

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:

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

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

19 There are several potential benefits to the instant runoff voting
20 method. First, voters are free to mark their ballot for the candidate
21 they truly prefer without fear that their choice will help elect their
22 least preferred candidate. Second, it ensures that the elected candidate
23 has true majority support. In addition, the instant runoff voting method
24 will (1) promote higher voter turnout, and (2) encourage positive
25 campaigning, since candidates will seek second-choice and third-choice
26 votes from voters and will therefore be less likely to attack other
27 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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1 first choice. In situations where runoffs are already required, it will
2 eliminate the need for a second runoff election, with its increased
3 costs and lower voter turnout.

4 The instant runoff voting method has been the subject of increasing
5 interest across the nation. It has already been adopted by local refer-
6 enda in California, Vermont, and Massachusetts. It is under consider-
7 ation in many other states.

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

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

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

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

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

35 3. The state board shall monitor the pilot program and issue a report
36 with its findings and recommendations to the state legislature by April
37 1, 2022.

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

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

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

50 "Vote for candidates by indicating your first-choice candidates in
51 order of preference. Indicate your first choice by marking the number
52 "1" beside a candidate's name, your second choice by marking the number
53 "2" beside a candidate's name, your third choice by marking the number
54 "3" beside a candidate's name and so on, for as many choices as you
55 wish. You may choose to rank only one candidate, but ranking additional
56 candidates will not hurt the chances of your first-choice candidate. Do

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

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

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

11 § 5. Instant runoff voting method; procedures. The following proce-
12 dures shall apply in determining the winner in an election subject to
13 the instant runoff voting method:

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

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

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

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

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

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

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

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

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

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