STATE OF NEW YORK

630

2017-2018 Regular Sessions

IN SENATE

January 4, 2017

Introduced by Sen. BOYLE -- 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 specification of objections to designating petitions, independent nominating petitions, certificates of nomination or ballot access documents

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

Section 1. Section 6-154 of the election law, subdivision 2 as amended by chapter 248 of the laws of 1981, is amended to read as follows:

§ 6-154. Nominations and designations; objections to. 1. Any petition **or certificate** filed with the officer or board charged with the duty of receiving it shall be presumptively valid if it is in proper form and appears to bear the requisite number of signatures, authenticated in a manner prescribed by this chapter.

2. Written objections to any certificate of designation or nomination or to a nominating or designating petition or a petition for opportunity to ballot for public office or to a certificate of acceptance, a certificate of authorization, a certificate of declination or a certificate of substitution relating thereto may be filed by any voter registered to vote for such public office and to a designating petition or a petition for opportunity to ballot for party position or a certificate of substitution, a certificate of acceptance or a certificate of declination relating thereto by any voter enrolled to vote for such party position. Such objections shall be filed with the officer or board with whom the original petition or certificate is filed within three days after the filing of the petition or certificate to which objection is made, or within three days after the last day to file such a certificate, if no such certificate is filed except that if any person nominated by an independent nominating petition, is nominated as a party candidate for the same office by a party certificate filed, or a party nomination made after the filing of such petition, the written objection to such peti-

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

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tion may be filed within three days after the filing of such party certificate or the making of such party nomination. When such an objection is filed, specifications of the grounds of the objections shall be filed within six days thereafter with the same officer or board and if specifications are not timely filed, the objection shall be null and void. [~~Each such officer or board is hereby empowered to make rules in reference to the filing and disposition of such petition, certificate, objections and specifications.~~]

3. (a) Any person filing general objections to any designating petition, independent nominating petition or certificate of nomination or ballot access document who thereafter files specifications of his or her objections to any such document shall do so in accordance with the provisions of this subdivision. All such specifications shall substantially comply with the following requirements:

(i) for specifications relating to any petition, the volume number, page number, and line number of any signature objected to on any petition shall be set forth in detail. In addition, any portion of any petition or any signature line or witness statement objected to shall be specifically identified and reasons given for any such objection;

(ii) the total number of signatures objected to shall be set forth and all objections relating to a single signature line should be grouped together; and

(iii) symbols and/or abbreviations may be used to set forth objections, provided that a sheet explaining the meaning of any such symbols and/or abbreviations is attached to the specifications.

(b) No specifications of objections to any petition, certificate of nomination or ballot access document will be considered unless the objector filing the specifications personally delivers or mails by overnight mail a duplicate copy of the specification to each candidate for public office named on the petition. Objections and specifications to a petition for an opportunity to ballot must be served on the persons named as the committee to receive notices. In the case of a petition containing candidates for party positions, service of the specifications shall be made on either the named candidates or the first person named on the petition's committee to fill vacancies. Service shall be made on or before the date of filing of any specifications with the officer or board. Proof of service shall accompany the specifications or be received by the end of two business days following the filing of the specifications, whichever is later.

4. (a) Such officer or board shall give notice by overnight mail to the objector and the candidate named in such petition or certificate of the date or dates on which such officer or board shall consider the specifications filed, and board findings, the result of and research of the specifications, and shall make a determination as to the sufficiency of such petition or certificate and shall provide the objector and candidate or their agent or agents an opportunity to be heard as to the validity of each specific objection. Copies of the board's research of specifications shall accompany such notice. Such opportunity may be by written submission or oral presentation in the discretion of such officer or board. Such officer or board shall not deny the objector or the candidate or their agent or agents an opportunity to be present when the determination as to validity is made.

(b) For objections and specifications made to ballot access documents filed with the state board of elections, the provisions of paragraph (a) of this subdivision shall apply. However, the opportunity to be heard as to the validity or invalidity of such specifications shall be provided

in a hearing which precedes any meeting of the state board's commissioners at which determinations will be rendered.

5. When [~~a~~] any determination is made that a certificate or petition is sufficient or insufficient, such officer or board shall give notice of the determination forthwith by mail to each candidate named in the petition or certificate, and, if the determination is made upon specified objections, the objector shall be notified; provided that any such candidate or objector may designate an attorney or agent to receive any such notice and/or determination on his or her behalf. Any such designation shall be in writing and include the name, address, email and telephone number of any such attorney or agent, and any such attorney and/or agent shall be eligible to represent any such candidate or objector in any proceeding relating to the specifications.

6. Nothing in this section shall be construed to require an objection or hearing if the board of elections by majority vote determines that a filing does not meet the criteria of subdivision one of this section to be presumptively valid.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rules or regulations necessary for the implementation of this act on its effective date are authorized to be made on or before such date.