STATE OF NEW YORK

9512

IN ASSEMBLY

March 16, 2022

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

AN ACT to amend the election law, the New York city charter, and the administrative code of the city of New York, in relation to prohibiting ranked choice voting and requiring run-off elections for any election in which no candidate receives more than fifty percent of the vote; and to repeal certain provisions of the New York city charter and the election law relating thereto

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

Section 1. Article 8 of the election law is amended by adding a new title 7 to read as follows:

TITLE 7

GENERAL PROVISIONS

Section 8-700. Ranked choice voting prohibited.

8-702. Run-off elections.

§ 8-700. Ranked choice voting prohibited. Ranked choice voting shall not be utilized for any election held in the state. For purposes of this title "ranked choice voting" shall mean a method of casting and tabulating votes that simulates the ballot counts that would occur if all voters participated in a series of run-off elections, whereby the voters rank candidates according to the order of their choice and, if no candidate has received a majority of votes, the candidate with the fewest first choice votes shall be eliminated and the remaining candidates advance to another counting round. In every round, each ballot shall be counted as one vote for the highest ranked advancing candidate.

§ 8-702. Run-off elections. When no candidate for any office receives more than fifty percent of the vote, the board of elections administering the election shall conduct a run-off election between the two candidates receiving the greatest number of votes for the same office. If one of the two candidates receiving the greatest number of votes for the same office files with the local board of elections a certificate of withdrawal within three days following such election, the board shall accept and certify the withdrawal and declare the remaining candidate the winner and no such run-off election shall be held. Such certificate of withdrawal shall be in affidavit or affirmation form as determined by the state board of elections.

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

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§ 2. Subdivision 1 of section 9-112 of the election law, as amended by chapter 334 of the laws of 2013, is amended to read as follows:

1. The whole ballot is void if the voter (a) does any act extrinsic to the ballot such as enclosing any paper or other article in the folded ballot or (b) defaces or tears the ballot except that a ballot card which is in perforated sections shall not be void because it has been separated into sections or (c) makes any erasure thereon or (d) makes any mark thereon other than a cross X mark or a check V mark in a voting square, or filling in the voting square, **or (e) makes any mark on such ballot indicating that such voter is ranking the candidates** or [~~(e)~~] **(f)** writes, other than in the space provided, a name for the purpose of voting; except that an erasure or a mark other than a valid mark made in a voting square shall not make the ballot void, but shall render it blank as to the office, party position or ballot proposal in connection with which it is made. No ballot shall be declared void or partially blank because a mark thereon is irregular in form. The term "voting square" shall include the voting space provided for a voter to mark his or her vote for a candidate or ballot proposal.

§ 3. Section 1057-g of the New York city charter is REPEALED.

§ 4. Paragraph 10 of subdivision c of section 10 of the New York city charter, as amended by section 2 of question 1 of local law number 215 of the city of New York for the year 2019, is amended to read as follows:

10. If an election is held pursuant to this subdivision for which nominations were made by independent nominating petitions, [~~and if such election has not utilized ranked choice voting as provided in section 1057-g,~~] and if at such election, no candidate receives [~~forty~~] **more than fifty** percent [~~or more~~] of the vote, the two candidates receiving the most votes shall advance to a runoff election which shall be held on the second Tuesday next succeeding the date on which such election was held.

§ 5. Section 6-162 of the election law is REPEALED.

§ 6. Paragraph (b) of subdivision 1 of section 8-100 of the election law, as amended by chapter 6 of the laws of 2019, is amended to read as follows:

(b) [~~In~~] **With the exception of village elections, in** the event a run-off [~~primary~~] election is required [~~in the city of New York~~], it shall be held on the fourth Tuesday next succeeding the date on which the initial [~~primary~~] election was held.

§ 7. Subdivision 1, paragraph (b) of subdivision 2, and subparagraph (ii) of paragraph (e) of subdivision 4 of section 8-600 of the election law, subdivision 1 and subparagraph (ii) of paragraph (e) of subdivision 4 as added by chapter 6 of the laws of 2019, and paragraph (b) of subdivision 2 as added by chapter 110 of the laws of 2021, are amended to read as follows:

1. Beginning the tenth day prior to any general, primary, run-off [~~primary pursuant to subdivision one of section 6-162 of this chapter~~] or special election for any public or party position except for such an election held pursuant to title two of article six or article fifteen of this chapter, and ending on and including the second day prior to such general, primary, run-off [~~primary~~] or special election for such public office or party position, persons duly registered and eligible to vote at such election shall be permitted to vote as provided in this title. The board of elections shall establish procedures, subject to approval of the state board of elections, to ensure that persons who vote during

the early voting period shall not be permitted to vote subsequently in the same election.

(b) For any special, primary or run-off [~~primary~~] election at which no voters of the municipality with the highest population within the county are eligible to vote, the board of elections may, in lieu of having an early voting polling place in such municipality, designate a polling place for early voting in the municipality with the highest population within the county within which the voters are eligible to vote at such special, primary, or run-off [~~primary~~] election.

(ii) a run-off [~~primary pursuant to subdivision one of section 6-162 of this chapter~~] **election** shall be made as soon as practicable.

§ 8. Paragraph d of subdivision 1 of section 15-104 of the election law, as amended by chapter 684 of the laws of 2006, is amended to read as follows:

d. Except as otherwise provided by law, to be elected in a village election, a candidate must receive more votes than any other candidate for the office. In the event [~~of a tie at a village election~~] **that no candidate receives more than fifty percent of the vote**, a run-off election shall be conducted pursuant to the provisions of section 15-126 of this article; provided, however, that if [~~all~~] **the two** candidates receiving [~~an equal~~] **the greatest** number of votes agree to waive a run-off election, the election shall be determined according to the provisions of paragraph d of subdivision two of section 15-126 of this article.

§ 9. Paragraphs b and c of subdivision 2 of section 15-126 of the election law, as amended by chapter 684 of the laws of 2006, are amended to read as follows:

b. In the event that [~~more eligible persons than the number remaining to be elected receive for the same office or offices an equal number of votes~~] **no candidate receives more than fifty percent of the vote**, the board of trustees shall conduct a run-off election **between the two persons receiving the greatest number of votes for the same office**. Such run-off election shall be held on the first Tuesday at least ten days after the final certification of such [~~tie~~] result, subject to the provisions of paragraph b of subdivision three of section 15-104 of this article, provided, however, that the only persons who shall be deemed nominated shall be those **two** persons who shall have received [~~such equal~~] **the greatest** number of votes. The order of the candidates names on the ballot shall be determined by a drawing conducted by a village clerk, in the presence of all those persons who received such [~~equal~~] number of votes, or a representative of such persons.

c. Such run-off election may be waived and the selection made by lot as otherwise provided by this section if [~~each person~~] **the two persons** who shall have received such [~~equal~~] **greatest** number of votes shall file with the village clerk, no later than two days after such final certification of such tie result, a written notice of consent that such selection be made by lot.

§ 10. Subdivision 10 of section 3-702 of the administrative code of the city of New York, as amended by local law number 12 of the city of New York for the year 2003, is amended to read as follows:

10. The term "covered election" shall mean any primary, [~~run-off primary,~~] special, run-off [~~special~~] or general election for nomination for election, or election, to the office of mayor, public advocate, comptroller, borough president or member of the city council.

§ 11. Subparagraph (iii) of paragraph (f) of subdivision 1 and subdivision 1-a of section 3-703 of the administrative code of the city of

New York, subparagraph (iii) of paragraph (f) of subdivision 1 as amended by local law number 128 of the city of New York for the year 2019 and subdivision 1-a as amended by local law number 67 of the city of New York for the year 2007, are amended to read as follows:

(iii) for member of the city council, shall exceed one thousand five hundred dollars; provided that a participating candidate and his or her principal committee or a non-participating candidate and his or her authorized committees may accept additional contributions which do not exceed one half the amount of the applicable limitation for any run-off [~~primary~~] election, additional day for voting held pursuant to section 3-108 of the New York state election law, special election to fill a vacancy, [~~run-off special election to fill a vacancy,~~] delayed or otherwise postponed election, or election held pursuant to court order which is a covered election and in which the candidate seeks nomination for election or election; and provided further that for the purposes of this paragraph, contributions made by different labor organizations shall not be aggregated or treated as contributions from a single contributor for purposes of the contribution limit that is set forth in this paragraph if those labor organizations make contributions from different accounts, maintain separate accounts with different signatories, do not share a majority of members of their governing boards, and do not share a majority of the officers of their governing boards; and provided further that if state law prescribes a contribution limitation of a lesser amount, this paragraph shall not be deemed to authorize acceptance of a contribution in excess of such lesser amount. The maximum contributions set forth in this paragraph shall be adjusted in accordance with subdivision seven of this section;

1-a. Notwithstanding any inconsistent provision of this section, a participating candidate or his or her principal committee may not accept, either directly or by transfer, any contribution or contributions for a covered election in which he or she is a participating candidate from a natural person who has business dealings with the city, as that term is defined in subdivision eighteen of section 3-702 of this chapter, if the aggregate of such contributions to such candidate from such person for all covered elections in the same calendar year exceeds: (i) for the office of mayor, public advocate or comptroller four hundred dollars; (ii) for borough president three hundred twenty dollars; and (iii) for member of the city council two hundred fifty dollars; provided that a participating candidate or his or her principal committee may accept additional contributions which do not exceed one half the amount of the applicable limitation for any run-off [~~primary~~] election, additional day for voting held pursuant to section 3-108 of the New York state election law, special election to fill a vacancy, [~~run-off special election to fill a vacancy,~~] delayed or otherwise postponed election, or election held pursuant to court order which is a covered election and in which the candidate seeks nomination for election or election. Any contribution made pursuant to this section shall not be a matchable contribution. For purposes of this subdivision, "person" shall include any chief executive officer, chief financial officer and/or chief operating officer of an entity which has business dealings with the city, any person employed in a senior managerial capacity regarding such an entity, or any person with an interest in such an entity which exceeds ten percent of the entity. For purposes of this subdivision, the phrase "senior managerial capacity" shall mean a high level supervisory capacity, either by virtue of title or duties, in which substantial discretion and oversight is exercised over the solicitation, letting or adminis-

tration of business transactions with the city, including contracts, franchises, concessions, grants, economic development agreements and applications for land use approvals. Notwithstanding any provision of this subdivision, the limitations on contributions contained herein shall not apply to any contribution made by a natural person who has business dealings with the city to a participating candidate or his or her principal committee where such participating candidate is the contributor, or where such participating candidate is the contributor's parent, spouse, domestic partner, sibling, child, grandchild, aunt, uncle, cousin, niece or nephew by blood or by marriage.

§ 12. Paragraphs (a) and (c) of subdivision 5 of section 3-705 of the administrative code of the city of New York, as amended by local law number 12 of the city of New York for the year 2003, are amended to read as follows:

(a) Notwithstanding any other provision of this chapter, a participating candidate in a run-off [~~primary~~] election held pursuant to section [~~6-162~~] 8-702 of the New York state election law [~~or a run-off special election to fill a vacancy~~] shall obtain prompt payment for qualified campaign expenditures in an amount equal to twenty-five cents for each one dollar of public funds paid pursuant to this chapter to the candidate's principal committee for the preceding election.

(c) Except as provided for by this subdivision and any rules promulgated hereby, no public funds shall be provided to any candidate for any run-off [~~primary election, run-off special~~] election [~~to fill a vacancy~~], additional day for voting, election held pursuant to court order, or delayed or otherwise postponed election.

§ 13. Subparagraph (i) of paragraph (b) of subdivision 1 of section 3-706 of the administrative code of the city of New York, as amended by local law number 34 of the city of New York for the year 2007, is amended to read as follows:

(i) The expenditure limitation in a run-off [~~primary~~] election held pursuant to section [~~6-162~~] 8-702 of the New York state election law [~~or a run-off special election held to fill a vacancy~~] shall be one half the amount of the applicable limitation provided for an election for such office pursuant to the provisions of paragraph (a) of this subdivision.

§ 14. Subdivisions 5 and 6 of section 3-709 of the administrative code of the city of New York, subdivision 5 as amended by local law number 128 of the city of New York for the year 2019 and subdivision 6 as amended by local law number 12 of the city of New York for the year 2003, paragraph (a) of subdivision 6 as amended by local law number 168 of the city of New York for the year 2016, are amended to read as follows:

5. (a) No moneys shall be paid to participating candidates in a primary or general election any earlier than December 15 of the year preceding the primary election, or the thirtieth day after a special election is held to fill a vacancy for the office sought by the candidate; whichever is later.

[~~(a)~~] (b) No moneys shall be paid to participating candidates in a run-off [~~primary~~] election held pursuant to section [~~6-162~~] 8-702 of the election law any earlier than the day after the day of the [~~primary~~] election held to nominate candidates for such election.

[~~(b) No moneys shall be paid to participating candidates in a run-off special election held to fill a vacancy any earlier than the day after the day of the special election for which such run-off special election is held.~~]

6. [~~(a)~~] No moneys shall be paid to participating candidates in a run-off [~~primary~~] election held pursuant to section [~~6-162~~] 8-702 of the election law any earlier than the day after the day of the [~~primary~~] election held to nominate candidates for such election.

[~~(b) No moneys shall be paid to participating candidates in a run-off special election held to fill a vacancy any earlier than the day after the day of the special election for which such run-off special election is held.~~]

§ 15. Paragraph (b) of subdivision 1 and subparagraph (ii) of paragraph (b) of subdivision 5 of section 3-709.5 of the administrative code of the city of New York, as amended by local law number 169 of the city of New York for the year 2016, are amended to read as follows:

(b) In any year in which a run-off [~~primary or run-off special~~] election to fill a vacancy for a city-wide office is held, any participating candidate and any limited participating candidate for nomination or election to such city-wide office who is on the ballot shall participate in one run-off election debate. If, seven days prior to the date of the run-off election debate, the New York city board of elections has not yet approved a finalized run-off ballot, the participating and limited participating candidates with the two highest vote counts in the [~~primary or special~~] election immediately preceding the run-off election, as determined by the New York city board of elections unofficial election results, shall participate in one run-off election debate. If any additional candidate is separated from the candidate with the second highest vote count by one percent or less of all votes cast in the [~~special or primary~~] election immediately preceding the run-off election, as determined by the New York city board of elections unofficial election results, then such candidate shall also participate in such run-off election debate. If the New York city board of elections determines prior to the run-off debate that a run-off election will not take place, the debate sponsors and the board shall cancel the run-off election debate.

(ii) If a debate sponsor has determined that a non-participating candidate has met all the non-partisan, objective, and non-discriminatory criteria applicable to participating candidates and limited participating candidates for access to any of the primary, general, or special election debates, the sponsor may invite that candidate to participate in such debate. In the case of a run-off [~~primary election or a run-off special~~] election, the sponsor may invite a non-participating candidate to participate in such debate. However, if a non-participating candidate does not accept such invitation to debate or does not appear at such debate, the debate shall go forward as scheduled; provided, however, if there is only one participating candidate or limited participating candidate participating in any such debate, such debate shall be canceled.

§ 16. Clause (iii) of subparagraph (a) of paragraph 15 of subdivision a of section 1052 of the New York city charter, as added by section 7 of question 2 of local law number 60 of the city of New York for the year 2010, is amended to read as follows:

(iii) "Covered election" shall mean any primary, [~~run-off primary,~~] special, run-off [~~special~~] or general election for nomination for election, or election, to the office of mayor, public advocate, comptroller, borough president or member of the city council.

§ 17. This act shall take effect immediately and shall apply to all elections held in the state on or after January 1, 2023.