STATE OF NEW YORK

4333

2021-2022 Regular Sessions

IN ASSEMBLY

February 1, 2021

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

AN ACT to amend the election law, in relation to additional days of voting as a result of emergencies

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

Section 1. This act shall be known as the "emergency response restoration of the electoral process act".

§ 2. Legislative Declaration. The legislature finds there is a need for an orderly process known in advance to remedy disruptions to the electoral calendar created by emergency circumstances. Because the electoral machinery in a democracy is so important it must not be disturbed or delayed lightly. Only the most exigent of circumstances can justify resorting to the remedies provided by this act.

§ 3. Section 3-108 of the election law, subdivision 5 as added by chapter 394 of the laws of 2008, is amended to read as follows:

§ 3-108. Disaster; additional day for voting. 1. A county board of elections, or the state board of elections with respect to an election conducted in a district in the jurisdiction of more than one county board of elections, may determine that, as the direct consequence of a fire, earthquake, tornado, explosion, power failure, act of sabotage, enemy attack or other disaster[~~, less than twenty-five per centum of the registered voters of any city, town or village, or if the city of New York, or any county therein, actually voted in any general election~~] **or state of emergency, the ability of voters to vote has become, or will imminently become, impossible and such impossibility cannot be mitigated during the scheduled course of voting**. Such a determination by a county board of elections shall be subject to approval by the state board of elections. If the state board of elections makes such a determination, it shall notify the [~~board~~] **boards** of elections having jurisdiction [~~in that county~~] **over that election** that an additional day of election shall

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

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be held, which notice shall show: the nature of the disaster; the county, city, town or village affected thereby; the number of persons duly registered to vote therein at such [~~general~~] election; and the number of persons who voted therein at such [~~general~~] election.

2. The county board of elections**, or the state board of elections, as applicable,** shall thereafter set a date for an additional day for voting in the county, city, town or village affected by the statement, which shall not be more than twenty days after the original date of the [~~general~~] election and shall determine the hours during which the polls shall remain open on such additional day for voting; provided, however, that in any event the polls shall remain open for not less than eleven hours. [~~The~~] **Each** county board of elections **having jurisdiction over such election** shall [~~publish notice thereof not less than twice in each week preceding the date for the additional day for voting, in~~] **notify** newspapers as designated in this chapter[~~, and~~] **in the week preceding the date of the additional day of voting. Such notice shall be provided to all media outlets and county, town, city and village clerks and municipal attorneys not less than one week preceding the date of the additional day of voting and shall be posted on the board's website as soon as possible. To the extent practicable, the board** shall notify all registered voters by mail. Such notice shall also direct attention to any change of polling places and shall contain such other and additional information as in the judgment of the board of elections shall be necessary and proper.

3. Official ballots shall be provided at public expense at each polling place for such additional day of election. In any election district in which voting machines were used upon the original day of voting, they shall be used for the additional day for voting. The [~~original seal~~] **security seals** on such machines shall not be removed nor shall the machines be unlocked until the opening of the polls on the additional day for voting and the board of elections shall provide [~~an~~] additional [~~seal~~] **security seals** to be used as soon as the polls are closed on such day.

4. Only those persons duly registered to vote upon the original date of the [~~general~~] election who did not vote on such date shall be entitled to vote on the additional day for voting. Voting on the additional day provided for in this section shall be accomplished solely by physically appearing at the polling place and nothing contained in this section shall be construed to extend the time set by law for casting or canvassing a **special,** military, absentee**, special federal** or special presidential ballot; provided, however, that nothing contained herein shall be deemed to invalidate any **special, military,** absentee, [~~military~~] **special federal** or special presidential ballot duly received on the original date of the [~~general~~] election.

5. **(a)** A county board of elections, or the state board of elections with respect to an election conducted in a political subdivision in the jurisdiction of more than one county board of elections, may determine that, as the direct consequence of a fire, earthquake, tornado, explosion, power failure, act of sabotage, enemy attack or other disaster **or state of emergency**, the ability to make a filing with respect to any provision of this chapter was substantially impaired. Upon making such a finding, a county board of elections, or the state board of elections shall extend for a reasonable time the period for making such filing. An extension **granted** pursuant to this subdivision [~~granted by a county board of elections~~] shall **not** be [~~subject to the approval of the state~~

~~board of elections if such extension is~~] longer than [~~one~~] two business [~~day~~] days.

(b) A county board of elections, or the state board of elections with respect to an election conducted in a political subdivision in the jurisdiction of more than one county board of elections, may determine that, as the direct consequence of a fire, earthquake, tornado, explosion, power failure, act of sabotage, enemy attack or other disaster or state of emergency, the ability to convene a party caucus on the date scheduled for such caucus and make the required filings for the purpose of nominating one or more candidates was substantially impaired. Upon making such a finding, a county board of elections, or the state board of elections, shall postpone for a reasonable time the date of said party caucus and required filings. An extension granted pursuant to this subdivision shall not be longer than one week from the date of the originally-scheduled party caucus.

(c) If an extension is granted pursuant to this subdivision by the state board of elections, such board shall notify the respective county boards of elections of such extension and post such notice on its website.

(d) The county board of elections shall immediately notify media outlets of the extensions provided pursuant to this section, post such notice to its website and, to the extent practicable for the extension of a party caucus, post such notice at the location of the originally-scheduled caucus. The county board of elections shall also provide written notice to all appropriate county, town, city and village clerks and municipal attorneys.

§ 4. This act shall take effect immediately.