

4284--A

2015-2016 Regular Sessions

I N   S E N A T E

March 11, 2015

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Introduced by Sen. GALLIVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Elections -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, in relation to court proceedings involving disputed election results

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 16-103  
2 to read as follows:

3     S 16-103. PROCEEDINGS INVOLVING GENERAL OR SPECIAL ELECTION RESULTS.  
4 1. UPON EVIDENCE OF FRAUD, IRREGULARITIES OR VIOLATIONS OF ARTICLE  
5 SEVENTEEN OF THIS CHAPTER AFFECTING THE OUTCOME OF A GENERAL OR SPECIAL  
6 ELECTION AN AGGRIEVED CANDIDATE MAY CONTEST ANY SUCH SPECIAL OR GENERAL  
7 ELECTION IN A PROCEEDING BROUGHT IN THE SUPREME COURT.

8     2. A PROCEEDING PURSUANT TO THIS SECTION SHALL BE INSTITUTED WITHIN  
9 TWENTY DAYS AFTER THE ELECTION TO WHICH IT RELATES. THE COURT MAY DETER-  
10 MINE ISSUES OF FACT AND/OR LAW IN A PROCEEDING PURSUANT TO THIS SECTION.

11     3. IN A PROCEEDING PURSUANT TO THIS SECTION THE COURT SHALL INVALIDATE  
12 THE ELECTION RESULTS AND ORDER A NEW ELECTION IF CLEAR AND CONVINCING  
13 EVIDENCE DEMONSTRATES THAT FRAUD, IRREGULARITY OR VIOLATIONS OF ARTICLE  
14 SEVENTEEN OF THIS CHAPTER DEPRIVED THE AGGRIEVED CANDIDATE OF A WINNING  
15 MARGIN OF VOTES. SUCH NEW ELECTION SHALL INCLUDE ALL DULY ENROLLED  
16 VOTERS RESIDING IN THE POLITICAL SUBDIVISION EMBRACING THE OFFICE  
17 CONTESTED. SUCH ELECTION SHALL BE HELD ON THE FIFTH TUESDAY AFTER THE  
18 COURT'S ORDER IS ISSUED; PROVIDED, HOWEVER, IF THE FIFTH TUESDAY IS A  
19 RELIGIOUS, FEDERAL OR STATE HOLIDAY THE NEW ELECTION SHALL BE HELD ON  
20 THE NEXT SUCCEEDING TUESDAY THEREAFTER WHICH IS NOT A RELIGIOUS, FEDERAL  
21 OR STATE HOLIDAY.

22     4. ALL CANDIDATES ON THE BALLOT AT THE ORIGINAL ELECTION FOR THE  
23 CONTESTED OFFICE SHALL BE ON THE BALLOT AT THE NEW ELECTION; PROVIDED,

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

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1 HOWEVER, IF THE OFFICE CONTESTED IS ONE FOR WHICH A VOTER MAY CAST  
2 MULTIPLE VOTES FOR TWO OR MORE CANDIDATES FOR THE SAME OFFICE, ANY  
3 CANDIDATE FOR SUCH OFFICE WHOSE WINNING MARGIN AT THE ORIGINAL ELECTION  
4 IS NOT BY CLEAR AND CONVINCING EVIDENCE SHOWN TO BE INVALID, SHALL HAVE  
5 BEEN DULY ELECTED AT THE ORIGINAL ELECTION, AND THE NUMBER OF POSITIONS  
6 TO BE ELECTED AT THE NEW ELECTION SHALL BE REDUCED ACCORDINGLY.  
7 5. THE COURT MAY ISSUE AN INJUNCTION TO PREVENT A CANDIDATE FROM  
8 WRONGLY ASSUMING OFFICE UNTIL SUCH TIME AS THE NEW ELECTION SHALL BE  
9 HELD. THE PROVISIONS OF SECTION FIVE OF THE PUBLIC OFFICERS LAW SHALL  
10 APPLY IN THE INTERIM.  
11 6. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT ANY OTHER  
12 RIGHTS OR REMEDIES AVAILABLE IN LAW OR EQUITY OR PURSUANT TO THIS CHAP-  
13 TER.  
14 S 2. This act shall take effect immediately and shall apply to any  
15 election held on or after such effective date.