER THAT SUCH QUALIFICATION, PREREQUISITE, STAND-
56 DARD, PRACTICE, OR PROCEDURE MAY BE ENFORCED IF THE QUALIFICATION,

1 PREREQUISITE, STANDARD, PRACTICE, OR PROCEDURE HAS BEEN SUBMITTED BY THE
2 CHIEF LEGAL OFFICER OR OTHER APPROPRIATE OFFICIAL OF SUCH STATE OR
3 SUBDIVISION OR MUNICIPAL CORPORATION TO THE ATTORNEY GENERAL AND THE
4 ATTORNEY GENERAL HAS NOT INTERPOSED AN OBJECTION WITHIN SIXTY DAYS AFTER
5 SUCH SUBMISSION, OR UPON GOOD CAUSE SHOWN, TO FACILITATE AN EXPEDITED
6 APPROVAL WITHIN SIXTY DAYS AFTER SUCH SUBMISSION, THE ATTORNEY GENERAL
7 HAS AFFIRMATIVELY INDICATED THAT SUCH OBJECTION WILL NOT BE MADE.

8 B. NEITHER AN AFFIRMATIVE INDICATION BY THE ATTORNEY GENERAL THAT NO
9 OBJECTION WILL BE MADE, NOR THE ATTORNEY GENERAL'S FAILURE TO OBJECT,
10 NOR A DECLARATORY JUDGMENT ENTERED UNDER THIS SECTION SHALL BAR A SUBSE-
11 QUENT ACTION TO ENJOIN ENFORCEMENT OF SUCH QUALIFICATION, PREREQUISITE,
12 STANDARD, PRACTICE, OR PROCEDURE.

13 C. IN THE EVENT THE ATTORNEY GENERAL AFFIRMATIVELY INDICATES THAT NO
14 OBJECTION WILL BE MADE WITHIN THE SIXTY DAY PERIOD FOLLOWING RECEIPT OF
15 A SUBMISSION, THE ATTORNEY GENERAL MAY RESERVE THE RIGHT TO REEXAMINE
16 THE SUBMISSION IF ADDITIONAL INFORMATION COMES TO HIS ATTENTION DURING
17 THE REMAINDER OF THE SIXTY DAY PERIOD WHICH WOULD OTHERWISE REQUIRE
18 OBJECTION IN ACCORDANCE WITH THIS SECTION. ANY ACTION UNDER THIS SECTION
19 SHALL BE HEARD AND DETERMINED BY A THREE JUDGE PANEL OF THE APPELLATE
20 DIVISION IN THE JUDICIAL DEPARTMENT WITHIN WHICH THE SUBDIVISION OR
21 MUNICIPAL CORPORATION IS SITUATED, AND ANY APPEAL SHALL LIE TO THE COURT
22 OF APPEALS.

23 2. ANY VOTING QUALIFICATION OR PREREQUISITE TO VOTING, OR STANDARD,
24 PRACTICE, OR PROCEDURE WITH RESPECT TO VOTING THAT HAS THE PURPOSE OF OR
25 WILL HAVE THE EFFECT OF DIMINISHING THE ABILITY OF ANY CITIZENS OF THE
26 UNTIED STATES ON ACCOUNT OF RACE OR COLOR, RELIGION, GENDER, GENDER
27 IDENTITY, SEXUAL ORIENTATION OR DISABILITY, OR IN CONTRAVENTION OF THE
28 GUARANTEES SET FORTH IN THE CONSTITUTION OF THE STATE OF NEW YORK, TO
29 ELECT THEIR PREFERRED CANDIDATES OF CHOICE, DENIES OR ABRIDGES THE RIGHT
30 TO VOTE WITHIN THE MEANING OF PARAGRAPH A OF SUBDIVISION ONE OF THIS
31 SECTION.

32 3. THE TERM "PURPOSE" AS USED IN THIS SECTION SHALL INCLUDE ANY
33 DISCRIMINATORY PURPOSE.

34 4. THE PURPOSE OF SUBDIVISION TWO OF THIS SECTION IS TO PROTECT THE
35 ABILITY OF SUCH CITIZENS TO ELECT THEIR PREFERRED CANDIDATES OF CHOICE.

36 S 5. This act shall take effect on the first of January next succeed-
37 ing the date on which it shall have become a law.