

STATE OF NEW YORK

11169

IN ASSEMBLY

December 4, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Rozic) --
read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to the exercise of powers
and duties of the board of elections of the city of New York and its
executive management

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

1 Section 1. Section 3-300 of the election law is amended to read as
2 follows:

3 § 3-300. Board employees; appointment. [~~Every~~] 1. Except as provided
4 in subdivision two of this section, every board of elections shall
5 appoint, and at its pleasure remove, clerks, voting machine technicians,
6 custodians and other employees, fix their number, prescribe their
7 duties, fix their titles and rank and establish their salaries within
8 the amounts appropriated therefor by the local legislative body and
9 shall secure in the appointment of employees of the board of elections
10 equal representation of the major political parties. Every commissioner
11 in each board of elections except for commissioners of the board of
12 elections of the city of New York, may approve and at pleasure remove a
13 deputy, establish his title and prescribe his duties. [~~In~~]

14 2. (a) Notwithstanding any provision of general, special or local law,
15 in the city of New York, the board of elections shall appoint an execu-
16 tive director and a deputy executive director who shall each be of sepa-
17 rate major political parties and whose duties it shall be to supervise
18 the operations of the board of elections [~~under the supervision of such~~
19 ~~board~~] in accordance with this subdivision. The board of elections of
20 the city of New York shall advise the executive director and deputy
21 executive director on matters of policy affecting the administration of
22 elections in the city of New York. Except as expressly provided in this
23 subdivision, such board shall exercise no executive power and perform no
24 executive or administrative functions. Except as expressly provided in
25 this subdivision, such board shall make no individualized decisions
26 concerning the employment of any specific person or the registration,
27 enrollment or qualifications of any specific voter. Nothing in this

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

LBD08885-03-0

subdivision shall be construed to require or authorize the day-to-day supervision of the executive director or deputy executive director by the board. The board may delegate powers and duties conferred upon the board to the executive director and deputy executive director, to be exercised consistent with paragraph (c) of this subdivision.

(b) The board shall have the power and duty to take the following actions to the extent otherwise consistent with the jurisdiction of the board pursuant to this chapter:

(1) take any action related to the creation, consolidation, division or alteration of election districts pursuant to section 4-100 of this chapter and the designation of poll sites pursuant to section 4-104 of this chapter;

(2) make determinations regarding the nomination and designation of candidates for public office and party positions pursuant to article six or any other relevant provision of this chapter;

(3) make determinations regarding the form and content of ballots, including but not limited to the determination of candidates and questions to appear on the ballot pursuant to section 4-114 of this chapter and the certification of ballots pursuant to title one of article seven or any other relevant provision of this chapter;

(4) adopt resolutions eliminating meetings for local registration pursuant to subdivision six of section 5-202 of this chapter;

(5) make determinations concerning challenges to voter registration and applications of voters unlawfully denied the right to register, pursuant to title two of article five of this chapter;

(6) make determinations concerning the adoption and use of voting machines or systems pursuant to section 7-200 of this chapter;

(7) canvass election results and perform all functions of the board of canvassers in the city of New York, including but not limited to the certification of election results, pursuant to article nine or any other relevant provision of this chapter;

(8) take any action authorized by section 3-218 of this article;

(9) approve any contract where:

(i) such contract was let by a procurement method other than competitive sealed bidding where the contract was awarded to the lowest responsible bidder;

(ii) such contract provides for technical, consultant or personal services;

(iii) the value of the contract exceeds or projects an annual expenditure exceeding one million dollars for the fiscal year or where the value of any contracts awarded to a single entity exceeds or is projected to exceed one million dollars for the fiscal year; and

(10) promulgate regulations, issue orders and make decisions regarding general policies affecting the administration of elections of the city of New York.

(c) The executive director and deputy executive director shall collectively serve as the chief executive for the board of elections of the city of New York and shall collectively exercise all their powers and duties in a manner not inconsistent with the policies of the board. The executive director and deputy executive director may each delegate powers and duties to the other, and may collectively delegate powers and duties to employees in furtherance of the purposes of this chapter. Such powers and duties shall include but not be limited to:

(1) appointing, and at their pleasure removing, clerks, voting machine technicians, custodians and other employees, fixing their number, prescribing their duties, fixing their titles and rank and establishing

1 their salaries within the amounts appropriated therefor by the New York
2 city council, provided that this subparagraph shall not affect the
3 fixing of a daily rate of compensation pursuant to subdivision one of
4 section 3-420 of this article. They shall secure in the appointment of
5 employees equal representation of the major political parties. In exer-
6 cising the powers conferred by this paragraph with respect to the
7 appointment of employees, the executive director and deputy executive
8 director shall, in consultation with the New York city department of
9 citywide administrative services establish written policies and proce-
10 dures on personnel, other than those paid at a daily rate pursuant to
11 subdivision one of section 3-420 of this article, within ninety days of
12 the effective date of this paragraph. Such policies and procedures shall
13 include:

14 (i) specifications setting forth the qualifications for and the nature
15 and scope of the duties and responsibilities of each title, with
16 appointments to be made consistent with such specifications, provided
17 that appointments shall secure equal representation of the major poli-
18 tical parties. Such specifications shall in addition to securing such
19 representation, give due weight to seniority, previous trainings and
20 experience, education and professional credentials, and performance
21 ratings where available. This paragraph shall not be construed to
22 require the preparation of administration of competitive examination of
23 eligible list for any title, nor shall it be construed to require the
24 termination of any individual employed by the board of elections of the
25 city of New York prior to the establishment of such specifications;

26 (ii) policies protecting employees from retaliation for disclosing
27 information concerning acts of wrongdoing, misconduct, malfeasance of
28 other inappropriate behavior by an employee or board member;

29 (iii) policies providing for appropriate ongoing training of employ-
30 ees, including those individuals employed prior to the establishment of
31 such policies, with the purpose of ensuring that all employees have the
32 knowledge and experience to fulfill the duties of the position that they
33 hold; and

34 (iv) policies establishing an employee performance evaluation program
35 based upon evidence of work actually performed by employees as compared
36 with pre-established performance standards;

37 (2) exercising the powers and duties delegated to boards of elections,
38 or specifically to the board of elections of the city of New York,
39 except where such powers and duties are expressly reserved for such
40 board pursuant to this subdivision, in all matters relating to quali-
41 fication of voters, voter registration and enrollment, cancellation of
42 voter registration, change of voter status and registration records
43 pursuant to article five of this chapter; and

44 (3) exercising the powers and duties delegated to boards of elections,
45 or specifically to the board of elections of the city of New York, in
46 all matters related to the administration of elections in the city of
47 New York not otherwise specified in subparagraphs one and two of this
48 paragraph.

49 § 2. Subdivision 3 of section 4-136 of the election law, as amended by
50 chapter 155 of the laws of 2010, is amended to read as follows:

51 3. In the city of New York all leased or purchased equipment,
52 supplies, ballots, printing and publications, except newspaper notices
53 and advertisements, to be used or furnished by such board, may be
54 procured for it by the purchasing department or agency of such city as
55 if such board were an agency of such city. Such board shall comply with
56 the rules and regulations of the New York city procurement policy board

1 and applicable state law for all purchase contracts, including but not
2 limited to purchase of goods, services or technology.
3 § 3. This act shall take effect on the sixtieth day after it shall
4 have become a law.