

# STATE OF NEW YORK

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1115

2017-2018 Regular Sessions

## IN SENATE

January 6, 2017

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Introduced by Sen. AKSHAR -- 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 primary elections and amending certain deadlines to facilitate the timely transmission of ballots to military voters stationed overseas and in relation to date of primary elections; and to amend the public officers law, in relation to filling vacancies in elective offices

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 1 of section 1-106 of the election law, as  
2 amended by chapter 700 of the laws of 1977, is amended to read as  
3 follows:

4 1. All papers required to be filed pursuant to the provisions of this  
5 chapter shall, unless otherwise provided, be filed between the hours of  
6 nine A.M. and five P.M. If the last day for filing shall fall on a  
7 Saturday, Sunday or legal holiday, the next business day shall become  
8 the last day for filing. All papers sent by mail in an envelope post-  
9 marked prior to midnight of the last day of filing shall be deemed time-  
10 ly filed and accepted for filing when received, except that all certifi-  
11 icates and petitions of designation or nomination, certificates of  
12 acceptance or declination of such designations or nominations, certifi-  
13 icates of authorization for such designations or nominations, certifi-  
14 icates of disqualification, certificates of substitution for such desig-  
15 nations or nominations and objections and specifications of objections  
16 to such certificates and petitions required to be filed with the state  
17 board of elections or a board of elections outside of the city of New  
18 York shall be deemed timely filed and accepted for filing if sent by  
19 mail or designated delivery service permitted by subdivision three of  
20 this section, in an envelope postmarked prior to midnight of the last  
21 day of filing and received no later than two business days after the  
22 last day to file such certificates, petitions, objections or specifica-

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

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1 tions. Failure of the post office or any other person or entity to  
2 deliver any such petition, certificate or objection to such board of  
3 elections outside the city of New York no later than two business days  
4 after the last day to file such certificates, petitions, objections or  
5 specifications shall be a fatal defect. Excepted further that all  
6 certificates and petitions of designation or nomination, certificates of  
7 acceptance or declination of such designations and nominations, certifi-  
8 cates of substitution for such designations or nominations and  
9 objections and specifications of objections to such certificates and  
10 petitions required to be filed with the board of elections of the city  
11 of New York must be actually received by such city board of elections on  
12 or before the last day to file any such petition, certificate or  
13 objection and such office shall be open for the receipt of such  
14 petitions, certificates and objections until midnight on the last day to  
15 file any such petition, certificate or objection. Failure of the post  
16 office or any other person or entity to deliver any such petition,  
17 certificate or objection to such city board of elections on or before  
18 such last day shall be a fatal defect.

19 § 2. Subdivision 1 of section 4-104 of the election law, as amended by  
20 chapter 180 of the laws of 2005, is amended to read as follows:

21 1. Every board of elections shall, in consultation with each city,  
22 town and village, designate the polling places in each election district  
23 in which the meetings for the registration of voters, and for any  
24 election may be held. The board of trustees of each village in which  
25 general and special village elections conducted by the board of  
26 elections are held at a time other than the time of a general election  
27 shall submit such a list of polling places for such village elections to  
28 the board of elections. A polling place may be located in a building  
29 owned by a religious organization or used by it as a place of worship.  
30 If such a building is designated as a polling place, it shall not be  
31 required to be open for voter registration on any Saturday if this is  
32 contrary to the religious beliefs of the religious organization. In such  
33 a situation, the board of elections shall designate an alternate  
34 location to be used for voter registration. Such polling places must be  
35 designated by ~~[May—first]~~ April fifteenth, of each year, and shall be  
36 effective for one year thereafter. Such a list required to be submitted  
37 by a village board of trustees must be submitted at least four months  
38 before each general village election and shall be effective until four  
39 months before the subsequent general village election. No place in which  
40 a business licensed to sell alcoholic beverages for on premises consump-  
41 tion is conducted on any day of local registration or of voting shall be  
42 so designated. If, within the discretion of the board of elections a  
43 particular polling place so designated is subsequently found to be  
44 unsuitable or unsafe or should circumstances arise that make a desig-  
45 nated polling place unsuitable or unsafe, then the board of elections is  
46 empowered to select an alternative meeting place. In the city of New  
47 York, the board of elections shall designate such polling places and  
48 alternate registration places if the polling place cannot be used for  
49 voter registration on Saturdays.

50 § 3. Subdivisions 1 and 2 of section 4-106 of the election law, subdivi-  
51 sion 2 as amended by chapter 635 of the laws of 1990, are amended to  
52 read as follows:

53 1. The state board of elections shall, ~~[at least eight months before~~  
54 ~~each]~~ by March first in the year of each general election, make and  
55 transmit to the board of elections of each county, a certificate stating

1 each office, except county, city, village and town offices to be voted  
2 for at such election in such county.

3 2. Each county, city, village and town clerk, [~~at least eight months~~  
4 ~~before each~~] by March first in the year of each general election, shall  
5 make and transmit to the board of elections a certificate stating each  
6 county, city, village or town office, respectively to be voted for at  
7 each such election. Each village clerk, at least five months before each  
8 general village election conducted by the board of elections, shall  
9 make, and transmit to such board, a certificate stating each village  
10 office to be filled at such election.

11 § 4. Paragraph b of subdivision 1 of section 4-108 of the election  
12 law, as amended by chapter 117 of the laws of 1985, is amended to read  
13 as follows:

14 b. Whenever any proposal, proposition or referendum as provided by law  
15 is to be submitted to a vote of the people of a county, city, town,  
16 village or special district, at an election conducted by the board of  
17 elections, the clerk of such political subdivision, at least [~~thirty-six~~  
18 ~~days~~] three months prior to the general election at which such proposal,  
19 proposition or referendum is to be submitted, shall transmit to each  
20 board of elections a certified copy of the text of such proposal, propo-  
21 sition or referendum and a statement of the form in which it is to be  
22 submitted. If a special election is to be held, such transmittal shall  
23 also give the date of such election.

24 § 5. Section 4-110 of the election law, as amended by chapter 434 of  
25 the laws of 1984, is amended to read as follows:

26 § 4-110. Certification of primary election candidates; state board of  
27 elections. The state board of elections not later than [~~thirty-six~~  
28 fifty-five] days before a primary election, shall certify to each county  
29 board of elections: The name and residence of each candidate to be voted  
30 for within the political subdivision of such board for whom a desig-  
31 nation has been filed with the state board; the title of the office or  
32 position for which the candidate is designated; the name of the party  
33 upon whose primary ballot his or her name is to be placed; and the order  
34 in which the names of the candidates are to be printed as determined by  
35 the state board. Where an office or position is uncontested, such  
36 certification shall state such fact.

37 § 6. Subdivision 1 of section 4-112 of the election law, as amended by  
38 chapter 4 of the laws of 2011, is amended to read as follows:

39 1. The state board of elections, not later than [~~thirty-six~~] fifty-  
40 five days before a general election, or fifty-three days before a  
41 special election, shall certify to each county board of elections the  
42 name and residence of each candidate nominated in any valid certificate  
43 filed with it or by the returns canvassed by it, the title of the office  
44 for which nominated; the name of the party or body specified of which he  
45 or she is a candidate; the emblem chosen to distinguish the candidates  
46 of the party or body; and a notation as to whether or not any litigation  
47 is pending concerning the candidacy. Upon the completion of any such  
48 litigation, the state board of elections shall forthwith notify the  
49 appropriate county boards of elections of the results of such liti-  
50 gation.

51 § 7. Section 4-114 of the election law, as amended by chapter 4 of the  
52 laws of 2011, is amended to read as follows:

53 § 4-114. Determination of candidates and questions; county board of  
54 elections. The county board of elections, not later than the [~~thirty-~~  
55 ~~fifth~~] fifty-fourth day before the day of a primary or general election,  
56 or the fifty-third day before a special election, shall determine the

1 candidates duly nominated for public office and the questions that shall  
2 appear on the ballot within the jurisdiction of that board of elections.

3 § 8. Subdivision 1 of section 4-117 of the election law, as amended by  
4 chapter 44 of the laws of 2016, is amended to read as follows:

5 1. The board of elections, [~~between August first and August fifth of~~  
6 ~~each year~~] not less than sixty-five days nor more than seventy days  
7 before the primary election in each year, shall send by mail on which is  
8 endorsed such language designated by the state board of elections to  
9 ensure postal authorities do not forward such mail but return it to the  
10 board of elections with forwarding information, when it cannot be deliv-  
11 ered as addressed and which contains a request that any such mail  
12 received for persons not residing at the address be dropped back in the  
13 mail, a communication, in a form approved by the state board of  
14 elections, to every registered voter who has been registered without a  
15 change of address since the beginning of such year, except that the  
16 board of elections shall not be required to send such communications to  
17 voters in inactive status. The communication shall notify the voter of  
18 the days and hours of the ensuing primary and general elections, the  
19 place where he appears by his registration records to be entitled to  
20 vote, the fact that voters who have moved or will have moved from the  
21 address where they were last registered must re-register or, that if  
22 such move was to another address in the same county or city, that such  
23 voter may either notify the board of elections of his new address or  
24 vote by paper ballot at the polling place for his new address even if  
25 such voter has not re-registered, or otherwise notified the board of  
26 elections of the change of address. If the location of the polling place  
27 for the voter's election district has been moved, the communication  
28 shall contain the following legend in bold type: "YOUR POLLING PLACE HAS  
29 BEEN CHANGED. YOU NOW VOTE AT.....". The communication shall also  
30 indicate whether the polling place is accessible to physically disabled  
31 voters, that a voter who will be out of the city or county on the day of  
32 the primary or general election or a voter who is ill or physically  
33 disabled may obtain an absentee ballot, that a physically disabled voter  
34 whose polling place is not accessible may request that his registration  
35 record be moved to an election district which has a polling place which  
36 is accessible, the phone number to call for applications to move a  
37 registration record or for absentee ballot applications, the phone  
38 number to call for the location of registration and polling places, the  
39 phone number to call to indicate that the voter is willing to serve on  
40 election day as an election inspector, poll clerk, interpreter or in  
41 other capacities, the phone number to call to obtain an application for  
42 registration by mail, and such other information concerning the  
43 elections or registration as the board may include. In lieu of sending  
44 such communication to every registered voter, the board of elections may  
45 send a single communication to a household containing more than one  
46 registered voter, provided that the names of all such voters appear as  
47 part of the address on such communication.

48 § 9. Subdivision 1 of section 5-604 of the election law, as amended by  
49 chapter 28 of the laws of 2010, is amended to read as follows:

50 1. The board of elections shall also cause to be published for each  
51 election district a complete list of the registered voters of each  
52 election district. Such list shall, in addition to the information  
53 required for registration lists, include the party enrollment of each  
54 voter. At least as many copies of such list shall be prepared as the  
55 required minimum number of registration lists.

1 Lists for all the election districts in a ward or assembly district  
2 may be bound together in one volume. The board of elections shall also  
3 cause to be published a complete list of names and residence addresses  
4 of the registered voters, including the party enrollment of each voter,  
5 for each town and city over which the board has jurisdiction. The names  
6 for each town and city may be arranged according to street and number or  
7 alphabetically. Such lists shall be published before the first day of  
8 ~~April~~ March. The board shall keep at least five copies for public  
9 inspection at each main office or branch office of the board. Surplus  
10 copies of the lists shall be sold at a charge not exceeding the cost of  
11 publication.

12 § 10. Paragraph a of subdivision 5 of section 5-708 of the election  
13 law, as added by chapter 659 of the laws of 1994, is amended to read as  
14 follows:

15 a. At least once each year during the month of ~~May~~ March, each board  
16 of elections shall obtain through the National Change of Address System,  
17 the forwarding address for every voter registered with such board of  
18 elections for whom the United States Postal Service has such a forward-  
19 ing address together with the name of each such voter whom the Postal  
20 Service records indicate has moved from the address at which he is  
21 registered without leaving a forwarding address.

22 § 11. Subdivision 1 of section 6-108 of the election law, as amended  
23 by chapter 160 of the laws of 1996, is amended to read as follows:

24 1. In any town in a county having a population of over seven hundred  
25 fifty thousand inhabitants, as shown by the latest federal decennial or  
26 special population census, party nominations of candidates for town  
27 offices shall be made at the primary preceding the election. In any  
28 other town, nominations of candidates for town offices shall be made by  
29 caucus or primary election as the rules of the county committee shall  
30 provide, except that the members of the county committee from a town may  
31 adopt by a two-thirds vote, a rule providing that the party candidates  
32 for town offices shall be nominated at the primary election. If a rule  
33 adopted by the county committee of a political party or by the members  
34 of the county committee from a town, provides that party candidates for  
35 town offices, shall be nominated at a primary election, such rule shall  
36 not apply to nor affect a primary held less than four months after a  
37 certified copy of the rule shall have been filed with the board of  
38 elections. After the filing of such a rule, the rule shall continue in  
39 force until a certified copy of a rule revoking the same shall have been  
40 filed with such board at least four months before a subsequent primary.  
41 Such a caucus shall be held no earlier than the first day on which  
42 designating petitions for the ~~fall~~ primary election may be signed.

43 § 12. Subdivisions 1 and 2 of section 6-147 of the election law, as  
44 amended by chapter 434 of the laws of 1984, are amended to read as  
45 follows:

46 1. The name of a person designated on more than one petition as a  
47 candidate for a party position to be filled by two or more persons shall  
48 be printed on the ballot with the group of candidates designated by the  
49 petition first filed unless such person, in a certificate duly acknowl-  
50 edged by him or her and filed with the board of elections not later than  
51 the ~~eighth~~ tenth Tuesday preceding the primary election or five days  
52 after the board of elections mails such person notice of his or her  
53 designation in more than one group, whichever is later, specifies anoth-  
54 er group in which his or her name shall be printed.

55 2. A person designated as a candidate for the position of member of  
56 the county committee in more than one election district shall be deemed

1 to have been designated in the lowest numbered election district unless  
2 such person, in a certificate duly acknowledged by him or her, and filed  
3 with the board of elections not later than the [~~eighth~~] tenth Tuesday  
4 preceding the primary election or five days after the board of elections  
5 mails such person notice of his or her designation in more than one  
6 election district whichever is later, specifies that he or she wishes to  
7 be deemed designated in a different election district.

8 § 13. Subdivisions 1, 4, 5, 9, 11, 12 and 14 of section 6-158 of the  
9 election law, subdivisions 1, 4, 11 and 12 as amended by chapter 434 of  
10 the laws of 1984, and subdivision 9 as amended by chapter 517 of the  
11 laws of 1986, are amended to read as follows:

12 1. A designating petition shall be filed not earlier than the [~~tenth~~]  
13 thirteenth Monday before, and not later than the [~~ninth~~] twelfth Thurs-  
14 day preceding the primary election.

15 4. A petition of enrolled members of a party requesting an opportunity  
16 to write in the name of an undesignated candidate for a public office or  
17 party position at a primary election shall be filed not later than the  
18 [~~eighth~~] eleventh Thursday preceding the primary election. However,  
19 where a designating petition has been filed and the person named therein  
20 has declined such designation and another person has been designated to  
21 fill the vacancy, then in that event, a petition for an opportunity to  
22 ballot in a primary election shall be filed not later than the [~~seventh~~]  
23 tenth Thursday preceding such primary election.

24 5. A judicial district convention shall be held not earlier than [~~the~~  
25 ~~Tuesday following the third Monday in September preceding the general~~  
26 ~~election and not later than the fourth Monday in September preceding~~  
27 ~~such election~~] seven days after the primary and no later than thirteen  
28 days after the primary.

29 9. A petition for an independent nomination for an office to be filled  
30 at the time of a general election shall be filed not earlier than  
31 [~~twelve~~] sixteen weeks and not later than [~~eleven~~] fifteen weeks preced-  
32 ing such election. A petition for an independent nomination for an  
33 office to be filled at a special election shall be filed not later than  
34 twelve days following the issuance of a proclamation of such election.  
35 [~~A petition for trustee of the Long Island Power Authority shall be~~  
36 ~~filed not earlier than seven weeks and not later than six weeks preced-~~  
37 ~~ing the day of the election of such trustees.~~]

38 11. A certificate of acceptance or declination of an independent nomi-  
39 nation for an office to be filled at the time of a general election  
40 shall be filed not later than the third day after the [~~eleventh~~]  
41 fifteenth Tuesday preceding such election except that a candidate who  
42 files such a certificate of acceptance for an office for which there  
43 have been filed certificates or petitions designating more than one  
44 candidate for the nomination of any party, may thereafter file a certif-  
45 icate of declination not later than the third day after the primary  
46 election. A certificate of acceptance or declination of an independent  
47 nomination for an office to be filled at a special election shall be  
48 filed not later than fourteen days following the issuance of a proclama-  
49 tion of such election.

50 12. A certificate to fill a vacancy caused by a declination of an  
51 independent nomination for an office to be filled at the time of a  
52 general election shall be filed not later than the sixth day after the  
53 [~~eleventh~~] fifteenth Tuesday preceding such election. A certificate to  
54 fill a vacancy caused by a declination of an independent nomination for  
55 an office to be filled at a special election shall be filed not later



1 than sixteen days following the issuance of a proclamation of such  
2 election.

3 14. A vacancy occurring three months before [~~September twentieth of~~  
4 the general election in any year in any office authorized to be filled  
5 at a general election, except in the offices of governor, lieutenant-  
6 governor, or United States senator shall be filled at the general  
7 election held next thereafter, unless otherwise provided by the consti-  
8 tution, or unless previously filled at a special election.

9 § 13-a. Subdivision 6 of section 6-158 of the election law, as amended  
10 by chapter 79 of the laws of 1992, is amended to read as follows:

11 6. A certificate of a party nomination made other than at the primary  
12 election for an office to be filled at the time of a general election  
13 shall be filed not later than seven days after the fall primary  
14 election, except that a certificate of nomination for an office which  
15 becomes vacant after the seventh day preceding such primary election  
16 shall be filed not later than fourteen days after the creation of such  
17 vacancy and except, further, that a certificate of party nomination of  
18 candidates for elector of president and vice-president of the United  
19 States shall be filed not later than fourteen days after the [~~fall~~]  
20 primary election, and except still further that a certificate of party  
21 nomination made at a judicial district convention shall be filed not  
22 later than the day after the last day to hold such convention and the  
23 minutes of such convention, duly certified by the chairman and secre-  
24 tary, shall be filed within seventy-two hours after adjournment of the  
25 convention. A certificate of party nomination for an office to be filled  
26 at a special election shall be filed not later than ten days following  
27 the issuance of a proclamation of such election.

28 § 14. Paragraph (a) of subdivision 1 of section 8-100 of the election  
29 law, as amended by chapter 17 of the laws of 2007, is amended to read as  
30 follows:

31 (a) A primary election[~~, to be known as the fall primary,~~] shall be  
32 held on the [~~first~~] third Tuesday [~~after the second Monday~~] in [~~Septem-~~  
33 ~~ber~~] August before every general election unless otherwise changed by an  
34 act of the legislature. Members of the state and county committees and  
35 assembly district leaders and associate district leaders and all other  
36 party positions to be elected shall be elected at such primary and all  
37 nominations for public office required to be made at a primary election  
38 in such year shall be made at such primary. In each year in which elec-  
39 tors of president and vice president of the United States are to be  
40 elected an additional primary election, to be known as the spring prima-  
41 ry, shall be held on the first Tuesday in February unless otherwise  
42 changed by an act of the legislature, for the purpose of electing deleg-  
43 ates to the national convention[~~, members of state and county committees~~  
44 ~~and assembly district leaders and associate assembly district leaders~~].

45 § 15. Paragraph (a) of subdivision 1 of section 10-108 of the election  
46 law, as amended by chapter 4 of the laws of 2011, is amended to read as  
47 follows:

48 (a) Ballots for military voters shall be mailed or otherwise distrib-  
49 uted by the board of elections, in accordance with the preferred method  
50 of transmission designated by the voter pursuant to section 10-107 of  
51 this article, as soon as practicable but in any event not later than  
52 [~~thirty-two~~] forty-six days before a primary or general election[~~, twen-~~  
53 ~~ty-five days before~~], a New York city community school board district or  
54 city of Buffalo school district election; fourteen days before a village  
55 election conducted by the board of elections; and forty-five days before  
56 a special election. A voter who submits a military ballot application

1 shall be entitled to a military ballot thereafter for each subsequent  
2 election through and including the next two regularly scheduled general  
3 elections held in even numbered years, including any run-offs which may  
4 occur; provided, however, such application shall not be valid for any  
5 election held within seven days after its receipt. Ballots shall also  
6 be mailed to any qualified military voter who is already registered and  
7 who requests such military ballot from such board of elections in a  
8 letter, which is signed by the voter and received by the board of  
9 elections not later than the seventh day before the election for which  
10 the ballot is requested and which states the address where the voter is  
11 registered and the address to which the ballot is to be mailed. The  
12 board of elections shall enclose with such ballot a form of application  
13 for military ballot. In the case of a primary election, the board shall  
14 deliver only the ballot of the party with which the military voter is  
15 enrolled according to the military voter's registration records. In the  
16 event a primary election is uncontested in the military voter's election  
17 district for all offices or positions except the party position of  
18 member of the ward, town, city or county committee, no ballot shall be  
19 delivered to such military voter for such election; and the military  
20 voter shall be advised of the reason why he or she will not receive a  
21 ballot.

22 § 16. Subdivision 4 of section 11-204 of the election law, as amended  
23 by chapter 4 of the laws of 2011, is amended to read as follows:

24 4. If the board of elections shall determine that the applicant making  
25 the application provided for in this section is qualified to receive and  
26 vote a special federal ballot, it shall, as soon as practicable after it  
27 shall have so determined, or not later than ~~[thirty-two]~~ forty-six days  
28 before each general or primary election ~~[and forty-five days before~~  
29 ~~each]~~ or special election in which such applicant is qualified to vote,  
30 or three days after receipt of such an application, whichever is later,  
31 mail to him or her at the residence address outside the United States  
32 shown in his or her application, a special federal ballot, an inner  
33 affirmation envelope and an outer envelope, or otherwise distribute same  
34 to the voter in accordance with the preferred method of transmission  
35 designated by the voter pursuant to section 11-203 of this title. The  
36 board of elections shall also mail, or otherwise distribute in accord-  
37 ance with the preferred method of transmission designated by the voter  
38 pursuant to section 11-203 of this title, a special federal ballot to  
39 every qualified special federal voter who is already registered and who  
40 requests such special federal ballot from such board of elections in a  
41 letter, which is signed by the voter and received by the board of  
42 elections not later than the seventh day before the election for which  
43 the ballot is first requested and which states the address where the  
44 voter is registered and the address to which the ballot is to be mailed.  
45 The board of elections shall enclose with such ballot a form of applica-  
46 tion for a special federal ballot.

47 § 17. Subdivisions 1 and 4 of section 42 of the public officers law,  
48 subdivision 1 as amended by chapter 878 of the laws of 1946 and subdivi-  
49 sion 4 as amended by chapter 317 of the laws of 1954, are amended to  
50 read as follows:

51 1. A vacancy occurring three months before ~~[September twentieth of]~~  
52 the general election in any year in any office authorized to be filled  
53 at a general election, except in the offices of governor or lieutenant-  
54 governor, shall be filled at the general election held next thereafter,  
55 unless otherwise provided by the constitution, or unless previously  
56 filled at a special election.



1 4. A special election shall not be held to fill a vacancy in the  
2 office of a representative in congress unless such vacancy occurs on or  
3 before the first day of July of the last year of the term of office, or  
4 unless it occurs thereafter and a special session of congress is called  
5 to meet before the next general election, or be called after [~~September~~  
6 ~~nineteenth-of~~] three months before the general election in such year;  
7 nor to fill a vacancy in the office of state senator or in the office of  
8 member of assembly, unless the vacancy occurs before the first day of  
9 April of the last year of the term of office, or unless the vacancy  
10 occurs in either such office of senator or member of assembly after such  
11 first day of April and a special session of the legislature be called to  
12 meet between such first day of April and the next general election or be  
13 called after three months before the next general election [~~or be called~~  
14 ~~after—September nineteenth~~] in such year. If a special election to fill  
15 an office shall not be held as required by law, the office shall be  
16 filled at the next general election.

17 § 18. This act shall take effect immediately; provided, however, that  
18 sections five, seven, thirteen-a, fourteen, fifteen and sixteen of this  
19 act shall take effect on the same date as the reversion of such  
20 provisions of the election law amended by such sections as provided in  
21 section 13 of chapter 87 of the laws of 2015, as amended.