

STATE OF NEW YORK

1115--A

2017-2018 Regular Sessions

IN SENATE

January 6, 2017

Introduced by Sens. AKSHAR, PHILLIPS -- read twice and ordered printed, and when printed to be committed to the Committee on Elections -- recommitted to the Committee on Elections in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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; to amend the public officers law, in relation to filling vacancies in elective offices; and providing for the repeal of certain provisions of the election law upon expiration thereof

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

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

1. All papers required to be filed pursuant to the provisions of this chapter shall, unless otherwise provided, be filed between the hours of nine A.M. and five P.M. If the last day for filing shall fall on a Saturday, Sunday or legal holiday, the next business day shall become the last day for filing. All papers sent by mail in an envelope postmarked prior to midnight of the last day of filing shall be deemed timely filed and accepted for filing when received, except that all certificates and petitions of designation or nomination, certificates of acceptance or declination of such designations or nominations, certificates of authorization for such designations or nominations, certificates of disqualification, certificates of substitution for such designations or nominations and objections and specifications of objections to such certificates and petitions required to be filed with the state board of elections or a board of elections outside of the city of New York shall be deemed timely filed and accepted for filing if sent by

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

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mail or designated delivery service permitted by subdivision three of this section, in an envelope postmarked prior to midnight of the last day of filing and received no later than two business days after the last day to file such certificates, petitions, objections or specifications. Failure of the post office or any other person or entity to deliver any such petition, certificate or objection to such board of elections outside the city of New York no later than two business days after the last day to file such certificates, petitions, objections or specifications shall be a fatal defect. Excepted further that all certificates and petitions of designation or nomination, certificates of acceptance or declination of such designations and nominations, certificates of substitution for such designations or nominations and objections and specifications of objections to such certificates and petitions required to be filed with the board of elections of the city of New York must be actually received by such city board of elections on or before the last day to file any such petition, certificate or objection and such office shall be open for the receipt of such petitions, certificates and objections until midnight on the last day to file any such petition, certificate or objection. Failure of the post office or any other person or entity to deliver any such petition, certificate or objection to such city board of elections on or before such last day shall be a fatal defect.

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

1. Every board of elections shall, in consultation with each city, town and village, designate the polling places in each election district in which the meetings for the registration of voters, and for any election may be held. The board of trustees of each village in which general and special village elections conducted by the board of elections are held at a time other than the time of a general election shall submit such a list of polling places for such village elections to the board of elections. A polling place may be located in a building owned by a religious organization or used by it as a place of worship. If such a building is designated as a polling place, it shall not be required to be open for voter registration on any Saturday if this is contrary to the religious beliefs of the religious organization. In such a situation, the board of elections shall designate an alternate location to be used for voter registration. Such polling places must be designated by ~~[May—first]~~ April fifteenth, of each year, and shall be effective for one year thereafter. Such a list required to be submitted by a village board of trustees must be submitted at least four months before each general village election and shall be effective until four months before the subsequent general village election. No place in which a business licensed to sell alcoholic beverages for on premises consumption is conducted on any day of local registration or of voting shall be so designated. If, within the discretion of the board of elections a particular polling place so designated is subsequently found to be unsuitable or unsafe or should circumstances arise that make a designated polling place unsuitable or unsafe, then the board of elections is empowered to select an alternative meeting place. In the city of New York, the board of elections shall designate such polling places and alternate registration places if the polling place cannot be used for voter registration on Saturdays.

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

1 1. The state board of elections shall, [~~at least eight months before~~
2 ~~each~~] by March first in the year of each general election, make and
3 transmit to the board of elections of each county, a certificate stating
4 each office, except county, city, village and town offices to be voted
5 for at such election in such county.

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

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

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

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

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

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

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

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

§ 4-114. Determination of candidates and questions; county board of elections. The county board of elections, not later than the ~~[thirty-fifth]~~ fifty-fourth day before the day of a primary or general election, or the fifty-third day before a special election, shall determine the candidates duly nominated for public office and the questions that shall appear on the ballot within the jurisdiction of that board of elections.

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

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

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

1. The board of elections shall also cause to be published for each election district a complete list of the registered voters of each election district. Such list shall, in addition to the information

1 required for registration lists, include the party enrollment of each
2 voter. At least as many copies of such list shall be prepared as the
3 required minimum number of registration lists.

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

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

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

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

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

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

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

1 designation in more than one group, whichever is later, specifies another group in which his or her name shall be printed.

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

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

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

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

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

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

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

54 12. A certificate to fill a vacancy caused by a declination of an
55 independent nomination for an office to be filled at the time of a
56 general election shall be filed not later than the sixth day after the

1 ~~[eleventh]~~ fifteenth Tuesday preceding such election. A certificate to
2 fill a vacancy caused by a declination of an independent nomination for
3 an office to be filled at a special election shall be filed not later
4 than sixteen days following the issuance of a proclamation of such
5 election.

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

12 § 13-a. Subdivision 6 of section 6-158 of the election law, as amended
13 by chapter 79 of the laws of 1992, is amended to read as follows:

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

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

34 (a) A primary election, to be known as the fall primary, shall be held
35 on the first ~~[Tuesday]~~ Thursday after the second Monday in September
36 before every general election unless otherwise changed by an act of the
37 legislature. In each year in which electors of president and vice pres-
38 ident of the United States are to be elected an additional primary
39 election, to be known as the spring primary, shall be held on the first
40 Tuesday in February unless otherwise changed by an act of the legisla-
41 ture, for the purpose of electing delegates to the national convention,
42 members of state and county committees and assembly district leaders and
43 associate assembly district leaders.

44 § 14-a. Paragraph (a) of subdivision 1 of section 8-100 of the
45 election law, as amended by chapter 17 of the laws of 2007, is amended
46 to read as follows:

47 (a) A primary election~~[, to be known as the fall primary,]~~ shall be
48 held on the ~~[first]~~ third Tuesday ~~[after the second Monday]~~ in ~~[Septem-~~
49 ~~ber]~~ August before every general election unless otherwise changed by an
50 act of the legislature. Members of the state and county committees and
51 assembly district leaders and associate district leaders and all other
52 party positions to be elected shall be elected at such primary and all
53 nominations for public office required to be made at a primary election
54 in such year shall be made at such primary. In each year in which elec-
55 tors of president and vice president of the United States are to be
56 elected an additional primary election, to be known as the spring prima-

ry, shall be held on the first Tuesday in February unless otherwise changed by an act of the legislature, for the purpose of electing delegates to the national convention[~~, members of state and county committees and assembly district leaders and associate assembly district leaders~~].

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

(a) Ballots for military voters shall be mailed or otherwise distributed by the board of elections, in accordance with the preferred method of transmission designated by the voter pursuant to section 10-107 of this article, as soon as practicable but in any event not later than ~~[thirty-two]~~ **forty-six** days before a primary or general election[~~, twenty-five days before~~], a New York city community school board district or city of Buffalo school district election; fourteen days before a village election conducted by the board of elections; and forty-five days before a special election. A voter who submits a military ballot application shall be entitled to a military ballot thereafter for each subsequent election through and including the next two regularly scheduled general elections held in even numbered years, including any run-offs which may occur; provided, however, such application shall not be valid for any election held within seven days after its receipt. Ballots shall also be mailed to any qualified military voter who is already registered and who requests such military ballot from such board of elections in a letter, which is signed by the voter and received by the board of elections not later than the seventh day before the election for which the ballot is requested and which states the address where the voter is registered and the address to which the ballot is to be mailed. The board of elections shall enclose with such ballot a form of application for military ballot. In the case of a primary election, the board shall deliver only the ballot of the party with which the military voter is enrolled according to the military voter's registration records. In the event a primary election is uncontested in the military voter's election district for all offices or positions except the party position of member of the ward, town, city or county committee, no ballot shall be delivered to such military voter for such election; and the military voter shall be advised of the reason why he or she will not receive a ballot.

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

4. If the board of elections shall determine that the applicant making the application provided for in this section is qualified to receive and vote a special federal ballot, it shall, as soon as practicable after it shall have so determined, or not later than ~~[thirty-two]~~ **forty-six** days before each general or primary election [~~and forty-five days before each~~] **or** special election in which such applicant is qualified to vote, or three days after receipt of such an application, whichever is later, mail to him or her at the residence address outside the United States shown in his or her application, a special federal ballot, an inner affirmation envelope and an outer envelope, or otherwise distribute same to the voter in accordance with the preferred method of transmission designated by the voter pursuant to section 11-203 of this title. The board of elections shall also mail, or otherwise distribute in accordance with the preferred method of transmission designated by the voter pursuant to section 11-203 of this title, a special federal ballot to every qualified special federal voter who is already registered and who requests such special federal ballot from such board of elections in a

1 letter, which is signed by the voter and received by the board of
2 elections not later than the seventh day before the election for which
3 the ballot is first requested and which states the address where the
4 voter is registered and the address to which the ballot is to be mailed.
5 The board of elections shall enclose with such ballot a form of applica-
6 tion for a special federal ballot.

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

11 1. A vacancy occurring three months before [~~September twentieth of~~]
12 the general election in any year in any office authorized to be filled
13 at a general election, except in the offices of governor or lieutenant-
14 governor, shall be filled at the general election held next thereafter,
15 unless otherwise provided by the constitution, or unless previously
16 filled at a special election.

17 4. A special election shall not be held to fill a vacancy in the
18 office of a representative in congress unless such vacancy occurs on or
19 before the first day of July of the last year of the term of office, or
20 unless it occurs thereafter and a special session of congress is called
21 to meet before the next general election, or be called after [~~September~~
22 ~~nineteenth of~~] three months before the general election in such year;
23 nor to fill a vacancy in the office of state senator or in the office of
24 member of assembly, unless the vacancy occurs before the first day of
25 April of the last year of the term of office, or unless the vacancy
26 occurs in either such office of senator or member of assembly after such
27 first day of April and a special session of the legislature be called to
28 meet between such first day of April and the next general election or be
29 called after three months before the next general election [~~or be called~~
30 ~~after September nineteenth~~] in such year. If a special election to fill
31 an office shall not be held as required by law, the office shall be
32 filled at the next general election.

33 § 18. This act shall take effect immediately; provided, however, that:
34 1. sections one, two, three, four, five, six, seven, eight, nine, ten,
35 eleven, twelve, thirteen, thirteen-a, fifteen, sixteen and seventeen of
36 this act shall take effect on January 1, 2019;

37 2. the amendments to paragraph (a) of subdivision 1 of section 8-100
38 of the election law made by section fourteen of this act shall expire
39 and be deemed repealed on December 31, 2018, when upon such date the
40 provisions of section fourteen-a of this act shall take effect.