STATE OF NEW YORK

4202

2017-2018 Regular Sessions

IN ASSEMBLY

February 1, 2017

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

AN ACT to amend the election law, in relation to the form of ballots; and to repeal certain provisions of such law relating thereto

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

Section 1. Sections 7-104, 7-106 and 7-126 of the election law are REPEALED and two new sections 7-104 and 7-105 are added to read as follows:

§ 7-104. Ballots; form of; general, primary; special elections. 1. (a) All paper ballots of the same kind for the same polling place shall be identical in form and content, excepting the names of individual candidates and local referenda, propositions or initiatives, whether or not such ballots shall be counted by voting machine, ballot scanner or other method. A different, but in each case uniform style and size of type, shall be used for printing the names of candidates, the titles of offices, and political designations.

(b) Sample ballot shall be clearly distinguishable by size, color and marking "SAMPLE BALLOT" in type sufficient to cover the entire face of the ballot, to avoid error.

(c) Paper ballots which are to be counted by a ballot scanner may consist of two or more sheets which are divided into perforated sections which can be separated at the time the ballot is scanned. Ballots shall be printed on paper of a quality and weight specified in the voting systems' technical requirements documentation, or as determined by the state board of elections certification of such voting systems.

2. (a) All ballots shall be printed in black ink and/or displayed in a format and arrangement of such uniform size and style in as plain and clear a type using only sans serif print fonts, as will, at minimum, fit all the candidates for public office on a single face ballot, and if consistent with these provisions, any amendments, initiative or proposi-

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

LBD01730-01-7

tions. If not, then such amendments, initiatives or propositions shall be upon a separate ballot sheet. Such type or display on the ballot shall satisfy all the requirements and standards set forth pursuant to the Help America Vote Act.

(b) All ballots shall use sans serif fonts and in such size as to maximize legibility. The names of the candidates shall be printed in capital letters in a larger bold type face than other matter.

(c) The party name or other designation, and a designating letter and number shall be affixed to the name of each candidate, or, in case of presidential electors, to the names of the candidates for president and vice-president of such party and be printed immediately below the name of the candidate in similar type but not bolded.

(d) Each office shall occupy as many columns or rows on the ballot as the number of candidates to be elected to that office. The titles of offices may be arranged horizontally, with the names of candidates for an office and place for write-in ballots for such office arranged vertically under the title of the office, or the titles of offices may be arranged vertically, with the names of candidates for an office and the place for write-in ballots for such office arranged horizontally opposite the title of the office.

(e) Next to the name of the party or independent committee, shall appear the symbol of the party or independent entity and its designating letter of the row or column in such size as the graphic image is clear and legible within the voting box at the head of the column or the row, based upon the ballot design. The title of the office shall appear in a separate box in a type size equal to the name of the candidate. No other symbol or image shall appear on the ballot.

(f) Each ballot shall be printed in sections in which the candidates' names and political designations, the ballot proposals and other requisite matter shall each be boxed in by heavy black perpendicular lines of equal width. In each such section shall be voting ovals or squares which voters may fill in.

(g) For each public office, ovals or squares shall be provided next to the blank spaces provided for a voter to write in a name of a candidate whose name does not appear on the ballot.

(h) Each abstract of all questions, amendments, propositions or initiatives submitted shall be in the same type as each other. Each shall be in sans serif type, and shall wherever practicable be on the face of the ballot. Where it is not possible to place all questions, amendments, propositions or initiatives submitted on one page with the candidates appearing on the ballot, all questions, amendments, propositions or initiatives submitted to the voters shall be placed on a second page. When such questions presented are on a second page, the first page of the ballot shall in bold capital letters "CONTINUE ON TO SECOND PAGE", and direct the voter to the questions presented.

3. The names of parties or independent bodies which contain more than fifteen letters may, whenever limitations of space so require, be printed on the ballot in an abbreviated form. In printing the names of candidates whose full names contain more than fifteen letters, only the surname must be printed in full. The officer or board charged with the duty of preparing the ballots shall request each such candidate to indicate, in writing, the shortened form in which, subject to this restriction, his or her name shall be printed. If no such indication is received from such candidate within the time specified in the request, which time period shall not be less than one full week from the mailing

of such notice, such officer or board shall make the necessary determination.

4. The face of each sheet of the ballot shall bear only one language. Where required by law, ballots shall be printed to contain a full face ballot in a second language on the obverse of each sheet of the ballot. In each case, the face of a ballot must be in English on one side and a second language on the other side. Where multi-language ballots are required by law, voters shall be given the language ballot of choice at the time they vote by the inspectors of elections.

5. Each ballot shall be printed on the sheet with a stub which shall be separated therefrom by a line of perforations extending across the entire ballot. On the face of the stub shall be printed "No. ....." the blank to be filled with consecutive number of ballots beginning with "No. 1", and increasing in consecutive numerical order. On such ballot shall be printed the following indorsement, the blanks properly filled in:

Official Ballot for (General, Primary or Special, as applicable)
Election
County of .....
(Assembly or Legislative, as applicable) District .....
(Ward and City or town ....., as applicable).... Election District ....
(Insert date of election.)
(Insert names of election commissioners providing the ballot.)

6. Each ballot shall have at the top of the ballot, next to the name of the issuing board of elections a graphic demonstrating a writing implement marking the ballot and next to a fully filled in oval or square.

7. (a) Ballots shall not have written instructions printed upon them. Each ballot shall have a graphic design approved by the state board of elections how to vote the ballot. Written instructions shall be posted at each election district polling area in multi copies. Individual instruction sheets shall be provided to each voter either as a separate page or printed upon the privacy sleeve issued with each ballot.

(b) The instructions shall read as follows:

TO VOTE FOR A CANDIDATE, FIND THE OVAL OR SQUARE TO THE LEFT OF THEIR NAME AND COLOR IT IN COMPLETELY. TO VOTE FOR A CANDIDATE WHOSE NAME YOU DO NOT SEE ON THE PAGE, FOR A PARTICULAR OFFICE, CLEARLY PRINT THAT NAME ONLY IN THE EMPTY BOX LABELED "WRITE IN". VOTE ONLY FOR ONE CANDIDATE FOR EACH OFFICE UNLESS THE BALLOT STATES THAT YOU CAN VOTE FOR MORE. IF YOU VOTE FOR TOO MANY FOR ONE OFFICE, THAT VOTE WILL NOT COUNT. ANY OTHER MARKS, ERASURE OR WORDS SPOILS THE BALLOT. YOU ARE ENTITLED THEN TO GET A NEW BALLOT FROM A POLLWORKER.

(c) No candidate name shall appear on the reverse of any ballot.

(d) When a proposition, amendment or initiative appears on the ballot, they should appear on the full face of the existing ballot. The ballot shall be divided in order that any question presented to the voters shall appear beginning at a separate portion of the ballot, divided from the portion listing offices and candidates by a heavy black line. When a question or proposal appears on the back of the ballot, there shall appear an indorsement on the front of the ballot stating: "Turn over to continue voting". The ballot shall, in addition, contain a graphic approved by the state board of elections demonstrating the filling in of the Yes or No oval. Written instructions shall be posted at each election district polling area in multi copies. Individual instruction sheets shall be provided to each voter either as a separate page or printed upon the privacy sleeve issued with each ballot. Each voter

shall be presumed to have received instructions as to how to properly complete their ballot.

8. Conspicuously visible in the privacy booths, and around the voting machine, there shall be posted written and graphic instructions as to how to vote the ballot, including removal from the privacy sleeve, feeding the ballot into the machine and the fact, right and consequences of an "overvote". Corrective instructions should likewise appear on the posters and individual printed sheets. All privacy sleeves shall have these instructions indorsed upon the outer face of such sleeves.

9. Candidates and parties shall be listed across the ballot in columns and offices by row. Where the ballot requires a second row containing names of candidates nominated for office by an independent body, the rows on the ballot shall contain the party symbol in bold to enable the voter to differentiate among persons on the same column and multiple candidates representing different parties.

(a) The names of all candidates nominated by any party or independent body for an office shall always appear in the row or column containing generally the names of candidates nominated by such party or independent body for other offices except as hereinafter provided.

(b) When the same person has been nominated for an office to be filled at the election by more than one party, the voting machine and the ballots shall be so adjusted that his or her name shall appear in each row or column containing generally the names of candidates for other offices nominated by such party.

(c) If such candidate has also been nominated by one or more independent bodies, his or her name shall appear in each row or column containing generally the names of candidates for other offices nominated by any such party and his or her name shall appear in each row or column containing generally the names of candidates for other offices nominated by any such independent body.

(d) In the event that any candidate is nominated by one or more political party and by more than two independent bodies, and it is determined by the board of elections responsible for preparing and printing the ballots that it is not possible to fit the number of independent bodies making nominations on the face of the ballot, then his or her name shall appear only in each row or column containing generally the names of candidates for other offices nominated by any such party and the name of each such independent body shall appear in one such row or column to be designated by the candidate in a writing filed with the officer or board charged with the duty of printing ballots. If such person shall fail to so designate, the names of such independent bodies shall appear in such row or column as such officer or board shall determine.

(e) If any person shall be nominated for any office by one party and one independent body, his or her name shall appear on the voting machine twice; once in the row or column containing generally the names of candidates for other offices nominated by such party, and once in the row or column containing generally the names of candidates nominated by the independent body.

(f) If any person is nominated for any office only by more than two independent bodies, and it is determined by the board of elections responsible for preparing and printing the ballots that it is not possible to fit the number of independent bodies making nominations on the face of the ballot, his or her name shall appear but twice upon the machine in the two rows or columns to be designated by the candidate in a writing filed with the officer or board charged with the duty of

providing ballots, or if the candidate shall fail to so designate, in the place designated by the officer or board charged with the duty of printing ballots, and in connection with his or her name there shall appear the name of each independent body nominating him or her.

(g) Where the capacity of the machine and ballot will permit, the name of such person shall appear or be placed in a column or on a horizontal line with the names of persons nominated by a party or independent body for other offices.

10. Notwithstanding the provisions of subdivision three of this section, the name of a person who is nominated for the office of governor, state senator, or member of assembly, shall appear on the ballot as many times as there are parties or independent bodies nominating him or her, and there shall be a separate voting oval or voting square on the ballot at each place in which such name shall appear.

11. If any type of machine used in any county or city contains any feature, the use of which is neither required nor prohibited by the provisions of this chapter, the board of elections may, by resolution, request permission from the state board of elections to require that one or more of such features shall be used in such county. Upon receiving the permission of the state board of elections to require the use of particular features, all machines of such type used in such county or counties shall be operated in conformity with any such approved resolution. Any such resolution may thereafter, with the permission of the state board of elections, be rescinded by such board.

12. With respect to candidates for the offices of governor and lieutenant governor of a party or independent body, ballots shall be printed so that the names of such candidates for both offices shall appear in the same row or column, with the name of the candidate for governor appearing first, and the ballot shall be so adjusted that both offices are voted for jointly and have but one designating letter or number.

§ 7-105. Ballots, printing of adequate supplies. 1. In order to prevent waste or fraud, the number of ballots printed in English shall be determined by the state board of elections and certified for each election district as follows:

(a) For a primary election the number of ballots printed shall be at least ten percent greater and no more than fifteen percent greater than the total number of votes cast for the highest statewide office or presidential office, whichever is the greater in each party's last primary election;

(b) For each general election the number of ballots printed shall be at least twenty percent greater than the total amount of votes cast in the most recent general election in which votes were cast for the electors for president of the United States.

(c) For each special election, the number of ballots printed shall be at least fifteen percent greater than the number of votes cast for that particular office in the most recent general election.

2. In those counties which federal law requires the ballots provided to be in a language other than English, each ballot shall be two sided with English on one side and the other side in one of each of the additional languages required, so that each version of the ballot shall contain English on one side and one other language on the obverse. The number of bi-lingual ballots to be printed shall be governed by the provisions of this section.

3. Each county board of elections in such counties shall instruct inspectors in person and in their training manual as to the procedures to be followed to ensure that each voter receives the appropriate

language ballot. Where required by federal law, no voter may be denied a bi-lingual ballot if such is demanded.

4. Local boards of elections shall have available at least fifteen days prior to the election, the number of each language ballot, other than English that it has printed and on hand.

5. No local board of elections shall issue or make any regulation or procedure as to multi-lingual ballots without express authority and approval from the state board of elections.

6. Where a court of competent jurisdiction has issued an order adding or removing a candidate or proposition, amendment or initiative from the ballot, such change to the ballot may not be made in such a way as to render the ballot unreadable.

7. Where a candidate or proposition, amendment or initiative, is ordered by a court of competent jurisdiction to appear upon the ballot, the adjusted ballot shall bear the name or proposition, amendment or initiative in the position and in the same form as it would be if it had been originally placed on the ballot. In a general election the name or proposition amendment or initiative shall appear in the previously empty place on the ballot occasioned by the removal. In such cases in which the printed ballots fail to contain the name of a candidate, after the issuance of an order of the court requiring its placement on the ballot, the primary election shall be voidable by further order of the court, upon a showing that the outcome of the election would have been the election of the person erroneously deprived of a place on the ballot in a proceeding under article sixteen of this chapter. In such cases in which the printed ballot fails to contain the name of a candidate or proposition, amendment or initiative, after the issuance of an order of the court, the general election shall be voidable by further order of the court, upon a showing that the outcome of the election was materially altered by the failure to include the name of the candidate, or proposition, amendment or initiative, on the ballot, in a proceeding under article sixteen of this chapter.

§ 2. This act shall take effect January 1, 2018.