STATE OF NEW YORK

2549--A

Cal. No. 113

2019-2020 Regular Sessions

IN ASSEMBLY

January 23, 2019

Introduced by M. of A. FAHY, D'URSO, JACOBSON -- read once and referred to the Committee on Election Law -- ordered to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the election law, in relation to removing the requirement that party emblems be included in ballot design

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

Section 1. Subdivision 18 of section 1-104 of the election law, as amended by chapter 181 of the laws of 2005, is amended to read as follows:

18. The word "ballot" when referring to voting machines or systems means that portion of the cardboard or paper or other material or electronic display within the ballot frame containing the name of the candidate and [~~the emblem of~~] the party organization by which he was nominated, of the form of submission of a proposed constitutional amendment, proposition referendum or question as provided in this chapter, with the word "yes" for voting for any question or the word "no" for voting against any question except that where the question or proposition is submitted only to the voters of a territory wholly within a county or city, such form shall be determined by the county board of elections. Such statement and the title shall be printed and/or displayed in the largest type or display which it is practicable to use in the space provided.

§ 2. Subdivisions 1 and 2 of section 2-124 of the election law, subdivision 2 as amended by chapter 9 of the laws of 1978, are amended to read as follows:

1. The state committee of a party shall select a name [~~and emblem~~] to distinguish the candidates of the party for public office in all districts of the state, and shall file in the office of the state board

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

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of elections, a certificate executed by its chairman and secretary, setting forth the name [~~and showing the emblem so selected~~].

2. The name of a party shall be in the English language and shall not include the words "American", "United States", "National", "New York State", "Empire State", or any abbreviation thereof, nor the name or part of the name, or an abbreviation of the name, of an existing party. [~~The emblem chosen may be a star, an animal, an anchor, or any other proper symbol, but may not be the same as or similar to any emblem, insignia, symbol or flag used by any political or governmental body, agency or entity nor any religious emblem, insignia, symbol or flag, nor the portrait of any person, nor the representation of a coin or of the currency of the United States.~~] The name [~~and emblem~~] chosen shall not be similar to or likely to create confusion with the name [~~or emblem~~] of any other existing party or independent body.

§ 3. Subdivision 1 of section 4-112 of the election law, as amended by chapter 5 of the laws of 2019, is amended to read as follows:

1. The state board of elections, not later than fifty-five days before a general election, or fifty-three days before a special election, shall certify to each county board of elections the name and residence of each candidate nominated in any valid certificate filed with it or by the returns canvassed by it, the title of the office for which nominated; the name of the party or body specified of which he or she is a candidate; [~~the emblem chosen to distinguish the candidates of the party or body;~~] and a notation as to whether or not any litigation is pending concerning the candidacy. Upon the completion of any such litigation, the state board of elections shall forthwith notify the appropriate county boards of elections of the results of such litigation.

§ 4. Subdivision 1 of section 6-128 of the election law, paragraph (a) as amended by chapter 619 of the laws of 2019, is amended to read as follows:

1. When an independent body becomes a party at a general election by qualifying under the requirements set by law, nominations shall, prior to and including the first general election thereafter, be made as provided by the rules of such party. A certificate of such nominations shall contain:

(a) The name of the party filing the nominations which shall not be altered or modified once submitted.

(b) The title of the office for which the nomination is made and the name and residence address of the person so nominated.

(c) The names of the members of the committee, if any, appointed to fill vacancies in nominations.

(d) [~~A description and representation of the party's emblem.~~

~~(e)~~] The name of the committee making the nomination.

[~~(f)~~] **(e)** A certified copy of the party rules describing the rule-making body and nomination process.

[~~(g)~~] **(f)** An affidavit containing a statement by the presiding officer and secretary of the committee that they are such officers and the statements in the certificate are true.

§ 5. Subdivision 3 of section 6-138 of the election law, as amended by chapter 305 of the laws of 1992, paragraph a as amended by chapter 619 of the laws of 2019, is amended to read as follows:

3. a. The name selected for the independent body making the nomination shall be in English characters and shall not include the name or part of the name or an abbreviation of the name or part of the name, nor shall the [~~emblem or~~] name be of such a configuration as to create the possibility of confusion with the [~~emblem or~~] name of a then existing party,

or the [~~emblem or~~] name of an independent body selected by a previously filed independent nominating petition for the same office. Such name selected for such independent body shall continuously remain the name of such party as defined in subdivision three of section 1-104 of this chapter.

b. Notwithstanding the requirements of paragraph a of this subdivision, if the [~~emblem or~~] name selected for an independent body on any independent nominating petition is the same as that selected by any previously filed independent nominating petition for the same office, the board of elections with which such later petition was filed shall, not later than two days after the filing of such later filed petition, send notice of such duplicate selection of [~~emblem or~~] name by first-class mail, to the candidate for such office who was nominated by such later filed petition, and that the candidate to whom such notice is required to be sent may file with such board of elections, not later than seven days after such notice was mailed, a certificate selecting a different [~~emblem or~~] name.

c. A person who has been nominated or who expects to be nominated as the candidate of an independent body for the office of President of the United States at any election for such office may, not later than three days after the last day to file nominating petitions, file with the state board of elections, a special certificate which shall be irrevocable, stating that such person does not wish to permit candidates for any other office, except the office of Vice-President of the United States, to appear on the ballot with the same name [~~and emblem~~] as the independent body which has nominated or will nominate such candidate for the office of President.

d. Not later than seven days after the last day to file nominating petitions, the state board of elections shall notify each local board of elections of the name of each candidate for President of the United States who has filed such a special certificate, together with the name [~~and emblem~~] of the independent body selected on the petition which nominated such candidate.

e. If any candidate has been nominated for any other office by a petition which selected the same name [~~or emblem~~] for an independent body as the name [~~or emblem~~] selected on the petition which nominated a candidate for President of the United States who has filed a special certificate pursuant to paragraph c of this subdivision, the board of elections with which the petition nominating such candidate for such other office was filed shall, not later than ten days after the last day to file nominating petitions, send to each such candidate, by first class mail, notice that a special certificate pursuant to paragraph c of this subdivision has been filed and that the candidate to whom such notice is sent may file with such board of elections, not later than seven days after such notice was mailed, a certificate selecting a different name [~~and emblem~~].

f. If [~~such a petition shall not show an emblem, or if~~] the petition shall fail to select a name for such independent body, or if pursuant to the provisions of paragraph b or paragraph e of this subdivision, a candidate shall fail to select another [~~emblem or~~] name for such independent body, the officer or board in whose office the petition is filed shall select [~~an emblem or~~] **a** name [~~or both~~] to distinguish the candidates nominated thereby. The name [~~and emblem~~] shown upon such petition or selected by a candidate authorized to make such selection by paragraph b or paragraph e of this subdivision, or selected by an officer or

board shall also conform to the requirements of this chapter with respect to names [~~or emblems~~] permitted to be selected by a party.

g. Nothing contained in this subdivision shall preclude a court of competent jurisdiction from rejecting an independent nominating petition if the court determines that fraud was involved in the selection of a name [~~or emblem~~].

§ 6. Paragraph a of subdivision 1 of section 6-140 of the election law, as amended by chapter 176 of the laws of 2017, is amended to read as follows:

a. Each sheet of an independent nominating petition shall be signed in ink, shall contain the following information and shall be in substantially the following form:

I, the undersigned, do hereby state that I am a registered voter of the political unit for which a nomination for public office is hereby being made, that my present place of residence is truly stated opposite my signature hereto, and that I do hereby nominate the following named person (or persons) as a candidate (or as candidates) for election to public office (or public offices) to be voted for at the election to be held on the ..... day of ....., 20...., and that I select the name ..... (fill in name) as the name of the independent body making the nomination (or nominations) [~~and ..... (fill in emblem) as the emblem of such body~~].

Name of Candidate	Public Office (include district number, if applicable)	Place of residence (also post office address if not identical)
.....	.....	.....
.....	.....	.....

I do hereby appoint ..... (here insert the names and addresses of at least three persons, all of whom shall be registered voters within such political unit), as a committee to fill vacancies in accordance with the provisions of the election law.

In witness whereof, I have hereunto set my hand, the day and year placed opposite my signature.

Date	Name of Signer	Residence
.....	.....	.....
.....	.....	.....
		Town or city (except in the city of New York, the county)
		.....
		.....

§ 7. Subdivisions 1 and 3 of section 6-206 of the election law, subdivision 1 as separately amended by chapters 106 and 176 of the laws of 2017, and subdivision 3 as added by chapter 359 of the laws of 1989, are amended to read as follows:

1. Independent nominations for elective village offices shall be made by a petition containing the signatures in ink of residents of the village who are registered with the appropriate county board of elections at the time of signing. The sheets of such a petition shall be numbered. A signer need not himself or herself fill in the date or residence. Each sheet of such petition must be in substantially the following form and shall contain all the information required therein:

VILLAGE INDEPENDENT NOMINATING PETITION

I, the undersigned, do hereby state that I am a registered voter of the Village of....., that my present place of residence is truly stated opposite my signature, and I do hereby nominate the following named person (or persons) as a candidate (or as candidates) for election to public office (or public offices) to be voted for at the election to be held on the.....day of....., 20....., and that I select the name..... (fill in name) as the name of the independent body making the nomination (or nominations) [~~and.....(fill in emblem) as the emblem of such body~~].

Name of Candidate	Public Office (include district number, if applicable)	Term	Residence
.....	.....	....	.....
.....	.....	....	.....

I do hereby appoint (insert names and addresses of at least three persons, all of whom shall be registered voters within such village) as a committee to fill vacancies in accordance with the provisions of the election law.

In witness whereof, I have signed this petition on the day and year stated before my signature.

Date	Signature	Residence
.....	.....	.....
.....	.....	.....

STATEMENT OF WITNESS

I, ... state that I am a duly qualified voter of the State of New York. I now reside at ..... (residence address). Each of the voters whose names are subscribed to this petition sheet containing ..... (fill in number) signatures, subscribed his or her name in my presence.

I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn.

Date	Signature of witness
.....	.....

3. The name selected for the independent body making the nomination shall be in the English language and shall not include the name or part of the name, or an abbreviation of the name or of part of the name, of a then existing party. The name [~~and emblem~~] shown upon such petition shall conform to the requirements of this chapter, relating to party names [~~and party emblems~~]. If [~~such a petition shall not show an emblem, or~~] the petition shall fail to select a name for such independent body, the board of elections shall select [~~an emblem or~~] a name, [~~or both~~] to distinguish the candidates nominated thereby.

§ 8. Subdivision 4 of section 15-108 of the election law, as separately amended by chapters 106 and 176 of the laws of 2017, is amended to read as follows:

4. Independent nominations for elective village offices shall be made by a petition containing the signatures in ink of residents of the

village who are registered with the appropriate county board of elections at the time of signing or who are residents of the village who were on the list of registered voters for the last village election in such village. The sheets of such a petition shall be numbered. Such petition must set forth in each instance the correct date of signing, the name of the signer and his or her present address, and may set forth a committee to fill vacancies consisting of at least three persons qualified to vote in the village election and their residence within the village. A signer need not himself or herself fill in the date or residence. Each sheet of such petition must be in substantially the following form and shall contain all the information required therein except as may otherwise be permitted by law.

VILLAGE INDEPENDENT NOMINATING PETITION

I, the undersigned, do hereby state that I am a registered voter of the Village of ....., that my present place of residence is truly stated opposite my signature, and I do hereby nominate the following named person (or persons) as a candidate (or as candidates) for election to public office (or public offices) to be voted for at the election to be held on the ..... day of ....., 20....., and that I select the name ..... (fill in name) as the name of the independent body making the nomination (or nominations) [~~and ..... (fill in emblem) as the emblem of such body~~].

Name of Candidate	Public Office (include district number, if applicable)	Term	Residence
.....	.....	.....	.....
.....	.....	.....	.....

I do hereby appoint _ _ _ _

Name	Residence
.....	.....
.....	.....

as a committee to fill vacancies in accordance with the provisions of the election law.

IN WITNESS WHEREOF, I have signed this petition on the day and year stated before my signature.

Date	Signature	Residence
.....	.....	.....
.....	.....	.....

STATEMENT OF WITNESS

I, ... state that I am a duly qualified voter of the State of New York. I now reside at ..... (residence address). Each of the voters whose names are subscribed to this petition sheet, containing ..... (fill in number) signatures, subscribed his or her name in my presence.

I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false

statement, shall subject me to the same penalties as if I had been duly sworn.

Date ....
Signature of Witness

§ 9. Subdivision 1 of section 16-104 of the election law, as amended by chapter 66 of the laws of 2019, is amended to read as follows:

1. The form and content of any ballot, or portion thereof, to be used in an election, and the right to use any [~~emblem design,~~] party or independent body name, may be contested in a proceeding instituted in the supreme court by any aggrieved candidate or by the chairman of any party committee or independent body.

§ 10. This act shall take effect immediately.