STATE OF NEW YORK

3388

2017-2018 Regular Sessions

IN SENATE

January 23, 2017

Introduced by Sen. GALLIVAN -- 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 court proceedings involving disputed election results

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

Section 1. The election law is amended by adding a new section 16-103 to read as follows:

§ 16-103. Proceedings involving general or special election results. 1. Upon evidence of fraud, irregularities or violations of article seventeen of this chapter affecting the outcome of a general or special election an aggrieved candidate may contest any such special or general election in a proceeding brought in the supreme court.

2. A proceeding pursuant to this section shall be instituted within twenty days after the election to which it relates. The court may determine issues of fact and/or law in a proceeding pursuant to this section.

3. In a proceeding pursuant to this section the court shall invalidate the election results and order a new election if clear and convincing evidence demonstrates that fraud, irregularity or violations of article seventeen of this chapter deprived the aggrieved candidate of a winning margin of votes. Such new election shall include all duly enrolled voters residing in the political subdivision embracing the office contested. Such election shall be held on the fifth Tuesday after the court's order is issued; provided, however, if the fifth Tuesday is a religious, federal or state holiday the new election shall be held on the next succeeding Tuesday thereafter which is not a religious, federal or state holiday.

4. All candidates on the ballot at the original election for the contested office shall be on the ballot at the new election; provided, however, if the office contested is one for which a voter may cast multiple votes for two or more candidates for the same office, any

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

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candidate for such office whose winning margin at the original election is not by clear and convincing evidence shown to be invalid, shall have been duly elected at the original election, and the number of positions to be elected at the new election shall be reduced accordingly.

5. The court may issue an injunction to prevent a candidate from wrongly assuming office until such time as the new election shall be held. The provisions of section five of the public officers law shall apply in the interim.

6. Nothing in this section shall be construed to limit any other rights or remedies available in law or equity or pursuant to this chapter.

§ 2. This act shall take effect immediately and shall apply to any election held on or after such effective date.