

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.

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

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

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

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

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

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

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

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

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

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

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

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

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