

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 Sections 7-104, 7-106 and 7-126 of the election law are REPEALED and two new sections 7-104 and 7-105 are added to read as follows: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

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

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

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

13 (d) Each office shall occupy as many columns or rows on the ballot as
14 the number of candidates to be elected to that office. The titles of
15 offices may be arranged horizontally, with the names of candidates for
16 an office and place for write-in ballots for such office arranged verti-
17 cally under the title of the office, or the titles of offices may be
18 arranged vertically, with the names of candidates for an office and the
19 place for write-in ballots for such office arranged horizontally oppo-
20 site the title of the office.

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

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

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

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

46 3. The names of parties or independent bodies which contain more than
47 fifteen letters may, whenever limitations of space so require, be print-
48 ed on the ballot in an abbreviated form. In printing the names of candi-
49 dates whose full names contain more than fifteen letters, only the
50 surname must be printed in full. The officer or board charged with the
51 duty of preparing the ballots shall request each such candidate to indi-
52 cate, in writing, the shortened form in which, subject to this
53 restriction, his or her name shall be printed. If no such indication is
54 received from such candidate within the time specified in the request,
55 which time period shall not be less than one full week from the mailing

1 of such notice, such officer or board shall make the necessary determi-
2 nation.

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

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

17 Official Ballot for (General, Primary or Special, as applicable)

18 Election

19 County of

20 (Assembly or Legislative, as applicable) District

21 (Ward and City or town, as applicable).... Election District

22 (Insert date of election.)

23 (Insert names of election commissioners providing the ballot.)

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

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

34 (b) The instructions shall read as follows:

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

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

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

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

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

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

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

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

25 (c) If such candidate has also been nominated by one or more independ-
26 ent bodies, his or her name shall appear in each row or column contain-
27 ing generally the names of candidates for other offices nominated by any
28 such party and his or her name shall appear in each row or column
29 containing generally the names of candidates for other offices nominated
30 by any such independent body.

31 (d) In the event that any candidate is nominated by one or more poli-
32 tical party and by more than two independent bodies, and it is deter-
33 mined by the board of elections responsible for preparing and printing
34 the ballots that it is not possible to fit the number of independent
35 bodies making nominations on the face of the ballot, then his or her
36 name shall appear only in each row or column containing generally the
37 names of candidates for other offices nominated by any such party and
38 the name of each such independent body shall appear in one such row or
39 column to be designated by the candidate in a writing filed with the
40 officer or board charged with the duty of printing ballots. If such
41 person shall fail to so designate, the names of such independent bodies
42 shall appear in such row or column as such officer or board shall deter-
43 mine.

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

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

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

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

9 10. Notwithstanding the provisions of subdivision three of this
10 section, the name of a person who is nominated for the office of gover-
11 nor, state senator, or member of assembly, shall appear on the ballot as
12 many times as there are parties or independent bodies nominating him or
13 her, and there shall be a separate voting oval or voting square on the
14 ballot at each place in which such name shall appear.

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

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

31 § 7-105. Ballots, printing of adequate supplies. 1. In order to
32 prevent waste or fraud, the number of ballots printed in English shall
33 be determined by the state board of elections and certified for each
34 election district as follows:

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

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

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

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

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

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

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

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

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

13 7. Where a candidate or proposition, amendment or initiative, is
14 ordered by a court of competent jurisdiction to appear upon the ballot,
15 the adjusted ballot shall bear the name or proposition, amendment or
16 initiative in the position and in the same form as it would be if it had
17 been originally placed on the ballot. In a general election the name or
18 proposition amendment or initiative shall appear in the previously empty
19 place on the ballot occasioned by the removal. In such cases in which
20 the printed ballots fail to contain the name of a candidate, after the
21 issuance of an order of the court requiring its placement on the ballot,
22 the primary election shall be voidable by further order of the court,
23 upon a showing that the outcome of the election would have been the
24 election of the person erroneously deprived of a place on the ballot in
25 a proceeding under article sixteen of this chapter. In such cases in
26 which the printed ballot fails to contain the name of a candidate or
27 proposition, amendment or initiative, after the issuance of an order of
28 the court, the general election shall be voidable by further order of
29 the court, upon a showing that the outcome of the election was mate-
30 rially altered by the failure to include the name of the candidate, or
31 proposition, amendment or initiative, on the ballot, in a proceeding
32 under article sixteen of this chapter.

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