STATE OF NEW YORK

10886

IN ASSEMBLY

May 25, 2018

Introduced by M. of A. THIELE -- read once and referred to the Committee on Election Law

AN ACT to create a pilot program to test an instant runoff voting method of elections and providing for the repeal of such provisions upon expiration thereof

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

Section 1. Legislative findings. The current system of voting often results in the election of a candidate who does not have the majority support of the electorate when there are three or more candidates running for an elective office. Further, where there are three or more candidates for an elective office, voters often will not vote for their preferred candidate to avoid "wasting" their vote on a "spoiler" candidate. Rather, they will vote against a candidate they dislike, by voting for a leading candidate that they perceive as the lesser of two evils. The result of the current system in multi-candidate races can be the election of candidates who lack majority support.

The instant runoff voting method provides for the majority election for elective offices. Instant runoff voting gives voters the option to rank candidates according to the order of their choice. If no candidate obtains a majority of first-choice votes, then the candidate receiving the fewest first-choice votes is eliminated. Each vote cast for the eliminated candidate shall be transferred to the candidate who was the voter's next choice on the ballot. The process is continued until a candidate receives a majority of votes.

There are several potential benefits to the instant runoff voting method. First, voters are free to mark their ballot for the candidate they truly prefer without fear that their choice will help elect their least preferred candidate. Second, it ensures that the elected candidate has true majority support. In addition, the instant runoff voting method will (1) promote higher voter turnout, and (2) encourage positive campaigning, since candidates will seek second-choice and third-choice votes from voters and will therefore be less likely to attack other candidates and alienate voters that support other candidates as their

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

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first choice. In situations where runoffs are already required, it will eliminate the need for a second runoff election, with its increased costs and lower voter turnout.

The instant runoff voting method has been the subject of increasing interest across the nation. It has already been adopted by local referenda in California, Vermont, and Massachusetts. It is under consideration in many other states.

It is the purpose of this act to permit the use of the instant runoff voting method on a trial basis in certain local elections in years 2020 and 2021. This pilot program would permit the state legislature to evaluate the broader application of the instant runoff voting method to elections in New York state.

§ 2. Definitions. 1. "Instant runoff voting method" shall mean a method of casting and tabulating votes that simulates the ballot counts that would occur if all voters participated in a series of runoff elections, whereby the voters rank candidates according to the order of their choice and, if no candidate has received a majority of votes cast, then the candidate with the fewest first choice votes is eliminated and the remaining candidates advance to another counting round. In every round, each ballot is counted as one vote for the highest ranked advancing candidate.

2. "Local government" shall mean a county, city, town, village, or school district.

§ 3. Pilot program. 1. The state board of elections shall select local governments in which to conduct a pilot program during the 2020 and 2021 elections for local office using instant runoff voting. The state board shall select up to ten local governments in 2020 and up to ten local governments in 2021.

2. In selecting local governments the state board shall seek diversity of population size, regional location, and demographic composition. The pilot program shall require the approval of the county board of elections where said county board conducts the election for the local government. Said pilot program shall also require the approval of the local government that has been selected for the pilot program.

3. The state board shall monitor the pilot program and issue a report with its findings and recommendations to the state legislature by April 1, 2022.

4. The state board shall implement the necessary regulations in order to implement this act within ninety days after it shall have become law.

§ 4. Instant runoff voting method; ballots. 1. For elections subject to the instant runoff voting method, the ballot must be simple and easy to understand and allow a voter to rank candidates in order of choice. A voter may include no more than one write-in candidate among that voter's ranked choices for each office. If feasible, ballots must be designed so that a voter may mark that voter's first choices in the same manner as that for offices not elected by the instant runoff voting method.

2. Instructions on the ballot must conform substantially to the following specifications, although subject to modification, based on ballot design and voting machine:

"Vote for candidates by indicating your first-choice candidates in order of preference. Indicate your first choice by marking the number "1" beside a candidate's name, your second choice by marking the number "2" beside a candidate's name, your third choice by marking the number "3" beside a candidate's name and so on, for as many choices as you wish. You may choose to rank only one candidate, but ranking additional candidates will not hurt the chances of your first-choice candidate. Do

not mark the same number beside more than one candidate. Do not skip numbers."

3. A sample ballot for an election subject to the instant runoff voting method must illustrate the voting procedure for the instant runoff voting method. Such a sample ballot must be included with each absentee ballot.

4. The appropriate board of elections shall ensure that the necessary voting system, vote tabulation system, or other similar or related equipment shall be available to accommodate the instant runoff voting method where the instant runoff voting method is required by this act.

§ 5. Instant runoff voting method; procedures. The following procedures shall apply in determining the winner in an election subject to the instant runoff voting method:

1. The first choice marked on each ballot must be counted initially by election officials. If one candidate receives a majority of the votes cast, excluding blank and void ballots, that candidate shall be declared elected.

2. If no candidate receives a majority of first-choice votes cast at the end of the initial count, the candidate receiving the fewest first-choice votes shall be eliminated. Each vote cast for the eliminated candidate shall be transferred to the candidate who was the voter's next choice on the ballot.

3. Candidates with the fewest votes shall continue to be eliminated, with the votes for such candidates transferred to the candidate who was each voter's next choice on the ballot until a candidate receives a majority of the votes cast, excluding blank and void ballots. When a candidate receives a majority of the votes cast, that candidate shall be declared the winner.

4. If a ballot has no more available choices ranked on it, that ballot must be declared exhausted. Where a ballot skips one or more numbers, the ballot must be declared exhausted when the skipping of numbers is reached. A ballot with the same number for two or more candidates must be declared exhausted when these double numbers are reached.

5. In the case of a tie between candidates for last place, and thus elimination, occurring at any stage in the tabulation, the tie shall be resolved so as to eliminate the candidate who received the least number of votes at the previous stage of tabulation. In the case of a tie to which a previous stage does not apply, or such previous stage was also a tie, the tie shall be resolved by drawing lots. However, if the tie occurs when there are only two candidates remaining, the tie shall be resolved in accordance with the provisions of this act.

§ 6. Voter education. Where an election is subject to the instant runoff voting method, the appropriate board of elections shall conduct a voter education campaign on the instant runoff voting system to familiarize voters with the ballot design, method of voting, and advantages of determining a majority winner in a single election. The board of elections shall use public service announcements, as well as seek other media cooperation to the maximum extent practicable.

§ 7. Construal. All elections held by the instant runoff voting method pursuant to this act shall be subject to all the other provisions of the election law and all other applicable laws relating to elections, so far as is applicable and not inconsistent with this act.

§ 8. Severability. If any provision of this act or the application thereof shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this act, but shall be confined in its oper-

ation to the provision thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 9. This act shall take effect immediately, and shall remain in full force and effect until December 31, 2022 when upon such date the provisions of this act shall expire and be deemed repealed.