

STATE OF NEW YORK

7439

2021-2022 Regular Sessions

IN ASSEMBLY

May 10, 2021

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

AN ACT to amend the election law, in relation to removing party lines from ballots for all elections that are not presidential or gubernatorial

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

1 Section 1. Section 7-104 of the election law, as amended by chapter
2 411 of the laws of 2019, is amended to read as follows:

3 § 7-104. Ballots; form of. 1. All ballots shall be printed and/or
4 displayed in a format and arrangement, of such uniform size and style as
5 will fit the ballot, and shall be in as plain and clear a type or
6 display as the space will reasonably permit, using only sans serif print
7 fonts. Such type or display on the ballot shall satisfy all requirements
8 and standards set forth pursuant to the federal Help America Vote Act.

9 2. [~~The~~] For presidential and gubernatorial races for office, the
10 names of parties or independent bodies which contain more than fifteen
11 letters may, whenever limitations of space so require, be printed on the
12 ballot in an abbreviated form. In printing the names of candidates whose
13 full names contain more than fifteen letters, only the surname must be
14 printed in full. The officer or board charged with the duty of certifying
15 the candidates for such office shall request each such candidate to
16 indicate, in writing, the shortened form in which, subject to this
17 restriction, his or her name shall be printed. If no such indication is
18 received from such candidate within the time specified in the request,
19 such officer or board shall make the necessary determination.

20 3. (a) The party name or other designation shall be affixed to the
21 name of each candidate, or, in case of presidential electors, to the
22 names of the candidates for president and vice-president of such party.

23 (b) [~~A~~] For presidential and gubernatorial races for office, a
24 column/row designating number may be affixed to the name of each candi-

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

LBD08740-04-1

1 date, or in the case of presidential electors, to the names of the
2 candidates for president and vice-president of such party.

3 (c) The titles of offices may be arranged horizontally, with the names
4 of candidates for an office and the space, slot or device for write-in
5 votes for such office arranged vertically under the title of the office,
6 or the titles of offices may be arranged vertically, with the names of
7 candidates for an office and the space, slot or device for write-in
8 votes for such office arranged horizontally opposite the title of the
9 office.

10 (d) Each office shall occupy as many columns or rows on the ballot as
11 the number of candidates to be elected to that office[~~, except where~~
12 ~~candidate placements due to cross endorsements require additional~~
13 ~~columns or rows~~] and shall be contained within its own section of the
14 ballot.

15 4. (a) The names of all candidates nominated [~~by any party or inde-~~
16 ~~pendent body for an office shall always appear in the row or column~~
17 ~~containing generally the names of candidates nominated by such party or~~
18 ~~independent body for other offices except as hereinafter provided~~] shall
19 appear only once per office to be filled at the election, except for
20 presidential and gubernatorial races for office.

21 (b) [~~When~~] For presidential and gubernatorial races for office, the
22 following may apply:

23 (i) When the same person has been nominated for an office to be filled
24 at the election by more than one party, the voting machine shall be so
25 adjusted that his or her name shall appear in each row or column
26 containing generally the names of candidates for other offices nominated
27 by any such party.

28 [~~(e)~~] (ii) If such candidate has also been nominated by one or more
29 independent bodies, his or her name shall appear only in each [~~row or~~]
30 column containing generally the names of candidates for other offices
31 nominated by any such party and the name of each such independent body
32 shall appear in one such [~~row or~~] column to be designated by the candi-
33 date in a writing filed with the officer or board charged with the duty
34 of certifying the candidates for such office, or if such person shall
35 fail to so designate, the names of such independent bodies shall appear
36 in such [~~row or~~] column as such officer or board shall determine.

37 [~~(d)~~] (iii) If any person shall be nominated for any office by one
38 party and two or more independent bodies his or her name shall appear on
39 the ballot twice; once in the [~~row or~~] column containing generally the
40 names of candidates for other offices nominated by such party, and once
41 in the [~~row or~~] column containing generally the names of candidates
42 nominated by the independent body designated by such person in a writing
43 filed with the officer or board charged with the duty of certifying the
44 candidates for such office and in connection with the name of such
45 person in such [~~row or~~] column shall appear the name of each independent
46 body nominating him or her or, if such person shall fail to so design-
47 ate, the name of such candidate and the names of such independent
48 bodies shall appear in such [~~row or~~] column as such officer or board
49 shall determine.

50 [~~(e)~~] (iv) If any person is nominated for any office only by more than
51 one independent bodies, his or her name shall appear but once upon the
52 machine in one such [~~row or~~] column to be designated by the candidate in
53 a writing filed with the officer or board charged with the duty of
54 providing ballots, or if the candidate shall fail to so designate, in
55 the place designated by the officer or board charged with the duty of
56 certifying the candidates for such office, and in connection with his or

1 her name there shall appear the name of each independent body nominating
2 him or her, but, where the capacity of the ballot will permit, the name
3 of such person shall not appear or be placed in a column [~~or on a hori-~~
4 ~~zontal line~~] with the names of persons nominated by a party for other
5 offices.

6 5. Notwithstanding the provisions of subdivision four of this section,
7 the name of a person who is nominated for the office of president or
8 governor[~~, or state senator, or member of assembly,~~] shall appear on the
9 ballot as many times as there are parties or independent bodies nominat-
10 ing him or her, and there shall be a separate voting position at each
11 place in which such name shall appear.

12 6. If any type of machine used in any county or city contains any
13 feature approved by the state board of elections, the use of which is
14 neither required nor prohibited by the provisions of this chapter, the
15 board of elections may, by resolution, require that one or more of such
16 features shall be used in such county. Thereafter all machines of such
17 type used in such county or city shall be operated in conformity with
18 any such resolution. Any such resolution may thereafter be rescinded by
19 such board and after being so rescinded may be re-adopted. Once re-a-
20 dopted by any board of elections, such a resolution may not be rescinded
21 again by such board.

22 7. [~~The~~] For presidential and gubernatorial races for office, the
23 ballot shall have printed upon it in black ink for each [~~party or inde-~~
24 ~~pendent row, at the head of the column or the beginning of the row~~
25 ~~containing the names of candidates~~] candidate, the name of the candidate
26 and the name of each party or independent body and the designating
27 letter of the row or column.

28 8. With respect to candidates for the offices of governor and lieuten-
29 ant governor of a party or independent body, ballots shall be printed so
30 that the names of such candidates for both offices shall appear in the
31 same row or column, with the name of the candidate for governor appear-
32 ing first and the ballot shall be so adjusted that both offices are
33 voted for jointly [~~and have but one designating number if such~~
34 ~~column/row designating numbers are utilized~~].

35 9. In those counties in which ballots are required by federal law, or
36 otherwise, to be provided in a language other than English, there shall
37 be versions of the ballot printed in English and in each of the addi-
38 tional languages required so that each version of the ballot shall
39 contain English and no more than two other languages. The county board
40 of elections in such counties shall instruct, in their poll worker
41 training and materials, the procedures to be followed to ensure that
42 each voter receives a ballot with the appropriate language as determined
43 by the state board.

44 10. Each ballot shall contain instructions for marking the ballot. The
45 instructions shall be printed in line lengths no wider than five inches.
46 Ballot instructions may be printed on the front or back of the ballot or
47 on a separate sheet or card. If such instructions are not printed on the
48 front of the ballot, there shall be printed on the ballot, in the larg-
49 est size type practicable, the following legend: "See instructions on
50 the other side" or "See instructions (insert where instructions are
51 found)", whichever is appropriate.

52 11. The offices appearing on all ballots shall be listed in the
53 customary order.

54 12. If two or more candidates are nominated for the same office for
55 different terms, the term for which each is nominated shall be printed
56 as a part of the title of the office.

1 13. The text for ballot instructions shall be substantially as
2 follows, so that it accurately reflects the ballot layout:

3 INSTRUCTIONS

4 Mark the (insert "oval" or "square") to the left of the name of your
5 choice. (Provide illustration of correctly-marked voting position here.)
6 To vote for a candidate whose name is not printed on the ballot, (insert
7 "mark the oval (or square) to the left of 'write-in' and print the name
8 clearly" or "print the name clearly in the box labeled 'write-in'"),
9 staying within the box. Any mark or writing outside the spaces provided
10 for voting may void the entire ballot. The number of choices is listed
11 for each contest. Do not mark the ballot for more candidates than
12 allowed. If you do, your vote in that contest will not count. If you
13 make a mistake, or want to change your vote, ask a poll worker for a new
14 ballot.

15 14. The state board of elections shall provide line drawing illus-
16 trations to supplement these instructions. At a minimum, an illustration
17 of the correct way to mark the ballot shall be provided, but nothing in
18 this section shall be construed to limit the board in providing addi-
19 tional illustrations.

20 15. When a question or proposal is included on the ballot,
21 instructions substantially like the following shall be included:

22 Instructions for Voting on Questions and Proposals

23 To vote on a question or proposal, mark the (insert "oval" or "square")
24 to the (insert "left", "above" or "below") of your choice. If you make a
25 mistake, or want to change your vote, ask a poll worker for a new
26 ballot.

27 16. When a question or proposal appears on the back of the ballot,
28 there shall appear on the front of the ballot words or a symbol indicat-
29 ing that the voter should turn over the ballot.

30 17. The voting oval or square shall be to the left of the name of the
31 candidate.

32 18. All text, including the name of each candidate as provided in
33 subdivision three of this section, shall be printed using standard
34 capitalization in accordance with instructions provided by the state
35 board of elections and shall not be printed using all capital letters.

36 19. The ballot shall use one font or font family with enough vari-
37 ations for all text needs.

38 20. "Vote for one" or "Vote for up to" (the blank space to be
39 filled with the number of persons to be nominated for the office or
40 elected to the position), as applicable, shall be printed immediately
41 below each office title appearing on the ballot.

42 21. No party emblems shall be printed on the ballot.

43 22. The names of candidates for the same office shall appear on the
44 same page and in the same column or columns or row or rows of that page
45 of a printed ballot, and may not be separated by a perforation.

46 23. All text, including the title of each office and the name of each
47 candidate, shall be printed flush left and shall not be centered on the
48 ballot or in any column or row appearing on the ballot; provided howev-
49 er, in a multi-column or multi-row contest, the title and number of
50 allowable selections to be made for each such office may be centered.

51 24. If used, shading shall be used consistently, so as to differen-
52 tiate instructions from ballot section dividers and contest information.

25. Above, below, or to the right of the name of each candidate, shall be printed, in less prominent type face than that in which the candidate's name is printed, the name of ~~[the]~~ each political party or independent body by which the candidate was nominated or designated.

26. All paper ballots of the same kind for the same polling place shall be identical.

27. To the extent practicable, the ballot shall also comply with the following specifications:

(a) The instructions in subdivision ten of this section shall be printed in the upper left hand corner of the front of the ballot;

(b) The name of each candidate shall be printed using a font size of not less than nine points;

(c) When the instructions are contained on the ballot, there shall be a clear delineation between the ballot instructions and the first office or ballot question or proposal through the use of white space, illustration, shading, color, font size, or bold type.

§ 2. Section 7-116 of the election law, subdivisions 2, 3, 4 and 6 as amended by chapter 411 of the laws of 2019, subdivision 3-a as added by chapter 143 of the laws of 1996, subdivision 5 as amended by chapter 279 of the laws of 1992, and subdivision 7 as added by chapter 173 of the laws of 2017, is amended to read as follows:

§ 7-116. Ballots; order of names on. 1. In printing the names of candidates on the ballot for presidential and gubernatorial races for office, the candidate or candidates of the party which polled for its candidate for the office of governor at the last preceding election for such office the highest number of votes, shall be the first row or column ~~[A or one]~~ and the candidates of the other parties shall be placed on such ballot in descending order of such votes.

~~2. The officer or board who or which prepares the ballot shall determine the order in which shall appear, below the names of party candidates the nominations made only by independent bodies. Such officer or board also shall determine the order in which shall be printed the names of two or more candidates nominated by one party or independent body, for an office to which two or more persons are to be elected, provided, however, that any such candidate may, by a writing filed with such board or officer not later than three business days after the adjournment of the convention or one week after the primary election nominating him or her, or otherwise not later than two days after the filing of the petition or certificate nominating him or her, demand that such order be determined by lot, and in that case such order shall be so determined, upon two days notice by mail given by such board or officer to each candidate for such office. The state board of elections shall perform the duties required by this subdivision in all cases affecting nominations filed in its office.~~

~~3. The officer or board with whom or which are filed the designations for a public office or party position shall determine by lot, upon two days notice by mail given by such board or officer to each candidate for such office or position and to the committee, if any, named in the designating petition, the order in which shall be printed on the official primary ballot, under the title of the office or position, the names of candidates for public office, the names of candidates for a party position to which not more than one person is to be elected, and the groups of names of candidates for party position where two or more persons are to be elected thereto and any petition designates two or more persons therefor, provided, however, that whenever groups of names for more than one party position are designated by the same petition,~~

~~the order in which they shall be printed on the official primary ballot shall be determined by a single lot. Candidates for delegate or delegates and alternate delegate or delegates to conventions designated by the same petition shall, for the purpose of this subdivision, be treated as one group. The names of candidates, if any, for a party position to which two or more persons are to be elected, who are designated by individual petitions and not in a group shall be printed after such group or groups, in such order between themselves, as such officer or board shall determine by lot upon the notice specified in this subdivision. The names within a group of candidates designated for party position by one petition shall be printed in the same order in which they appear in the petition, unless they appear in a different order on different pages of the petition, in which case their order within the group shall be determined by such officer or board by lot upon the notice specified in this subdivision. Candidates for members of a state committee designated by a single petition shall, for the purposes of this subdivision, be treated as one group. However, the notice to a committee of the drawing need not be mailed to more than five members, if there be that many, and as to offices or party positions for which designating petitions are filed with the board of elections of the city of New York the notice shall be given to the committees only.~~

~~3-a. The state board of elections shall prescribe the method, or two or more alternative methods, for making the determinations by lot required by subdivisions two and three of this section. Each county board of elections shall adopt one of such methods at least ninety days before any election to which such method shall apply.~~

4.] 2. In printing the names of candidates on the ballot for all other elections, the candidate or candidates of the party which polled for its candidate for the office at the last preceding election for such office the highest number of votes, shall be the first row or column and the candidates of the other parties shall be placed on such ballot in descending order of such votes.

3. If a vacancy in a designation or nomination be filled after the making, in the manner provided in this section, of a determination of the order in which the names of candidates for the office or position are to be printed, to the extent practicable, the name of the candidate designated or nominated to fill such vacancy shall be printed in the place so determined for the original candidate.

~~[5-]~~ 4. The titles of public offices shall appear on ballots for primary elections in the same consecutive order that they will appear on the general election ballot. The titles of the party positions shall appear in the following order: member of state committee, assembly district leader, associate assembly district leader, members of county committee in the city of New York, delegate or delegates to conventions, alternate delegate or delegates to conventions, and members of county committee in counties outside of the city of New York. Where, pursuant to the rules of the county committee, the party position involved is that of assembly district leader or associate assembly district leader for a part of an assembly district, such part shall be so indicated in the title on the ballot.

~~[6-]~~ 5. (a) In cases where a name is added to or removed from the ballot by court order too late to make a complete adjustment to these requirements feasible, the name may be added at the end of the list of candidates in all election districts, or removed from the ballot in all election districts without changing the previously arranged order of other names and without invalidating the election. Any inadvertent error

1 in the order of names discovered too late to correct the order of the
2 names on the ballots concerned shall not invalidate an election.

3 (b) Except where a contest or candidate is removed from the ballot by
4 court order too late to make complete compliance with this paragraph
5 feasible, the title of each public office or party position and the
6 names of the candidates for such office or position appearing on any
7 ballot used for primary elections over which the county board of
8 elections has jurisdiction shall appear on such ballot immediately adja-
9 cent to one another, either horizontally or vertically; and no blank
10 spaces shall separate the names of candidates actually running for an
11 office or party position on such ballot, and no blank spaces shall sepa-
12 rate any two such offices or positions which appear on such ballot in
13 the same column or row.

14 ~~[7-]~~6. Whenever a county board of elections or the board of elections
15 in the city of New York must conduct a primary election in the respec-
16 tive county or the city of New York in which separate contests for both
17 male and female candidates for the same party position are to be printed
18 upon the ballots, the respective county board of elections or the board
19 of elections in the city of New York shall determine by lot whether to
20 first print the contest for the male candidates or the contest for the
21 female candidates. After such determination, the same order shall be
22 used for all ballots printed by the board of elections for the entire
23 county or city of New York and for all contests where there are
24 elections separated by male and female candidates for the same party
25 position.

26 § 3. Section 2-104 of the election law, subdivision 1 as amended by
27 chapter 659 of the laws of 1994 and subdivision 2 as amended by chapter
28 234 of the laws of 1976, is amended to read as follows:

29 § 2-104. County committee; creation. 1. The county committee of each
30 party shall be constituted by the election in each election district
31 within such county of at least two members and of such additional
32 members, not in excess of two, as the rules of the county committee of
33 the party within the county or the statement filed pursuant hereto may
34 provide for such district, proportional to the ~~[party]~~ vote in the
35 district for governor at the last preceding gubernatorial election, or
36 in case the boundaries of such district have been changed or a new
37 district has been created since the last preceding gubernatorial
38 election, proportional to the ~~[party]~~ vote cast for member of assembly
39 or in the event there was no election for member of assembly, then
40 proportional to the number of enrolled voters of such party in such
41 district on the list of enrolled voters last published by the board of
42 elections, excluding voters in inactive status; provided that each party
43 which nominated such candidate for such office shall receive the same
44 proportion. In a county in which no additional members are provided for
45 by the rules of the county committee or the statement filed pursuant
46 hereto the voting power of each member shall be in proportion to such
47 ~~[party]~~ vote or, if the election district which such member represents
48 was created or changed since the last election for member of assembly,
49 proportional to such party enrollment. In a county in which additional
50 members are so provided for, on the basis of the ~~[party]~~ vote or enroll-
51 ment in election districts within such county, each member shall have
52 one vote. Each member of a county committee shall be an enrolled voter
53 of the party residing in the county and the assembly district from which
54 or in the assembly district containing the election district in which
55 such member is elected except that a member of a county committee who,
56 as a result of an alteration of assembly district lines, no longer

1 resides within such assembly district may continue to serve for the
2 balance of the term to which he was elected.

3 2. If, pursuant to section one of article thirteen of the constitu-
4 tion, such committee or a state convention of the party shall provide by
5 rule for equal representation of the sexes on such committee, the rules
6 of such committee relative to additional members, either from election
7 districts or at large, shall be formulated and applied in such manner
8 that the whole membership shall consist of an even number, equally
9 divided between the sexes. When any such rule provides for equal repre-
10 sentation of the sexes, the designating petitions and primary ballots
11 shall list candidates for such party positions separately by sexes.

12 3. Notwithstanding the provisions of subdivision one of this section,
13 a county committee of a party shall be legally constituted if twenty-
14 five per centum of the committeemen required to be elected in such coun-
15 ty, as provided in subdivision one of this section, have been elected.

16 § 4. Section 6-124 of the election law, as amended by chapter 876 of
17 the laws of 1977, is amended to read as follows:

18 § 6-124. Conventions; judicial. A judicial district convention shall
19 be constituted by the election at the preceding primary of delegates and
20 alternate delegates, if any, from each assembly district or, if an
21 assembly district shall contain all or part of two or more counties and
22 if the rules of the party shall so provide, separately from the part of
23 such assembly district contained within each such county. The number of
24 delegates and alternates, if any, shall be determined by party rules,
25 but the number of delegates shall be substantially in accordance with
26 the ratio, which the number of votes cast for the [party] candidate for
27 the office of governor, [~~on the line or column of the party~~] at the last
28 preceding election for such office, in any unit of representation, bears
29 to the total vote cast at such election for such candidate [~~on such line~~
30 ~~or column~~] in the entire state; provided that each party which nominated
31 such candidate for such office shall receive the same proportion. The
32 number of alternates from any district shall not exceed the number of
33 delegates therefrom. The delegates certified to have been elected as
34 such, in the manner provided in this chapter, shall be conclusively
35 entitled to their seats, rights and votes as delegates to such conven-
36 tion. When a duly elected delegate does not attend the convention, his
37 place shall be taken by one of the alternates, if any, to be substituted
38 in his place, in the order of the vote received by each such alternate
39 as such vote appears upon the certified list and if an equal number of
40 votes were cast for two or more such alternates; the order in which such
41 alternates shall be substituted shall be determined by lot forthwith
42 upon the convening of the convention. If there shall have been no
43 contested election for alternate, substitution shall be in the order in
44 which the name of such alternate appears upon the certified list, and if
45 no alternates shall have been elected or if no alternates appear at such
46 convention, then the delegates present from the same district shall
47 elect a person to fill the vacancy.

48 § 5. This act shall take effect one year after it shall have become a
49 law and shall apply to all elections which occur on or after such date.