

# STATE OF NEW YORK

9192

## IN SENATE

November 19, 2018

Introduced by Sen. FELDER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the election law, in relation to requiring the purchase of direct recording electronic machines which produce and retain a voter verified permanent paper record in the city of New York (Part A); to amend the election law, in relation to mandatory core curriculum; and to amend the election law, in relation to mandatory training curriculum for election commissioners, key staff of boards of elections and poll workers (Part B); and to amend the election law, in relation to establishing mobile operations voting equipment units (Part C)

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

1 Section 1. This act enacts into law major components of legislation  
2 which are necessary to enact the restore faith in voting act. Each  
3 component is wholly contained within a Part identified as Parts A  
4 through C. The effective date for each particular provision contained  
5 within such Part is set forth in the last section of such Part. Any  
6 provision in any section contained within a Part, including the effective  
7 date of the Part, which makes reference to a section "of this act",  
8 when used in connection with that particular component, shall be deemed  
9 to mean and refer to the corresponding section of the Part in which it  
10 is found. Section four of this act sets forth the general effective date  
11 of this act.

12 § 2. Short title. This act shall be known and may be cited as the  
13 "restore faith in voting act".

### 14 PART A

15 Section 1. Subdivision 1 of section 7-200 of the election law, as  
16 amended by chapter 181 of the laws of 2005, is amended to read as  
17 follows:

18 1. [~~The board of elections of the city of New York and other county~~]  
19 County boards of elections may adopt any kind of voting machine or

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

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1 system approved by the state board of elections, or the use of which has  
2 been specifically authorized by law, and the board of elections of the  
3 city of New York shall adopt any direct recording electronic machines  
4 which produce and retain a voter verified permanent paper record  
5 approved by the state board of elections; and thereupon such voting  
6 machine or system may be used at any or all elections and shall be used  
7 at all general or special elections held by such boards in such city,  
8 town or village and in every contested primary election in the city of  
9 New York and in every contested primary election outside the city of New  
10 York in which there are one thousand or more enrolled voters qualified  
11 to vote. No more than two types of voting machines or systems may be  
12 used by any local board of elections at a single election. On or before  
13 January first, two thousand twenty, the state board of elections shall  
14 approve direct recording electronic machines which produce and retain a  
15 voter verified permanent paper record for the initial adoption of such  
16 machines by the board of elections of the city of New York. Notwith-  
17 standing the other provisions of this subdivision, any local board of  
18 elections may borrow or lease for use on an experimental basis for a  
19 period of not more than one year each, voting machines or systems of any  
20 type approved by the state board of elections.

21 § 2. Subdivision 4 of section 7-202 of the election law, as added by  
22 chapter 181 of the laws of 2005, is amended to read as follows:

23 4. Local boards of elections which obtain voting machines pursuant to  
24 this chapter may determine to purchase direct recording electronic  
25 machines or optical scan machines in conformance with the requirements  
26 of this chapter; provided, however, the board of elections of the city  
27 of New York shall purchase direct recording electronic machines which  
28 produce and retain a voter verified permanent paper record in conform-  
29 ance with the requirements of this chapter. The initial costs of  
30 purchasing such direct recording electronic machines necessary to bring  
31 the board of elections of the city of New York into compliance with  
32 subdivision one of section 7-200 of this title, as amended by a chapter  
33 of the laws of two thousand eighteen, shall be borne by the state.

34 § 3. Subdivision 3 of section 7-203 of the election law, as amended by  
35 chapter 180 of the laws of 2005, is amended to read as follows:

36 3. In the event that the board of elections shall not agree upon, or  
37 the county shall not execute a contract or contracts for the purchase  
38 of, the necessary voting machines, such contract or contracts shall be  
39 awarded, made and executed by the state board of elections, in accord-  
40 ance with subdivision four of section 3-100 of this chapter, on approval  
41 of the attorney general as to form. The expense of making and entering  
42 into such contracts, including the preparation and printing of specifi-  
43 cations, and also all payments for voting machines to be made there-  
44 under, shall be chargeable to the county, except in the city of New York  
45 where such expense shall be chargeable to such city, and it shall be the  
46 duty of the comptroller or other chief fiscal officer of the county or  
47 city, as the case may be, to pay the same upon the certificate of the  
48 officer making such contract, or upon the certificate of the state board  
49 of elections in the event that such contract be made by it; provided,  
50 however, if such contract is for the initial purchase of direct record-  
51 ing electronic machines which produce and retain a voter verified perma-  
52 nent paper record to bring the board of elections of the city of New  
53 York into compliance with subdivision one of section 7-200 of this  
54 title, as amended by a chapter of the laws of two thousand eighteen,  
55 such expenses shall be borne by the state. No provision of any charter  
56 or other law or ordinance governing the purchase of patented articles

1 shall be deemed to apply to the purchase of voting machines pursuant to  
2 the provisions of this section. Nothing in this section shall be  
3 construed to prevent the state board of elections from distributing  
4 voting machines to boards of elections pursuant to other provisions of  
5 this chapter without charge.

6 § 4. This act shall take effect immediately.

7 PART B

8 Section 1. Subdivision 1-a of section 3-412 of the election law, as  
9 added by chapter 181 of the laws of 2005, is amended to read as follows:

10 1-a. The state board of elections shall establish a mandatory core  
11 curriculum for poll worker training which includes the requirements in  
12 subdivision two of this section, [~~as amended by a chapter of the laws of~~  
13 ~~2005,~~] and the rights of voters at the polls and obligation of election  
14 workers to protect those rights while maintaining the integrity of the  
15 franchise, including [~~assisting~~] accommodating voters with disabilities  
16 or with limited or no proficiency in the English language, handling,  
17 processing and entitlement to ballots, including affidavit and emergency  
18 ballots, proper identification requirements, procedures to be followed  
19 with respect to voters whose names are not on the list of registered  
20 voters or whose identities have not been verified, electioneering and  
21 other violations of the elective franchise as defined in this chapter,  
22 solicitation by individuals and groups at the polling place and proce-  
23 dures to be followed after the polls close. Such core curriculum also  
24 shall include specific training in the proper operation of voting  
25 systems used in the election; procedures for expeditiously providing  
26 directions to voters about their assigned election district; ensuring  
27 polling sites are accessible to voters with disabilities or other  
28 specific needs; providing accommodation to persons who are illiterate;  
29 the requirements for conducting signature verification of voters; the  
30 requirements for individuals seeking to challenge voter eligibility and  
31 the process for handling any such challenges; and security procedures  
32 for the election. Each board of elections shall augment the core curric-  
33 ulum with local procedures not inconsistent with the core curriculum  
34 adopted by the state board of elections and which includes procedures  
35 relating to proper operation of, and remedying problems with, the voting  
36 machine or system in use in that jurisdiction. Each board of elections  
37 shall also develop and implement procedures to assist in the recruiting  
38 of new poll workers.

39 § 2. The election law is amended by adding a new section 3-213 to read  
40 as follows:

41 § 3-213. Boards of elections; mandatory training curriculum. 1.  
42 Election commissioners and such other board of elections employees as  
43 determined by the state board of elections shall within six months after  
44 their first appointment complete a course of instruction on the opera-  
45 tion of a board of elections which shall be provided by the state board  
46 of elections. The curriculum shall be established by the state board of  
47 elections in consultation with election commissioners and shall not  
48 exceed thirty hours of instruction.

49 2. Annually, election commissioners and other board of elections  
50 employees as determined by the state board of elections, shall complete  
51 before June first a continuing course of instruction on the operation of  
52 a board of elections which shall be provided by the state board of  
53 elections. The curriculum shall be established by the state board of

1 elections in consultation with the election commissioners and shall not  
2 exceed three hours of instruction.

3 3. The state board of elections shall provide the training required by  
4 subdivision two of this section through, in addition to other methods it  
5 may choose, a web-based recorded format.

6 4. Upon the failure of a commissioner or other employee to complete  
7 the instruction within the time required by this section, the state  
8 board of elections shall send a letter to the county legislature or city  
9 council and the respective county party chair of the jurisdiction of the  
10 commissioner stating the delinquency.

11 § 3. Section 3-412 of the election law is amended by adding three new  
12 subdivisions 1-b, 1-c and 1-d to read as follows:

13 1-b. The state board of elections shall establish and host an educa-  
14 tion and training institute which shall be responsible for the develop-  
15 ment and implementation of a statewide program wherein persons can  
16 become certified poll worker trainers. This institute shall also create  
17 a train-the-trainer program, in order for county boards of elections to  
18 implement an effective training program at their respective local level  
19 of program delivery. The state board's trainers shall include in the  
20 trainer curriculum to be developed, attention to, inter alia, poll work-  
21 er ability to serve a diverse electorate with complete confidence and  
22 respect; professionalizing the delivery of all election day services;  
23 providing assistance to voters with disabilities and those with limited  
24 English language proficiency, ensuring the dignity and privacy of such  
25 individuals; and to individuals who are members of racial or ethnic  
26 minorities, complete familiarity and comfort with all voting systems in  
27 use in poll sites, including ballot marking devices or other  
28 systems/services available to voters with disabilities; and poll worker  
29 ability to recognize and resolve a variety of issues which may arise in  
30 poll sites. The state board's trainers and all certified poll worker  
31 instructors shall utilize industry-proven training techniques aimed at  
32 adult learners including role-based training and hands-on training  
33 opportunities using official election day forms and poll site voting  
34 systems and may further include a web-based component and companion  
35 video.

36 1-c. County boards shall enroll trainers in the program in such quan-  
37 tities to ensure that an adequate contingent of fully trained and certi-  
38 fied poll worker trainers are available to meet the training needs of  
39 such county. Each county board of elections shall enroll not less than  
40 two persons designated by the county board on a bipartisan basis, in the  
41 state board of elections training institute. Certified trainers must  
42 maintain their certification by attending once every two years, a  
43 continuing education program, to ensure the professionalism of the poll  
44 worker training agenda set by the state board of elections. Enrollees  
45 who have successfully completed the state board's training program and  
46 been awarded a "certified poll worker instructor" certificate may serve  
47 at the county board as a trainer of poll workers as well as a trainer of  
48 other bi-partisan designees of the county board, however the conferring  
49 of the title "certified poll worker instructor" may be made only by the  
50 state board of elections.

51 1-d. The state board of elections shall adopt such rules and regu-  
52 lations which may be necessary to create the training institute and  
53 associated curricula provided for in subdivisions one-a, one-b and one-c  
54 of this section, including a process whereby attendees who successfully  
55 complete a state board-sponsored training program shall be awarded a

1 certificate conferring upon him or her, the title of "certified poll  
2 worker instructor".

3 § 4. This act shall take effect immediately; provided, however, that  
4 sections two and three of this act shall take effect on the one hundred  
5 eightieth day after it shall have become a law; provided, however, that  
6 effective immediately, the addition, amendment and/or repeal of any rule  
7 or regulation necessary for the implementation of this act on its effec-  
8 tive date are authorized and directed to be made and completed on or  
9 before such effective date.

10 PART C

11 Section 1. Section 3-302 of the election law is amended by adding a  
12 new subdivision 8 to read as follows:

13 8. On or before January first, two thousand twenty, the board of  
14 elections shall establish a mobile operations voting equipment unit for  
15 every one hundred polling places within such board's jurisdiction. Each  
16 mobile operations voting equipment unit shall include at least two  
17 voting machine technicians with the proper training and education on the  
18 preparation, use, maintenance and repair of voting machines as required  
19 by this section. Appointments of voting machine technicians to a mobile  
20 operations voting equipment unit shall be equally divided between the  
21 major political parties. Such technicians shall be deployed on election  
22 day by the board of elections to any polling place where a voting  
23 machine is reported as malfunctioning or inoperable for inspection and  
24 repair of such machine.

25 § 2. This act shall take effect immediately.

26 § 3. Severability clause. If any clause, sentence, paragraph, subdivi-  
27 sion, section or part of this act shall be adjudged by any court of  
28 competent jurisdiction to be invalid, such judgement shall not affect,  
29 impair, or invalidate the remainder thereof, but shall be confined in  
30 its operation to the clause, sentence, paragraph, subdivision, section  
31 or part thereof directly involved in the controversy in which such  
32 judgement shall have been rendered. It is hereby declared to be the  
33 intent of the legislature that this act would have been enacted even if  
34 such invalid provisions had not been included herein.

35 § 4. This act shall take effect immediately provided, however, that  
36 the applicable effective date of Parts A through C of this act shall be  
37 as specifically set forth in the last section of such Parts.