

# STATE OF NEW YORK

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8613

2017-2018 Regular Sessions

## IN ASSEMBLY

September 1, 2017

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Introduced by M. of A. KAVANAGH, LUPARDO, THIELE, LIFTON -- Multi-Sponsored by -- M. of A. RIVERA -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to establishing an instant runoff voting method for certain local 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 that 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 voting  
8 for a leading candidate that they perceive as the lesser of two evils.  
9 The result of the current system in multi-candidate races can be the  
10 election of candidates that 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 insures that the elected candidate  
23 has true majority support. In addition, the instant runoff voting method

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

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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 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 at the option of local governments in the years 2017, 2018 and 2019. 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. The election law is amended by adding a new article 18 to read as follows:

#### ARTICLE 18

#### INSTANT RUNOFF VOTING METHOD

##### Section 18-100. Definitions.

##### 18-102. Instant runoff voting method authorized in certain cases.

##### 18-104. Instant runoff voting method; ballots.

##### 18-106. Instant runoff voting method; procedures.

##### 18-108. Voter education.

##### 18-110. Construction.

§ 18-100. 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.

§ 18-102. Instant runoff voting method authorized in certain cases. 1. For elections to be held in the years two thousand seventeen, two thousand eighteen, and two thousand nineteen, local governments are hereby authorized to conduct elections utilizing the instant runoff voting method for the following elections: (a) member of the board of education in the case of a school district, (b) county executive and county legislator in the case of a county, (c) mayor, member of city council, public advocate, comptroller, and borough president, in the case of a city, (d) town supervisor and member of town council in the case of a town, and (e) mayor and village trustee in the case of a village. "Election" shall include the general election and primary, where applicable.

2. In order to implement the instant runoff voting method as provided in subdivision one of this section, the governing body of the local government shall adopt a resolution implementing the instant runoff

1 method as authorized by this article. Such resolution shall be subject  
2 to a permissive referendum.

3 3. Such resolution shall be adopted by the governing board of the  
4 local government at least one hundred eighty days before the election  
5 for which instant runoff voting will be utilized.

6 4. The provisions of sections 18-104, 18-106, 18-108 and 18-110 of  
7 this article shall apply only when three or more candidates have been  
8 nominated or designated for an office enumerated in subdivision one of  
9 this section, and the governing body of the local government has enacted  
10 a resolution implementing the instant runoff voting method.

11 § 18-104. Instant runoff voting method; ballots. 1. For offices  
12 subject to the instant runoff voting method, the ballot shall be simple  
13 and easy to understand and allow a voter to rank candidates for an  
14 office in order of choice. A voter may include no more than one write-in  
15 candidate among that voter's ranked choices for each office. If feasi-  
16 ble, ballots shall be designed so that a voter may mark that voter's  
17 first choices in the same manner as that for offices not elected by the  
18 instant runoff voting method.

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

22 "Vote for candidates by indicating your first-choice candidates in  
23 order of preference. Indicate your first choice by marking the number  
24 "1" beside a candidate's name, your second choice by marking the number  
25 "2" beside a candidate's name, your third choice by marking the number  
26 "3" beside a candidate's name and so on, for as many choices as you  
27 wish. You may choose to rank only one candidate, but ranking additional  
28 candidates will not hurt the chances of your first-choice candidate. Do  
29 not mark the same number beside more than one candidate. Do not skip  
30 numbers."

31 3. A sample ballot for an office subject to the instant runoff voting  
32 method shall illustrate the voting procedure for the instant runoff  
33 voting method. Such a sample ballot shall be included with each absentee  
34 ballot.

35 4. The appropriate election official for a local government where the  
36 instant runoff voting method has been authorized by said local govern-  
37 ment shall insure that the necessary voting system, vote tabulation  
38 system, or other similar or related equipment shall be available to  
39 accommodate the instant runoff voting method.

40 § 18-106. Instant runoff voting method; procedures. The following  
41 procedures shall apply in determining the winner in an election for an  
42 office subject to the instant runoff voting method:

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

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

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

1 candidate receives a majority of the votes cast, that candidate shall be  
2 declared elected.

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

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

16 § 18-108. Voter education. Where a local government shall pass a  
17 resolution authorizing the instant runoff voting method, the governing  
18 body shall conduct a voter education campaign on the instant runoff  
19 voting system to familiarize voters with the ballot design, method of  
20 voting, and advantages of determining a majority winner in a single  
21 election. The governing body shall use public service announcements, as  
22 well as seek other media cooperation to the maximum extent practicable.

23 § 18-110. Construction. All elections held by the instant runoff  
24 voting method pursuant to this article shall be subject to all the other  
25 provisions of this chapter and all other applicable laws relating to  
26 elections, so far as is applicable and not inconsistent with this chap-  
27 ter.

28 § 3. Severability. If any provision of this act or the application  
29 thereof shall for any reason be adjudged by any court of competent  
30 jurisdiction to be invalid, such judgment shall not affect, impair, or  
31 invalidate the remainder of this act, but shall be confined in its oper-  
32 ation to the provision thereof directly involved in the controversy in  
33 which such judgment shall have been rendered.

34 § 4. This act shall take effect immediately, and shall expire December  
35 31, 2022 when upon such date the provisions of this act shall be deemed  
36 repealed.