

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:

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

TITLE 7

GENERAL PROVISIONS

5 Section 8-700. Ranked choice voting prohibited.

6 8-702. Run-off elections.

7 § 8-700. Ranked choice voting prohibited. Ranked choice voting shall
8 not be utilized for any election held in the state. For purposes of this
9 title "ranked choice voting" shall mean a method of casting and tabu-
10 lating votes that simulates the ballot counts that would occur if all
11 voters participated in a series of run-off elections, whereby the voters
12 rank candidates according to the order of their choice and, if no candi-
13 date has received a majority of votes, the candidate with the fewest
14 first choice votes shall be eliminated and the remaining candidates
15 advance to another counting round. In every round, each ballot shall be
16 counted as one vote for the highest ranked advancing candidate.

17 § 8-702. Run-off elections. When no candidate for any office receives
18 more than fifty percent of the vote, the board of elections administer-
19 ing the election shall conduct a run-off election between the two candi-
20 dates receiving the greatest number of votes for the same office. If one
21 of the two candidates receiving the greatest number of votes for the
22 same office files with the local board of elections a certificate of
23 withdrawal within three days following such election, the board shall
24 accept and certify the withdrawal and declare the remaining candidate
25 the winner and no such run-off election shall be held. Such certificate
26 of withdrawal shall be in affidavit or affirmation form as determined by
27 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 runoff ~~[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

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

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

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

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

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

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

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

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

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

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

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

1 New York, subparagraph (iii) of paragraph (f) of subdivision 1 as
2 amended by local law number 128 of the city of New York for the year
3 2019 and subdivision 1-a as amended by local law number 67 of the city
4 of New York for the year 2007, are amended to read as follows:

5 (iii) for member of the city council, shall exceed one thousand five
6 hundred dollars; provided that a participating candidate and his or her
7 principal committee or a non-participating candidate and his or her
8 authorized committees may accept additional contributions which do not
9 exceed one half the amount of the applicable limitation for any run-off
10 ~~[primary]~~ election, additional day for voting held pursuant to section
11 3-108 of the New York state election law, special election to fill a
12 vacancy, ~~[run-off special election to fill a vacancy]~~, delayed or other-
13 wise postponed election, or election held pursuant to court order which
14 is a covered election and in which the candidate seeks nomination for
15 election or election; and provided further that for the purposes of this
16 paragraph, contributions made by different labor organizations shall not
17 be aggregated or treated as contributions from a single contributor for
18 purposes of the contribution limit that is set forth in this paragraph
19 if those labor organizations make contributions from different accounts,
20 maintain separate accounts with different signatories, do not share a
21 majority of members of their governing boards, and do not share a major-
22 ity of the officers of their governing boards; and provided further that
23 if state law prescribes a contribution limitation of a lesser amount,
24 this paragraph shall not be deemed to authorize acceptance of a contrib-
25 ution in excess of such lesser amount. The maximum contributions set
26 forth in this paragraph shall be adjusted in accordance with subdivision
27 seven of this section;

28 1-a. Notwithstanding any inconsistent provision of this section, a
29 participating candidate or his or her principal committee may not
30 accept, either directly or by transfer, any contribution or contrib-
31 utions for a covered election in which he or she is a participating
32 candidate from a natural person who has business dealings with the city,
33 as that term is defined in subdivision eighteen of section 3-702 of this
34 chapter, if the aggregate of such contributions to such candidate from
35 such person for all covered elections in the same calendar year exceeds:

36 (i) for the office of mayor, public advocate or comptroller four hundred
37 dollars; (ii) for borough president three hundred twenty dollars; and
38 (iii) for member of the city council two hundred fifty dollars; provided
39 that a participating candidate or his or her principal committee may
40 accept additional contributions which do not exceed one half the amount
41 of the applicable limitation for any run-off ~~[primary]~~ election, addi-
42 tional day for voting held pursuant to section 3-108 of the New York
43 state election law, special election to fill a vacancy, ~~[run-off special~~
44 ~~election to fill a vacancy]~~, delayed or otherwise postponed election, or
45 election held pursuant to court order which is a covered election and in
46 which the candidate seeks nomination for election or election. Any
47 contribution made pursuant to this section shall not be a matchable
48 contribution. For purposes of this subdivision, "person" shall include
49 any chief executive officer, chief financial officer and/or chief oper-
50 ating officer of an entity which has business dealings with the city,
51 any person employed in a senior managerial capacity regarding such an
52 entity, or any person with an interest in such an entity which exceeds
53 ten percent of the entity. For purposes of this subdivision, the phrase
54 "senior managerial capacity" shall mean a high level supervisory capaci-
55 ty, either by virtue of title or duties, in which substantial discretion
56 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.]~~

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

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

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

13 (b) In any year in which a run-off ~~[primary or run-off special]~~
14 election to fill a vacancy for a city-wide office is held, any partic-
15 ipating candidate and any limited participating candidate for nomination
16 or election to such city-wide office who is on the ballot shall partic-
17 ipate in one run-off election debate. If, seven days prior to the date
18 of the run-off election debate, the New York city board of elections has
19 not yet approved a finalized run-off ballot, the participating and
20 limited participating candidates with the two highest vote counts in the
21 ~~[primary or special]~~ election immediately preceding the run-off
22 election, as determined by the New York city board of elections unoffi-
23 cial election results, shall participate in one run-off election debate.
24 If any additional candidate is separated from the candidate with the
25 second highest vote count by one percent or less of all votes cast in
26 the ~~[special or primary]~~ election immediately preceding the run-off
27 election, as determined by the New York city board of elections unoffi-
28 cial election results, then such candidate shall also participate in
29 such run-off election debate. If the New York city board of elections
30 determines prior to the run-off debate that a run-off election will not
31 take place, the debate sponsors and the board shall cancel the run-off
32 election debate.

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

46 § 16. Clause (iii) of subparagraph (a) of paragraph 15 of subdivision
47 a of section 1052 of the New York city charter, as added by section 7 of
48 question 2 of local law number 60 of the city of New York for the year
49 2010, is amended to read as follows:

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

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