

# STATE OF NEW YORK

S. 1102

A. 780

2019-2020 Regular Sessions

## SENATE - ASSEMBLY

January 10, 2019

IN SENATE -- Introduced by Sens. MYRIE, ADDABBO, BAILEY, BENJAMIN, BIAGGI, BRESLIN, BROOKS, CARLUCCI, COMRIE, GAUGHRAN, GIANARIS, GOUNARDES, HARCKHAM, HOYLMAN, JACKSON, KAMINSKY, KAPLAN, KAVANAGH, KENNEDY, KRUEGER, LIU, MARTINEZ, MAY, MAYER, METZGER, MONTGOMERY, PARKER, PERSAUD, RAMOS, RIVERA, SALAZAR, SANDERS, SAVINO, SEPULVEDA, SERRANO, SKOUFIS, STAVISKY, STEWART-COUSINS, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

IN ASSEMBLY -- Introduced by M. of A. LAVINE, HEASTIE, CUSICK, BLAKE, SIMON, PAULIN, DINOWITZ, L. ROSENTHAL, LIFTON, FAHY, LUPARDO, ABINANTI, ROZIC, GALEF, COOK, RAMOS, CYMBROWITZ, JAFFEE, CARROLL, TAYLOR, ORTIZ, WALKER, PEOPLES-STOKES, COLTON, DE LA ROSA, WRIGHT, BARRON, GOTTFRIED, OTIS, ENGLEBRIGHT, MOSLEY, GLICK, BURKE, CRUZ, EPSTEIN, FALL, FRONTUS, GRIFFIN, JACOBSON, McMAHON, RAYNOR, REYES, ROMEO, THIELE, WEINSTEIN -- Multi-Sponsored by -- M. of A. BUCHWALD, LENTOL -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to early voting

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

1 Section 1. Section 3-400 of the election law is amended by adding a  
2 new subdivision 9 to read as follows:

3 9. Notwithstanding any inconsistent provisions of this article,  
4 election inspectors or poll clerks, if any, at polling places for early  
5 voting, shall consist of either board of elections employees who shall  
6 be appointed by the commissioners of such board or duly qualified indi-  
7 viduals, appointed in the manner set forth in this section. Appointments  
8 to the offices of election inspector or poll clerk in each polling place  
9 for early voting shall be equally divided between the major political  
10 parties. The board of elections shall assign staff and provide resources

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

LBD04589-04-9

1 to ensure a voter's wait time to vote at an early voting site shall not  
2 exceed thirty minutes.

3 § 2. Section 4-117 of the election law is amended by adding a new  
4 subdivision 1-a to read as follows:

5 1-a. The notice required by subdivision one of this section shall  
6 include the dates, hours and locations of early voting for the general  
7 and primary election. The board of elections may alternatively satisfy  
8 the notice requirement of this subdivision by providing in the notice  
9 instructions to obtain the required early voting information by means of  
10 a website and phone number of the board of elections.

11 § 3. Paragraph (b) of subdivision 1 and subdivision 2 of section 8-100  
12 of the election law, paragraph (b) of subdivision 1 as added by chapter  
13 373 of the laws of 1978 and subdivision 2 as amended by chapter 367 of  
14 the laws of 2017, are amended to read as follows:

15 (b) In the event a run-off primary election is required in the city of  
16 New York, it shall be held on the [~~second~~] fourth Tuesday next succeed-  
17 ing the date on which the initial primary election was held.

18 2. Polls shall be open for voting during the following hours: a prima-  
19 ry election from twelve o'clock noon until nine o'clock in the evening,  
20 except in the city of New York and the counties of Nassau, Suffolk,  
21 Westchester, Rockland, Orange, Putnam, Dutchess and Erie, and in such  
22 city or county from six o'clock in the morning until nine o'clock in the  
23 evening; the general election from six o'clock in the morning until nine  
24 o'clock in the evening; a special election called by the governor pursu-  
25 ant to the public officers law, and, except as otherwise provided by  
26 law, every other election, from six o'clock in the morning until nine  
27 o'clock in the evening. Early voting times shall be as provided in  
28 section 8-600 of this article.

29 § 4. Subdivision 1 of section 8-102 of the election law is amended by  
30 adding a new paragraph (k) to read as follows:

31 (k) Voting at each polling place for early voting shall be conducted  
32 in a manner consistent with the provisions of this article, with the  
33 exception of the tabulation and proclamation of election results which  
34 shall be completed according to subdivisions eight and nine of section  
35 8-600 of this article.

36 § 5. Section 8-104 of the election law is amended by adding a new  
37 subdivision 7 to read as follows:

38 7. This section shall apply on all early voting days as provided for  
39 in section 8-600 of this article.

40 § 6. Subparagraph (ii) of paragraph (e) of subdivision 3 and subdivi-  
41 sion 3-a of section 8-302 of the election law, subparagraph (ii) of  
42 paragraph (e) of subdivision 3 as amended by chapter 164 of the laws of  
43 2010 and subdivision 3-a as amended by chapter 511 of the laws of 1985,  
44 are amended to read as follows:

45 (ii) He or she may swear to and subscribe an affidavit stating that he  
46 or she has duly registered to vote, the address in such election  
47 district from which he or she registered, that he or she remains a duly  
48 qualified voter in such election district, that his or her registration  
49 poll record appears to be lost or misplaced or that his or her name  
50 and/or his or her signature was omitted from the computer generated  
51 registration list or such record indicates the voter already voted when  
52 he or she did not do so or that he or she has moved within the county or  
53 city since he or she last registered, the address from which he or she  
54 was previously registered and the address at which he or she currently  
55 resides, and at a primary election, the party in which he or she is  
56 enrolled. The inspectors of election shall offer such an affidavit to

1 each such voter whose residence address is in such election district.  
2 Each such affidavit shall be in a form prescribed by the state board of  
3 elections, shall be printed on an envelope of the size and quality used  
4 for an absentee ballot envelope, and shall contain an acknowledgment  
5 that the affiant understands that any false statement made therein is  
6 perjury punishable according to law. Such form prescribed by the state  
7 board of elections shall request information required to register such  
8 voter should the county board determine that such voter is not regis-  
9 tered and shall constitute an application to register to vote. The  
10 voter's name and the entries required shall then be entered without  
11 delay and without further inquiry in the fourth section of the challenge  
12 report or in the place provided at the end of the computer generated  
13 registration list, with the notation that the voter has executed the  
14 affidavit hereinabove prescribed, or, if such person's name appears on  
15 the computer generated registration list, the board of elections may  
16 provide a place to make such entry next to his or her name on such list.  
17 The voter shall then, without further inquiry, be permitted to vote an  
18 affidavit ballot provided for by this chapter. Such ballot shall there-  
19 upon be placed in the envelope containing his or her affidavit, and the  
20 envelope sealed and returned to the board of elections in the manner  
21 provided by this chapter for protested official ballots, including a  
22 statement of the number of such ballots.

23 3-a. The inspectors shall also give to every person whose address is  
24 in such election district for whom no registration poll record can be  
25 found and, in a primary election, to every voter whose registration poll  
26 record does not show him to be enrolled in the party in which he wishes  
27 to be enrolled or who claims to be incorrectly identified as having  
28 already voted, a copy of a notice, in a form prescribed by the state  
29 board of elections, advising such person of his right to, and of the  
30 procedures by which he may, cast an affidavit ballot or seek a court  
31 order permitting him to vote, and shall also give every such person who  
32 does not cast an affidavit ballot, an application for registration by  
33 mail.

34 § 7. Paragraph (b) of subdivision 2 of section 8-508 of the election  
35 law, as amended by chapter 200 of the laws of 1996, is amended to read  
36 as follows:

37 (b) The second section of such report shall be reserved for the board  
38 of inspectors to enter the name, address and registration serial number  
39 of each person who is challenged [~~on the day of election~~] at the time of  
40 voting together with the reason for the challenge. If no voters are  
41 challenged, the board of inspectors shall enter the words "No Chal-  
42 lenges" across the space reserved for such names. In lieu of preparing  
43 section two of the challenge report, the board of elections may provide,  
44 next to the name of each voter on the computer generated registration  
45 list, a place for the inspectors of election to record the information  
46 required to be entered in such section two, or provide at the end of  
47 such computer generated registration list, a place for the inspectors of  
48 election to enter such information.

49 § 8. Article 8 of the election law is amended by adding a new title 6  
50 to read as follows:

51 TITLE VI  
52 EARLY VOTING

53 Section 8-600. Early voting.

54 8-602. State board of elections; powers and duties for early  
55 voting.

1     § 8-600. Early voting. 1. Beginning the tenth day prior to any gener-  
2 al, primary, run-off primary pursuant to subdivision one of section  
3 6-162 of this chapter or special election for any public or party posi-  
4 tion except for such an election held pursuant to title two of article  
5 six or article fifteen of this chapter, and ending on and including the  
6 second day prior to such general, primary, run-off primary or special  
7 election for such public office or party position, persons duly regis-  
8 tered and eligible to vote at such election shall be permitted to vote  
9 as provided in this title. The board of elections shall establish  
10 procedures, subject to approval of the state board of elections, to  
11 ensure that persons who vote during the early voting period shall not be  
12 permitted to vote subsequently in the same election.

13     2. (a) The board of elections shall designate polling places for early  
14 voting, which may include the offices of the board of elections, for  
15 persons to vote early pursuant to this title. There shall be so desig-  
16 nated at least one early voting polling place for every full increment  
17 of fifty thousand registered voters in each county; provided, however,  
18 the number of early voting polling places in a county shall not be  
19 required to be greater than seven, and a county with fewer than fifty  
20 thousand voters shall have at least one early voting polling place.

21     (b) The board of elections of each county or the city of New York may  
22 establish additional polling places for early voting in excess of the  
23 minimum number required by this subdivision for the convenience of  
24 eligible voters.

25     (c) Notwithstanding the minimum number of early voting poll sites  
26 otherwise required by this subdivision, for any primary or special  
27 election, upon majority vote of the board of elections, the number of  
28 early voting sites may be reduced when the board of elections determines  
29 a lesser number of sites is sufficient to meet the needs of early  
30 voters.

31     (d) Polling places for early voting shall be located so that voters in  
32 the county have adequate and equitable access, taking into consideration  
33 population density, travel time to the polling place, proximity to other  
34 early voting poll sites, public transportation routes, commuter traffic  
35 patterns and such other factors the board of elections deems appropri-  
36 ate. The provisions of section 4-104 of this chapter, except subdivi-  
37 sions four and five of such section, shall apply to the designation of  
38 polling places for early voting except to the extent such provisions are  
39 inconsistent with this section.

40     3. Any voter may vote at any polling place for early voting estab-  
41 lished pursuant to subdivision two of this section in the county where  
42 such voter is registered to vote; provided, however, if it is impracti-  
43 cal to provide each polling place for early voting all of the election  
44 district ballots or if early voting at any such polling place makes  
45 ensuring that no voter has not previously voted early during such  
46 election, the board of elections may assign election districts to a  
47 particular early voting poll site. All voters in each county shall have  
48 one or more polling places at which they are eligible to vote throughout  
49 the early voting period on a substantially equal basis. If the board of  
50 elections does not agree by majority vote to plan to assign election  
51 districts to early voting poll sites, all voters in the county must be  
52 able to vote at any poll site for early voting in the county.

53     4. (a) Polls shall be open for early voting for at least eight hours  
54 between seven o'clock in the morning and eight o'clock in the evening  
55 each week day during the early voting period.

1 (b) At least one polling place for early voting shall remain open  
2 until eight o'clock in the evening on at least two week days in each  
3 calendar week during the early voting period. If polling places for  
4 early voting are limited to voters from certain areas pursuant to subdi-  
5 vision three of this section, polling places that remain open until  
6 eight o'clock shall be designated such that any person entitled to vote  
7 early may vote until eight o'clock in the evening on at least two week  
8 days during the early voting period.

9 (c) Polls shall be open for early voting for at least five hours  
10 between nine o'clock in the morning and six o'clock in the evening on  
11 each Saturday, Sunday and legal holiday during the early voting period.

12 (d) Nothing in this section shall be construed to prohibit any board  
13 of elections from establishing a greater number of hours for voting  
14 during the early voting period beyond the number of hours required in  
15 this subdivision.

16 (e) Early voting polling places and their hours of operation for early  
17 voting at a general election shall be designated by May first of each  
18 year pursuant to subdivision one of section 4-104 of this chapter.  
19 Notwithstanding the provisions of subdivision one of section 4-104 of  
20 this chapter early voting polling places and their hours of operation  
21 for early voting for: (i) a primary or special election shall be made  
22 not later than forty-five days before such primary or special election;  
23 and (ii) a run-off primary pursuant to subdivision one of section 6-162  
24 of this chapter shall be made as soon as practicable.

25 5. Each board of elections shall create a communication plan to inform  
26 eligible voters of the opportunity to vote early. Such plan may utilize  
27 any and all media outlets, including social media, and shall publicize:  
28 the location and dates and hours of operation of all polling places for  
29 early voting; an indication of whether each polling place is accessible  
30 to voters with physical disabilities; a clear and unambiguous notice to  
31 voters that if they cast a ballot during the early voting period they  
32 will not be allowed to vote election day; and if polling places for  
33 early voting are limited to voters from certain areas pursuant to subdi-  
34 vision three of this section, the location of the polling places for  
35 early voting serving the voters of each particular city, town or other  
36 political subdivision.

37 6. The form of paper ballots used in early voting shall comply with  
38 the provisions of article seven of this chapter that are applicable to  
39 voting by paper ballot on election day and such ballot shall be cast in  
40 the same manner as provided for in section 8-312 of this article,  
41 provided, however, that ballots cast during the early voting period  
42 shall be secured in the manner of voted ballots cast on election day and  
43 such ballots shall not be canvassed or examined until after the close of  
44 the polls on election day, and no unofficial tabulations of election  
45 results shall be printed or viewed in any manner until after the close  
46 of polls on election day.

47 7. Voters casting ballots pursuant to this title shall be subject to  
48 challenge as provided in sections 8-500, 8-502 and 8-504 of this arti-  
49 cle.

50 8. Notwithstanding any other provisions of this chapter, at the end of  
51 each day of early voting, any early voting ballots that have not been  
52 scanned because a ballot scanner was not available or because the ballot  
53 has been abandoned by the voter at the ballot scanner shall be cast in a  
54 manner consistent with section 9-110 of this chapter, except that such  
55 ballots which cannot then be cast on a ballot scanner shall be held  
56 inviolate and unexamined and shall be duly secured until after the close



1 of polls on election day when such ballots shall be examined and  
2 canvassed in a manner consistent with subdivision two of section 9-110  
3 of this chapter.

4 9. The board of elections shall secure all ballots and scanners used  
5 for early voting from the beginning of the early voting period through  
6 the close of the polls on election day; provided, however, the state  
7 board of elections may by regulation duly adopted by a majority of such  
8 board establish a procedure whereby ballot scanners used for early  
9 voting may also be used on election day if the portable memory devices  
10 used during early voting containing the early voting election informa-  
11 tion and vote tabulations are properly secured apart from the scanners,  
12 and the results therefrom shall be duly canvassed after the close of  
13 polls on election day.

14 10. After the close of polls on election day, inspectors or board of  
15 elections employees appointed to canvass ballots cast during early  
16 voting shall follow all relevant provisions of article nine of this  
17 chapter that are not inconsistent with this section, for canvassing,  
18 processing, recording, and announcing results of voting at polling plac-  
19 es for early voting, and securing ballots, scanners, and other election  
20 materials. Such canvass may occur at the offices of the board of  
21 elections, at the early voting polling place or such other location  
22 designated by the board of elections.

23 11. Notwithstanding the requirements of this title requiring the  
24 canvass of ballots cast during early voting after the close of polls on  
25 election day, such canvass may begin one hour before the scheduled close  
26 of polls on election day provided the board of elections adopts proce-  
27 dures to prevent the public release of election results prior to the  
28 close of polls on election day and such procedures shall be consistent  
29 with the regulations of the state board of elections and shall be filed  
30 with the state board of elections at least thirty days before they shall  
31 be effective.

32 § 8-602. State board of elections; powers and duties for early voting.  
33 The state board of elections shall promulgate rules or regulations  
34 necessary for the implementation of the provisions of this title. Such  
35 rules and regulations shall include, but not be limited to, provisions  
36 to (i) ensure that ballots cast early, by any method allowed under law,  
37 are counted and canvassed as if cast on election day, (ii) ensure an  
38 efficient and fair early voting process that respects the privacy of the  
39 voter, and (iii) require that the voting history record for each voter  
40 be continually updated to reflect each instance of early voting by such  
41 voter.

42 § 9. The opening paragraph of section 9-209 of the election law, as  
43 amended by chapter 163 of the laws of 2010, is amended to read as  
44 follows:

45 Before completing the canvass of votes cast in any primary, general,  
46 special, or other election at which voters are required to sign their  
47 registration poll records before voting, the board of elections shall  
48 proceed in the manner hereinafter prescribed to cast and canvass any  
49 absentee, military, special presidential, special federal or other  
50 special ballots and any ballots voted by voters who moved within the  
51 county or city after registering, voters who are in inactive status,  
52 voters whose registration was incorrectly transferred to another address  
53 even though they did not move, voters whose registration poll records  
54 were missing on the day of such election, voters who have not had their  
55 identity previously verified and voters whose registration poll records  
56 did not show them to be enrolled in the party in which they claimed to

1 be enrolled and voters incorrectly identified as having already voted.  
2 Each such ballot shall be retained in the original envelope containing  
3 the voter's affidavit and signature, in which it is delivered to the  
4 board of elections until such time as it is to be cast and canvassed.  
5 § 10. This act shall take effect immediately; provided, however that  
6 early voting pursuant to the provisions of this act shall first apply to  
7 the general election held in November 2019, and to any general, primary,  
8 run-off primary or special election held thereafter as provided for in  
9 the election law.