

# STATE OF NEW YORK

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1744

2019-2020 Regular Sessions

## IN ASSEMBLY

January 16, 2019

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Introduced by M. of A. LAVINE -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to vacancies for elective offices; to judicial proceedings for designating or nominating petitions and to ballots for primary and general elections

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

1 Section 1. Section 6-150 of the election law is amended to read as  
2 follows:

3 § 6-150. Nomination; vacancy caused by death or disqualification,  
4 unfilled at time of general or special election. If a vacancy shall  
5 occur in a nomination, caused by disqualification or death of the candi-  
6 date subsequent to [~~noon of the Tuesday~~] thirty days before a general or  
7 special election and prior to the closing of the polls on such election  
8 day, such vacancy shall not be filled, and the votes cast for such  
9 [~~deceased~~] candidate shall be canvassed and counted, and if he or she  
10 shall receive a plurality of the votes cast, a vacancy shall exist in  
11 the office for which such nomination was made to be filled in the manner  
12 provided by law for vacancies in office occurring by reason of death  
13 after election.

14 § 2. Section 6-152 of the election law, as amended by chapter 234 of  
15 the laws of 1976, is amended to read as follows:

16 § 6-152. Vacancies caused by death or disqualification and unfilled at  
17 time of primary election. If a vacancy shall occur in a designation of a  
18 candidate for nomination or election at a primary election, caused by  
19 the death or disqualification of a candidate subsequent to [~~noon of the~~  
20 ~~seventh day~~] thirty days before the primary election and prior to the  
21 closing of the polls, such vacancy shall not be filled and the votes  
22 cast for such [~~deceased or disqualified~~] candidate shall be canvassed  
23 and counted, and, if he or she shall receive a plurality of the votes

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

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1 cast, another candidate may thereafter be nominated or the vacancy  
2 filled as provided by law or the rules of the party.

3 § 3. Section 6-154 of the election law is amended by adding a new  
4 subdivision 4 to read as follows:

5 4. Each board of elections or the state board of elections as applica-  
6 ble shall make any determination required by this section no later than  
7 sixty days before the primary election in the case of challenges to  
8 designating or opportunity to ballot petitions and no later than seventy  
9 days before the general election in the case of challenges to nominating  
10 petitions and certificates of designation or nomination.

11 § 4. Section 7-116 of the election law is amended by adding a new  
12 subdivision 8 to read as follows:

13 8. In cases where a name is added to or removed from the county board  
14 of elections' official ballot too late to make a complete compliance to  
15 these requirements feasible, the name may be added at the end of the row  
16 or column of candidates in all election districts, or removed from the  
17 ballot in all election districts without changing the previously  
18 arranged order of other names and without invalidating the election. Any  
19 inadvertent error in the order of names discovered too late to correct  
20 the order of the names on the ballots concerned shall not invalidate an  
21 election.

22 Except where a contest or candidate is removed from the ballot by  
23 court order too late to make complete compliance with this section  
24 feasible, the title of each public office or party position and the  
25 names of the candidates for such office or position appearing on any  
26 ballot used for elections over which the county board of elections has  
27 jurisdiction shall appear on such ballot immediately adjacent to one  
28 another, either horizontally or vertically; and no blank spaces shall  
29 separate the names of candidates actually running for an office or party  
30 position on such ballot, and no blank spaces shall separate any two such  
31 offices or positions which appear on such ballot in the same column or  
32 row.

33 § 5. Subdivision 3 of section 7-122 of the election law, as amended by  
34 chapter 165 of the laws of 2010, is amended to read as follows:

35 3. The determination of the appropriate county board of elections as  
36 to the candidates duly designated or nominated for public office or  
37 party position whose name shall appear on the absentee ballot and as to  
38 ballot proposals to be voted on shall be made no later than the day  
39 after the state board of elections issues its certification of those  
40 candidates to be voted for at the general, special or primary election.  
41 The determinations of the state board of elections and the respective  
42 county boards of elections shall be final and conclusive with respect to  
43 such offices for which petitions or certificates are required to be  
44 filed with such boards, as the case may be but nothing herein contained  
45 shall prevent a board of elections, or a court of competent jurisdiction  
46 from determining at a later date that any such certification, designa-  
47 tion or nomination is invalid and, in the event of such later determi-  
48 nation, no vote cast for any such nominee by any voter shall be counted  
49 at the election. Any order of a court of competent jurisdiction or  
50 determination by the board of elections changing the ballot as previous-  
51 ly determined by the board of elections must be made and, where  
52 required, entered at least twenty days prior to the election. The order  
53 of a court of competent jurisdiction or determination of a board of  
54 elections to add a name or ballot proposal to the ballot shall require  
55 that only those voters who have not been sent absentee ballots prior to

1 such change shall be sent ballots which reflect such addition or addi-  
2 tions unless the court specifically otherwise orders.

3 § 6. Subdivisions 1 and 2 of section 7-128 of the election law are  
4 amended to read as follows:

5 1. Each officer or board charged with the duty of providing official  
6 ballots for an election shall have sample ballots open to public  
7 inspection [~~five~~] fifty days, except in the case of extraordinary  
8 circumstances in which case on the earliest day practicable, before the  
9 election for which [~~they were~~] the ballots have been prepared and the  
10 official ballots open to such inspection [~~four~~] fifty days, except in  
11 the case of extraordinary circumstances in which case on the earliest  
12 day practicable, before such election except that the sample and offi-  
13 cial ballots for a village election held at a different time from a  
14 general election shall be open to public inspection at least two days  
15 before such election. During the times within which the ballots are open  
16 for inspection, such officer or board shall deliver to each voter apply-  
17 ing therefor a sample of the ballot which he or she is entitled to vote.

18 2. Each officer or board charged with the duty of preparing ballots to  
19 be used [~~on~~] with voting machines in any election shall:

20 a. give written notice, by first class mail, to all candidates, except  
21 candidates for member of the county committee, who are lawfully entitled  
22 to have their names appear thereon, of the time when, and the place  
23 where, they may inspect the [~~voting machines~~] ballots to be used for  
24 such election. The candidates or their designated representatives may  
25 appear at the time and place specified in such notice to inspect such  
26 [~~machines~~] ballots, provided, however, that the time so specified shall  
27 [~~be not less than two~~] occur no later than forty-six days [~~prior to the~~  
28 ~~date of~~] before the election at which the ballots will be used. A  
29 candidate, whose name appears on the ballot [~~for an election district~~]  
30 or his or her designated representative, may, in the presence of the  
31 election officer attending the [~~voting machine~~] ballot, inspect the  
32 [~~face of the machine~~] ballot to see that his or her ballot [~~label~~] posi-  
33 tion is in its proper place[, ~~but at no time during the inspection shall~~  
34 ~~the booth be closed~~] or places.

35 b. give written notice, by first class mail, to all candidates, except  
36 candidates for member of the county committee, who are lawfully entitled  
37 to have their names appear thereon, of the time when, and the place  
38 where, they may inspect the voting machines or systems to be used for  
39 such election. The candidates or their designated representatives may  
40 appear at the time and place specified in such notice to view the  
41 conduct of the logic and accuracy testing required to be performed on  
42 such voting machines or systems, provided however, that the time so  
43 specified shall be not less than twenty days prior to the date of the  
44 election.

45 § 7. Section 7-130 of the election law is amended to read as follows:

46 § 7-130. Ballots; examination by voters and instruction in use of  
47 voting machines or systems. One or more voting machines [~~which shall~~  
48 ~~contain the ballot labels~~] or systems on which ballots shall be cast,  
49 showing the party [~~emblems~~] names and [~~title~~] titles of [~~officers~~]  
50 offices to be voted for, and which shall so far as practicable contain  
51 the names of the candidates to be voted for, shall be placed on public  
52 exhibition in some suitable place by the board of elections, [~~in charge~~  
53 ~~of competent instructors,~~] for at least three days during the thirty  
54 days next preceding an election. No voting machine or system which is to  
55 be assigned for use in an election shall be used for such purpose after  
56 having been prepared and sealed for the election. During such public

1 exhibition, the counting mechanism of the machine or system shall be  
2 concealed from view and the doors, if any, may be temporarily opened  
3 only when authorized by the board or official having charge and control  
4 of the election. Any voter shall be allowed to examine such machine or  
5 system, and upon request shall be instructed in its use.

6 § 8. Section 16-100 of the election law is amended by adding a new  
7 subdivision 3 to read as follows:

8 3. In view of the time required for boards of elections to reprint  
9 ballots and to conduct logic and accuracy testing required by title two  
10 of article seven of this chapter and regulations of the state board of  
11 elections, no court shall, except in extraordinary circumstances, enter  
12 a final order including the resolution of any appeals issued pursuant to  
13 subdivision four of section 16-102 of this article or subdivision four  
14 of section 16-104 of this article unless such order or determination  
15 shall be made in conformance with the time frame requirements of those  
16 sections.

17 § 9. Subdivision 4 of section 16-102 of the election law, as added by  
18 chapter 135 of the laws of 1986, is amended to read as follows:

19 4. A final order including the resolution of any appeals in any  
20 proceeding involving the names of candidates on ballots or voting  
21 [~~machines~~] systems shall, except in extraordinary circumstances, be  
22 made[~~, if possible,~~] at least [~~five weeks~~] fifty-five days before the  
23 day of the election at which such ballots or voting [~~machines~~] systems  
24 are to be used, or if such proceeding is commenced within [~~five weeks~~]  
25 fifty-five days of such election, no later than the day following the  
26 day on which the case is heard.

27 § 10. Subdivisions 1, 3 and 4 of section 16-104 of the election law,  
28 subdivision 3 as added by chapter 136 of the laws of 1978 and subdivi-  
29 sion 4 as amended by chapter 117 of the laws of 1985, are amended to  
30 read as follows:

31 1. The form and content of any ballot, or portion thereof, to be used  
32 in an election, and the right to use any emblem design, color, party or  
33 independent body name, may be contested in a proceeding instituted in  
34 the supreme court by any aggrieved candidate or by the chairman of any  
35 party committee or independent body. A proceeding pursuant to this  
36 subdivision must be instituted within five days of the last date of the  
37 inspection of the ballot pursuant to paragraph (a) of subdivision two of  
38 section 7-128 of this chapter.

39 3. A proceeding pursuant to subdivision two of this section must be  
40 instituted within [~~fourteen~~] seven days after the last day to certify  
41 the wording of any such abstract or form of submission.

42 4. A final order including the resolution of any appeals in any  
43 proceeding involving the contents of official ballots to be used on  
44 [~~voting machines~~] ballot scanners shall, except in extraordinary circum-  
45 stances, be made[~~, if possible,~~] at least [~~five weeks~~] twenty-five days  
46 before the day of the election at which such [~~voting machines~~] ballot  
47 scanners are to be used[~~, or if such proceeding is commenced within five~~  
48 ~~weeks of an election, no later than the day following the day on which~~  
49 ~~the case is heard~~].

50 § 11. This act shall take effect immediately.