

# STATE OF NEW YORK

9608--B

## IN ASSEMBLY

January 26, 2018

Introduced by M. of A. LAVINE, CUSICK, BLAKE, SIMON, PAULIN, SEPULVEDA, DINOWITZ, L. ROSENTHAL, LIFTON, FAHY, LUPARDO, ABINANTI, ROZIC, GALEF, COOK, RAMOS, SKOUFIS, CYMBROWITZ, JAFFEE, CARROLL, TAYLOR -- Multi-Sponsored by -- M. of A. BUCHWALD, LENTOL, MAGEE, THIELE -- read once and referred to the Committee on Election Law -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, in relation to early voting

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

1 Section 1. Section 3-400 of the election law is amended by adding a  
2 new subdivision 9 to read as follows:

3 9. Notwithstanding any inconsistent provisions of this article,  
4 election inspectors or poll clerks, if any, at polling places for early  
5 voting, shall consist of either board of elections employees who shall  
6 be appointed by the commissioners of such board or duly qualified indi-  
7 viduals, appointed in the manner set forth in this section. Appointments  
8 to the offices of election inspector or poll clerk in each polling place  
9 for early voting shall be equally divided between the major political  
10 parties. The board of elections shall assign staff and provide the  
11 resources they require to ensure wait times at early voting sites do not  
12 exceed thirty minutes.

13 § 2. Section 4-117 of the election law is amended by adding a new  
14 subdivision 1-a to read as follows:

15 1-a. The notice required by subdivision one of this section shall  
16 include the dates, hours and locations of early voting for the general  
17 and primary election. The board of elections may satisfy the notice  
18 requirement of this subdivision by providing in the notice instructions  
19 to obtain the required early voting information from a website of the  
20 board of elections and providing a phone number to call for such infor-  
21 mation.

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

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1 § 3. Subdivision 2 of section 8-100 of the election law, as amended by  
2 chapter 367 of the laws of 2017, is amended to read as follows:

3 2. Polls shall be open for voting during the following hours: a prima-  
4 ry election from twelve o'clock noon until nine o'clock in the evening,  
5 except in the city of New York and the counties of Nassau, Suffolk,  
6 Westchester, Rockland, Orange, Putnam, Dutchess and Erie, and in such  
7 city or county from six o'clock in the morning until nine o'clock in the  
8 evening; the general election from six o'clock in the morning until nine  
9 o'clock in the evening; a special election called by the governor pursu-  
10 ant to the public officers law, and, except as otherwise provided by  
11 law, every other election, from six o'clock in the morning until nine  
12 o'clock in the evening; early voting hours shall be as provided in  
13 section 8-600 of this article.

14 § 4. Subdivision 1 of section 8-102 of the election law is amended by  
15 adding a new paragraph (k) to read as follows:

16 (k) Voting at each polling place for early voting shall be conducted  
17 in a manner consistent with the provisions of this article, with the  
18 exception of the tabulation and proclamation of election results which  
19 shall be completed according to subdivisions eight and nine of section  
20 8-600 of this article.

21 § 5. Section 8-104 of the election law is amended by adding a new  
22 subdivision 7 to read as follows:

23 7. This section shall apply on all early voting days as provided for  
24 in section 8-600 of this article.

25 § 6. Subparagraph (ii) of paragraph (e) of subdivision 3 and subdivi-  
26 sion 3-a of section 8-302 of the election law, subparagraph (ii) of  
27 paragraph (e) of subdivision 3 as amended by chapter 164 of the laws of  
28 2010 and subdivision 3-a as amended by chapter 511 of the laws of 1985,  
29 are amended to read as follows:

30 (ii) He or she may swear to and subscribe an affidavit stating that he  
31 or she has duly registered to vote, the address in such election  
32 district from which he or she registered, that he or she remains a duly  
33 qualified voter in such election district, that his or her registration  
34 poll record appears to be lost or misplaced or that his or her name  
35 and/or his or her signature was omitted from the computer generated  
36 registration list or such record indicates the voter already voted when  
37 he or she did not do so or that he or she has moved within the county or  
38 city since he or she last registered, the address from which he or she  
39 was previously registered and the address at which he or she currently  
40 resides, and at a primary election, the party in which he or she is  
41 enrolled. The inspectors of election shall offer such an affidavit to  
42 each such voter whose residence address is in such election district.  
43 Each such affidavit shall be in a form prescribed by the state board of  
44 elections, shall be printed on an envelope of the size and quality used  
45 for an absentee ballot envelope, and shall contain an acknowledgment  
46 that the affiant understands that any false statement made therein is  
47 perjury punishable according to law. Such form prescribed by the state  
48 board of elections shall request information required to register such  
49 voter should the county board determine that such voter is not regis-  
50 tered and shall constitute an application to register to vote. The  
51 voter's name and the entries required shall then be entered without  
52 delay and without further inquiry in the fourth section of the challenge  
53 report or in the place provided at the end of the computer generated  
54 registration list, with the notation that the voter has executed the  
55 affidavit hereinabove prescribed, or, if such person's name appears on  
56 the computer generated registration list, the board of elections may

1 provide a place to make such entry next to his or her name on such list.  
2 The voter shall then, without further inquiry, be permitted to vote an  
3 affidavit ballot provided for by this chapter. Such ballot shall there-  
4 upon be placed in the envelope containing his or her affidavit, and the  
5 envelope sealed and returned to the board of elections in the manner  
6 provided by this chapter for protested official ballots, including a  
7 statement of the number of such ballots.

8 3-a. The inspectors shall also give to every person whose address is  
9 in such election district for whom no registration poll record can be  
10 found and, in a primary election, to every voter whose registration poll  
11 record does not show him to be enrolled in the party in which he wishes  
12 to be enrolled or who claims to be incorrectly identified as having  
13 already voted, a copy of a notice, in a form prescribed by the state  
14 board of elections, advising such person of his right to, and of the  
15 procedures by which he may, cast an affidavit ballot or seek a court  
16 order permitting him to vote, and shall also give every such person who  
17 does not cast an affidavit ballot, an application for registration by  
18 mail.

19 § 7. Paragraph (b) of subdivision 2 of section 8-508 of the election  
20 law, as amended by chapter 200 of the laws of 1996, is amended to read  
21 as follows:

22 (b) The second section of such report shall be reserved for the board  
23 of inspectors to enter the name, address and registration serial number  
24 of each person who is challenged on the day of election or on any day in  
25 which there is early voting pursuant to section 8-600 of this article,  
26 together with the reason for the challenge. If no voters are chal-  
27 lenged, the board of inspectors shall enter the words "No Challenges"  
28 across the space reserved for such names. In lieu of preparing section  
29 two of the challenge report, the board of elections may provide, next to  
30 the name of each voter on the computer generated registration list, a  
31 place for the inspectors of election to record the information required  
32 to be entered in such section two, or provide at the end of such comput-  
33 er generated registration list, a place for the inspectors of election  
34 to enter such information.

35 § 8. Article 8 of the election law is amended by adding a new title 6  
36 to read as follows:

37 TITLE VI  
38 EARLY VOTING

39 Section 8-600. Early voting.

40 8-602. State board of elections; powers and duties for early  
41 voting.

42 § 8-600. Early voting. 1. Beginning the eighth day prior to any gener-  
43 al, primary or special election for any public or party office, and  
44 ending on and including the second day prior to such general, primary or  
45 special election for such public or party office, persons duly regis-  
46 tered and eligible to vote at such election shall be permitted to vote  
47 as provided in this title. The board of elections of each county and  
48 the city of New York shall establish procedures, subject to approval of  
49 the state board of elections, to ensure that persons who vote during the  
50 early voting period shall not be permitted to vote subsequently in the  
51 same election.

52 2. (a) The board of elections of each county or the city of New York  
53 shall designate polling places for early voting in each county, which  
54 may include the offices of the board of elections, for persons to vote  
55 early pursuant to this section. There shall be so designated at least  
56 one early voting polling place for every full increment of fifty thou-

1 sand registered voters in each county; provided, however, the number of  
2 early voting polling places in a county shall not be required to be  
3 greater than seven, and a county with fewer than fifty thousand voters  
4 shall have at least one early voting polling place.

5 (b) The board of elections of each county or the city of New York may  
6 establish additional polling places for early voting in excess of the  
7 minimum number required by this subdivision for the convenience of  
8 eligible voters wishing to vote during the early voting period.

9 (c) Notwithstanding the minimum number of early voting poll sites  
10 otherwise required by this subdivision, for any primary or special  
11 election, upon majority vote of the board of elections, the number of  
12 early voting sites may be reduced if the board of elections reasonably  
13 determines a lesser number of sites is sufficient to meet the needs of  
14 early voters.

15 (d) Polling places for early voting shall be located to ensure, to the  
16 extent practicable, that eligible voters have adequate equitable access,  
17 taking into consideration population density, travel time to the polling  
18 place, proximity to other locations or commonly used transportation  
19 routes and such other factors the board of elections of the county or  
20 the city of New York deems appropriate. The provisions of section 4-104  
21 of this chapter, except subdivisions four and five of such section,  
22 shall apply to the designation of polling places for early voting except  
23 to the extent such provisions are inconsistent with this section.

24 3. Any person permitted to vote early may do so at any polling place  
25 for early voting established pursuant to subdivision two of this section  
26 in the county where such voter is registered to vote. Provided, however,  
27 (a) if it is impractical to provide each polling place for early voting  
28 all appropriate ballots for each election to be voted on in the county,  
29 or (b) if permitting such persons to vote early at any polling place  
30 established for early voting would make it impractical to ensure that  
31 such voter has not previously voted early during such election, the  
32 board of elections may designate each polling place for early voting  
33 only for those voters registered to vote in a portion of the county to  
34 be served by such polling place for early voting, provided that all  
35 voters in each county shall have one or more polling places at which  
36 they are eligible to vote throughout the early voting period on a  
37 substantially equal basis.

38 4. (a) Polls shall be open for early voting for at least eight hours  
39 between seven o'clock in the morning and eight o'clock in the evening  
40 each week day during the early voting period.

41 (b) At least one polling place for early voting shall remain open  
42 until eight o'clock in the evening on at least two week days in each  
43 calendar week during the early voting period. If polling places for  
44 early voting are limited to voters from certain areas pursuant to subdi-  
45 vision three of this section, polling places that remain open until  
46 eight o'clock shall be designated such that any person entitled to vote  
47 early may vote until eight o'clock in the evening on at least two week  
48 days during the early voting period.

49 (c) Polls shall be open for early voting for at least five hours  
50 between nine o'clock in the morning and six o'clock in the evening on  
51 each Saturday, Sunday and legal holiday during the early voting period.

52 (d) Nothing in this section shall be construed to prohibit any board  
53 of elections from establishing a greater number of hours for voting  
54 during the early voting period beyond the number of hours required in  
55 this subdivision.

1 (e) Early voting polling places and their hours of operation for early  
2 voting at a general election shall be designated by May first of each  
3 year pursuant to subdivision one of section 4-104 of this chapter.  
4 Notwithstanding the provisions of subdivision one of section 4-104 of  
5 this chapter requiring poll site designation by May first, early voting  
6 polling places and their hours of operation for early voting for a  
7 primary or special election shall be made not later than forty-five days  
8 before such primary or special election.

9 5. Each board of elections shall create a communication plan to inform  
10 eligible voters of the opportunity to vote early. Such plan may utilize  
11 any and all media outlets, including social media, and shall publicize:  
12 the location and dates and hours of operation of all polling places for  
13 early voting; an indication of whether each polling place is accessible  
14 to voters with physical disabilities; a clear and unambiguous notice to  
15 voters that if they cast a ballot during the early voting period they  
16 will not be allowed to vote election day; and if polling places for  
17 early voting are limited to voters from certain areas pursuant to subdi-  
18 vision three of this section, the location of the polling places for  
19 early voting serving the voters of each particular city, town or other  
20 political subdivision.

21 6. The form of paper ballots used in early voting shall comply with  
22 the provisions of article seven of this chapter that are applicable to  
23 voting by paper ballot on election day and such ballot shall be cast in  
24 the same manner as provided for in section 8-312 of this article,  
25 provided, however, that ballots cast during the early voting period  
26 shall be secured in the manner of voted ballots cast on election day and  
27 such ballots shall not be canvassed or examined until after the close of  
28 the polls on election day, and no unofficial tabulations of election  
29 results shall be printed or viewed in any manner until after the close  
30 of polls on election day.

31 7. Voters casting ballots pursuant to this title shall be subject to  
32 challenge as provided in sections 8-500, 8-502 and 8-504 of this arti-  
33 cle.

34 8. Notwithstanding any other provisions of this chapter, at the end of  
35 each day of early voting, any early voting ballots that have not been  
36 scanned because a ballot scanner was not available or because the ballot  
37 has been abandoned by the voter at the ballot scanner shall be cast in a  
38 manner consistent with section 9-110 of this chapter, except that such  
39 ballots which cannot then be cast on a ballot scanner shall be held  
40 inviolable and unexamined and shall be duly secured until after the close  
41 of polls on election day when such ballots shall be examined and  
42 canvassed in a manner consistent with subdivision two of section 9-110  
43 of this chapter.

44 9. The board of elections shall secure all ballots and scanners used  
45 for early voting from the beginning of the early voting period through  
46 the close of the polls on election day; provided, however, the state  
47 board of elections may by regulation duly adopted by a majority of such  
48 board establish a procedure whereby ballot scanners used for early  
49 voting may also be used on election day if the portable memory devices  
50 used during early voting containing the early voting election informa-  
51 tion and vote tabulations are properly secured apart from the scanners,  
52 and the results therefrom shall be duly canvassed after the close of  
53 polls on election day.

54 10. After the close of polls on election day, inspectors or board of  
55 elections employees appointed to canvass ballots cast during early  
56 voting shall follow all relevant provisions of article nine of this

1 chapter that are not inconsistent with this section, for canvassing,  
2 processing, recording, and announcing results of voting at polling plac-  
3 es for early voting, and securing ballots, scanners, and other election  
4 materials. Such canvass may occur at the offices of the board of  
5 elections, at the early voting polling place or such other location  
6 designated by the board of elections.

7 11. Notwithstanding the requirements of this title requiring the  
8 canvass of ballots cast during early voting after the close of polls on  
9 election day, such canvass may begin one hour before the scheduled close  
10 of polls on election day provided the board of elections adopts proce-  
11 dures to prevent the public release of election results prior to the  
12 close of polls on election day and such procedures shall be consistent  
13 with the regulations of the state board of elections and shall be filed  
14 with the state board of elections at least thirty days before they shall  
15 be effective.

16 § 8-602. State board of elections; powers and duties for early voting.  
17 Any rule or regulation necessary for the implementation of the  
18 provisions of this title shall be promulgated by the state board of  
19 elections provided that such rules and regulations shall include  
20 provisions to ensure that ballots cast early, by any method allowed  
21 under law, are counted and canvassed as if cast on election day. The  
22 state board of elections shall promulgate any other rules and regu-  
23 lations necessary to ensure an efficient and fair early voting process  
24 that respects the privacy of the voter. Provided, further, that such  
25 rules and regulations shall require that the voting history record for  
26 each voter be continually updated to reflect each instance of early  
27 voting by such voter.

28 § 9. The opening paragraph of section 9-209 of the election law, as  
29 amended by chapter 163 of the laws of 2010, is amended to read as  
30 follows:

31 Before completing the canvass of votes cast in any primary, general,  
32 special, or other election at which voters are required to sign their  
33 registration poll records before voting, the board of elections shall  
34 proceed in the manner hereinafter prescribed to cast and canvass any  
35 absentee, military, special presidential, special federal or other  
36 special ballots and any ballots voted by voters who moved within the  
37 county or city after registering, voters who are in inactive status,  
38 voters whose registration was incorrectly transferred to another address  
39 even though they did not move, voters whose registration poll records  
40 were missing on the day of such election, voters who have not had their  
41 identity previously verified and voters whose registration poll records  
42 did not show them to be enrolled in the party in which they claimed to  
43 be enrolled and voters incorrectly identified as having already voted.  
44 Each such ballot shall be retained in the original envelope containing  
45 the voter's affidavit and signature, in which it is delivered to the  
46 board of elections until such time as it is to be cast and canvassed.

47 § 10. This act shall take effect on the first of January next succeed-  
48 ing the date on which it shall have become a law and shall apply to any  
49 election held 120 days or more after it shall have taken effect.