

STATE OF NEW YORK

308

2019-2020 Regular Sessions

IN SENATE

(Prefiled)

January 9, 2019

Introduced by Sen. FELDER -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

AN ACT to amend the election law, in relation to requiring the purchase of direct recording electronic machines which produce and retain a voter verified permanent paper record in the city of New York (Part A); to amend the election law, in relation to mandatory core curriculum; and to amend the election law, in relation to mandatory training curriculum for election commissioners, key staff of boards of elections and poll workers (Part B); and to amend the election law, in relation to establishing mobile operations voting equipment units (Part C)

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

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to enact the restore faith in voting act. Each
3 component is wholly contained within a Part identified as Parts A
4 through C. The effective date for each particular provision contained
5 within such Part is set forth in the last section of such Part. Any
6 provision in any section contained within a Part, including the effective
7 date of the Part, which makes reference to a section "of this act",
8 when used in connection with that particular component, shall be deemed
9 to mean and refer to the corresponding section of the Part in which it
10 is found. Section four of this act sets forth the general effective date
11 of this act.

12 § 2. Short title. This act shall be known and may be cited as the
13 "restore faith in voting act".

14 PART A

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

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1 Section 1. Subdivision 1 of section 7-200 of the election law, as
2 amended by chapter 181 of the laws of 2005, is amended to read as
3 follows:

4 1. [~~The board of elections of the city of New York and other county~~]
5 County boards of elections may adopt any kind of voting machine or
6 system approved by the state board of elections, or the use of which has
7 been specifically authorized by law, and the board of elections of the
8 city of New York shall adopt any direct recording electronic machines
9 which produce and retain a voter verified permanent paper record
10 approved by the state board of elections; and thereupon such voting
11 machine or system may be used at any or all elections and shall be used
12 at all general or special elections held by such boards in such city,
13 town or village and in every contested primary election in the city of
14 New York and in every contested primary election outside the city of New
15 York in which there are one thousand or more enrolled voters qualified
16 to vote. No more than two types of voting machines or systems may be
17 used by any local board of elections at a single election. On or before
18 January first, two thousand twenty, the state board of elections shall
19 approve direct recording electronic machines which produce and retain a
20 voter verified permanent paper record for the initial adoption of such
21 machines by the board of elections of the city of New York. Notwith-
22 standing the other provisions of this subdivision, any local board of
23 elections may borrow or lease for use on an experimental basis for a
24 period of not more than one year each, voting machines or systems of any
25 type approved by the state board of elections.

26 § 2. Subdivision 4 of section 7-202 of the election law, as added by
27 chapter 181 of the laws of 2005, is amended to read as follows:

28 4. Local boards of elections which obtain voting machines pursuant to
29 this chapter may determine to purchase direct recording electronic
30 machines or optical scan machines in conformance with the requirements
31 of this chapter; provided, however, the board of elections of the city
32 of New York shall purchase direct recording electronic machines which
33 produce and retain a voter verified permanent paper record in conform-
34 ance with the requirements of this chapter. The initial costs of
35 purchasing such direct recording electronic machines necessary to bring
36 the board of elections of the city of New York into compliance with
37 subdivision one of section 7-200 of this title, as amended by a chapter
38 of the laws of two thousand nineteen, shall be borne by the state.

39 § 3. Subdivision 3 of section 7-203 of the election law, as amended by
40 chapter 180 of the laws of 2005, is amended to read as follows:

41 3. In the event that the board of elections shall not agree upon, or
42 the county shall not execute a contract or contracts for the purchase
43 of, the necessary voting machines, such contract or contracts shall be
44 awarded, made and executed by the state board of elections, in accord-
45 ance with subdivision four of section 3-100 of this chapter, on approval
46 of the attorney general as to form. The expense of making and entering
47 into such contracts, including the preparation and printing of specifi-
48 cations, and also all payments for voting machines to be made there-
49 under, shall be chargeable to the county, except in the city of New York
50 where such expense shall be chargeable to such city, and it shall be the
51 duty of the comptroller or other chief fiscal officer of the county or
52 city, as the case may be, to pay the same upon the certificate of the
53 officer making such contract, or upon the certificate of the state board
54 of elections in the event that such contract be made by it; provided,
55 however, if such contract is for the initial purchase of direct record-
56 ing electronic machines which produce and retain a voter verified perma-

1 nent paper record to bring the board of elections of the city of New
2 York into compliance with subdivision one of section 7-200 of this
3 title, as amended by a chapter of the laws of two thousand nineteen,
4 such expenses shall be borne by the state. No provision of any charter
5 or other law or ordinance governing the purchase of patented articles
6 shall be deemed to apply to the purchase of voting machines pursuant to
7 the provisions of this section. Nothing in this section shall be
8 construed to prevent the state board of elections from distributing
9 voting machines to boards of elections pursuant to other provisions of
10 this chapter without charge.

11 § 4. This act shall take effect immediately.

12 PART B

13 Section 1. Subdivision 1-a of section 3-412 of the election law, as
14 added by chapter 181 of the laws of 2005, is amended to read as follows:

15 1-a. The state board of elections shall establish a mandatory core
16 curriculum for poll worker training which includes the requirements in
17 subdivision two of this section, [~~as amended by a chapter of the laws of~~
18 ~~2005,~~] and the rights of voters at the polls and obligation of election
19 workers to protect those rights while maintaining the integrity of the
20 franchise, including [~~assisting~~] accommodating voters with disabilities
21 or with limited or no proficiency in the English language, handling,
22 processing and entitlement to ballots, including affidavit and emergency
23 ballots, proper identification requirements, procedures to be followed
24 with respect to voters whose names are not on the list of registered
25 voters or whose identities have not been verified, electioneering and
26 other violations of the elective franchise as defined in this chapter,
27 solicitation by individuals and groups at the polling place and proce-
28 dures to be followed after the polls close. Such core curriculum also
29 shall include specific training in the proper operation of voting
30 systems used in the election; procedures for expeditiously providing
31 directions to voters about their assigned election district; ensuring
32 polling sites are accessible to voters with disabilities or other
33 specific needs; providing accommodation to persons who are illiterate;
34 the requirements for conducting signature verification of voters; the
35 requirements for individuals seeking to challenge voter eligibility and
36 the process for handling any such challenges; and security procedures
37 for the election. Each board of elections shall augment the core curric-
38 ulum with local procedures not inconsistent with the core curriculum
39 adopted by the state board of elections and which includes procedures
40 relating to proper operation of, and remedying problems with, the voting
41 machine or system in use in that jurisdiction. Each board of elections
42 shall also develop and implement procedures to assist in the recruiting
43 of new poll workers.

44 § 2. The election law is amended by adding a new section 3-213 to read
45 as follows:

46 § 3-213. Boards of elections; mandatory training curriculum. 1.
47 Election commissioners and such other board of elections employees as
48 determined by the state board of elections shall within six months after
49 their first appointment complete a course of instruction on the opera-
50 tion of a board of elections which shall be provided by the state board
51 of elections. The curriculum shall be established by the state board of
52 elections in consultation with election commissioners and shall not
53 exceed thirty hours of instruction.

2. Annually, election commissioners and other board of elections employees as determined by the state board of elections, shall complete before June first a continuing course of instruction on the operation of a board of elections which shall be provided by the state board of elections. The curriculum shall be established by the state board of elections in consultation with the election commissioners and shall not exceed three hours of instruction.

3. The state board of elections shall provide the training required by subdivision two of this section through, in addition to other methods it may choose, a web-based recorded format.

4. Upon the failure of a commissioner or other employee to complete the instruction within the time required by this section, the state board of elections shall send a letter to the county legislature or city council and the respective county party chair of the jurisdiction of the commissioner stating the delinquency.

§ 3. Section 3-412 of the election law is amended by adding three new subdivisions 1-b, 1-c and 1-d to read as follows:

1-b. The state board of elections shall establish and host an education and training institute which shall be responsible for the development and implementation of a statewide program wherein persons can become certified poll worker trainers. This institute shall also create a train-the-trainer program, in order for county boards of elections to implement an effective training program at their respective local level of program delivery. The state board's trainers shall include in the trainer curriculum to be developed, attention to, inter alia, poll worker ability to serve a diverse electorate with complete confidence and respect; professionalizing the delivery of all election day services; providing assistance to voters with disabilities and those with limited English language proficiency, ensuring the dignity and privacy of such individuals; and to individuals who are members of racial or ethnic minorities, complete familiarity and comfort with all voting systems in use in poll sites, including ballot marking devices or other systems/services available to voters with disabilities; and poll worker ability to recognize and resolve a variety of issues which may arise in poll sites. The state board's trainers and all certified poll worker instructors shall utilize industry-proven training techniques aimed at adult learners including role-based training and hands-on training opportunities using official election day forms and poll site voting systems and may further include a web-based component and companion video.

1-c. County boards shall enroll trainers in the program in such quantities to ensure that an adequate contingent of fully trained and certified poll worker trainers are available to meet the training needs of such county. Each county board of elections shall enroll not less than two persons designated by the county board on a bipartisan basis, in the state board of elections training institute. Certified trainers must maintain their certification by attending once every two years, a continuing education program, to ensure the professionalism of the poll worker training agenda set by the state board of elections. Enrollees who have successfully completed the state board's training program and been awarded a "certified poll worker instructor" certificate may serve at the county board as a trainer of poll workers as well as a trainer of other bi-partisan designees of the county board, however the conferring of the title "certified poll worker instructor" may be made only by the state board of elections.

1 1-d. The state board of elections shall adopt such rules and regu-
2 lations which may be necessary to create the training institute and
3 associated curricula provided for in subdivisions one-a, one-b and one-c
4 of this section, including a process whereby attendees who successfully
5 complete a state board-sponsored training program shall be awarded a
6 certificate conferring upon him or her, the title of "certified poll
7 worker instructor".

8 § 4. This act shall take effect immediately; provided, however, that
9 sections two and three of this act shall take effect on the one hundred
10 eightieth day after it shall have become a law; provided, however, that
11 effective immediately, the addition, amendment and/or repeal of any rule
12 or regulation necessary for the implementation of this act on its effec-
13 tive date are authorized and directed to be made and completed on or
14 before such effective date.

15 PART C

16 Section 1. Section 3-302 of the election law is amended by adding a
17 new subdivision 8 to read as follows:

18 8. On or before January first, two thousand twenty, the board of
19 elections shall establish a mobile operations voting equipment unit for
20 every one hundred polling places within such board's jurisdiction. Each
21 mobile operations voting equipment unit shall include at least two
22 voting machine technicians with the proper training and education on the
23 preparation, use, maintenance and repair of voting machines as required
24 by this section. Appointments of voting machine technicians to a mobile
25 operations voting equipment unit shall be equally divided between the
26 major political parties. Such technicians shall be deployed on election
27 day by the board of elections to any polling place where a voting
28 machine is reported as malfunctioning or inoperable for inspection and
29 repair of such machine.

30 § 2. This act shall take effect immediately.

31 § 3. Severability clause. If any clause, sentence, paragraph, subdivi-
32 sion, section or part of this act shall be adjudged by any court of
33 competent jurisdiction to be invalid, such judgement shall not affect,
34 impair, or invalidate the remainder thereof, but shall be confined in
35 its operation to the clause, sentence, paragraph, subdivision, section
36 or part thereof directly involved in the controversy in which such
37 judgement shall have been rendered. It is hereby declared to be the
38 intent of the legislature that this act would have been enacted even if
39 such invalid provisions had not been included herein.

40 § 4. This act shall take effect immediately provided, however, that
41 the applicable effective date of Parts A through C of this act shall be
42 as specifically set forth in the last section of such Parts.