

# STATE OF NEW YORK

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2549--A

Cal. No. 113

2019-2020 Regular Sessions

## IN ASSEMBLY

January 23, 2019

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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:

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

4 18. The word "ballot" when referring to voting machines or systems  
5 means that portion of the cardboard or paper or other material or elec-  
6 tronic display within the ballot frame containing the name of the candi-  
7 date and [~~the emblem of~~] the party organization by which he was nomi-  
8 nated, of the form of submission of a proposed constitutional amendment,  
9 proposition referendum or question as provided in this chapter, with the  
10 word "yes" for voting for any question or the word "no" for voting  
11 against any question except that where the question or proposition is  
12 submitted only to the voters of a territory wholly within a county or  
13 city, such form shall be determined by the county board of elections.  
14 Such statement and the title shall be printed and/or displayed in the  
15 largest type or display which it is practicable to use in the space  
16 provided.

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

20 1. The state committee of a party shall select a name [~~and emblem~~] to  
21 distinguish the candidates of the party for public office in all  
22 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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1 of elections, a certificate executed by its chairman and secretary,  
2 setting forth the name [~~and showing the emblem so selected~~].

3 2. The name of a party shall be in the English language and shall not  
4 include the words "American", "United States", "National", "New York  
5 State", "Empire State", or any abbreviation thereof, nor the name or  
6 part of the name, or an abbreviation of the name, of an existing party.

7 [~~The emblem chosen may be a star, an animal, an anchor, or any other  
8 proper symbol, but may not be the same as or similar to any emblem,  
9 insignia, symbol or flag used by any political or governmental body,  
10 agency or entity nor any religious emblem, insignia, symbol or flag, nor  
11 the portrait of any person, nor the representation of a coin or of the  
12 currency of the United States.~~] The name [~~and emblem~~] chosen shall not  
13 be similar to or likely to create confusion with the name [~~or emblem~~] of  
14 any other existing party or independent body.

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

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

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

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

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

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

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

42 (d) [~~A description and representation of the party's emblem.~~  
43 ~~(e)~~] The name of the committee making the nomination.

44 [~~(f)~~] (e) A certified copy of the party rules describing the rule-mak-  
45 ing body and nomination process.

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

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

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

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

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

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

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

34 e. If any candidate has been nominated for any other office by a peti-  
35 tion which selected the same name ~~[or-emblem]~~ for an independent body as  
36 the name ~~[or-emblem]~~ selected on the petition which nominated a candi-  
37 date for President of the United States who has filed a special certif-  
38 icate pursuant to paragraph c of this subdivision, the board of  
39 elections with which the petition nominating such candidate for such  
40 other office was filed shall, not later than ten days after the last day  
41 to file nominating petitions, send to each such candidate, by first  
42 class mail, notice that a special certificate pursuant to paragraph c of  
43 this subdivision has been filed and that the candidate to whom such  
44 notice is sent may file with such board of elections, not later than  
45 seven days after such notice was mailed, a certificate selecting a  
46 different name ~~[and-emblem]~~.

47 f. If ~~[such a petition shall not show an emblem, or if]~~ the petition  
48 shall fail to select a name for such independent body, or if pursuant to  
49 the provisions of paragraph b or paragraph e of this subdivision, a  
50 candidate shall fail to select another ~~[emblem-or]~~ name for such inde-  
51 pendent body, the officer or board in whose office the petition is filed  
52 shall select ~~[an-emblem-or]~~ a name ~~[or-both]~~ to distinguish the candi-  
53 dates nominated thereby. The name ~~[and-emblem]~~ shown upon such petition  
54 or selected by a candidate authorized to make such selection by para-  
55 graph 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~~].

	Public	Place of residence
	Office	(also post office
Name of	(include district	address
Candidate	number, if applicable)	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:

## 1 VILLAGE INDEPENDENT NOMINATING PETITION

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

11 Name of	Public Office	Term	Residence
12 Candidate	(include district		
13	number, if applicable)		
14 .....	.....	....	.....
15 .....	.....	....	.....
16 .....	.....	....	.....

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

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

23 Date	Signature	Residence
24 .....	.....	.....
25 .....	.....	.....

## 26 STATEMENT OF WITNESS

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

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

36 .....	.....
37 Date	Signature of witness

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

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

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

1 village who are registered with the appropriate county board of  
 2 elections at the time of signing or who are residents of the village who  
 3 were on the list of registered voters for the last village election in  
 4 such village. The sheets of such a petition shall be numbered. Such  
 5 petition must set forth in each instance the correct date of signing,  
 6 the name of the signer and his or her present address, and may set forth  
 7 a committee to fill vacancies consisting of at least three persons qual-  
 8 ified to vote in the village election and their residence within the  
 9 village. A signer need not himself or herself fill in the date or resi-  
 10 dence. Each sheet of such petition must be in substantially the follow-  
 11 ing form and shall contain all the information required therein except  
 12 as may otherwise be permitted by law.

13 VILLAGE INDEPENDENT NOMINATING PETITION

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

23		Public Office		
24		(include district		
25		number, if		
26	Name of Candidate	applicable)	Term	Residence
27	.....	.....	.....	.....
28	.....	.....	.....	.....

29 I do hereby appoint \_ \_ \_ \_  
 30 Name Residence

31 .....  
 32 .....  
 33 as a committee to fill vacancies in accordance with the provisions of  
 34 the election law.

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

37	Date	Signature	Residence
38	.....	.....	.....
39	.....	.....	.....

40 STATEMENT OF WITNESS

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

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

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

3 Date .....  
4 .....  
Signature of Witness

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

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

12 § 10. This act shall take effect immediately.