

# STATE OF NEW YORK

7960

2023-2024 Regular Sessions

## IN ASSEMBLY

August 18, 2023

Introduced by M. of A. SIMON -- 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:

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

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

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

9 § 3-108. Disaster; additional day for voting. 1. A county board of  
10 elections, or the state board of elections with respect to an election  
11 conducted in a district in the jurisdiction of more than one county  
12 board of elections, may determine that, as the direct consequence of a  
13 fire, earthquake, tornado, explosion, power failure, act of sabotage,  
14 enemy attack or other disaster [~~, less than twenty five per centum of the~~  
15 ~~registered voters of any city, town or village, or if the city of New~~  
16 ~~York, or any county therein, actually voted in any general election]~~ or  
17 state of emergency, the ability of voters to vote has become, or will  
18 imminently become, impossible and such impossibility cannot be mitigated  
19 during the scheduled course of voting. Such a determination by a county  
20 board of elections shall be subject to approval by the state board of  
21 elections. If the state board of elections makes such a determination,  
22 it shall notify the [~~board~~] boards of elections having jurisdiction [~~in~~  
23 ~~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.

LBD04598-01-3

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

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

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

34 4. Only those persons duly registered to vote upon the original date  
35 of the ~~[general]~~ election who did not vote on such date shall be enti-  
36 tled to vote on the additional day for voting. Voting on the additional  
37 day provided for in this section shall be accomplished solely by phys-  
38 ically appearing at the polling place and nothing contained in this  
39 section shall be construed to extend the time set by law for casting or  
40 canvassing a special, military, absentee, special federal or special  
41 presidential ballot; provided, however, that nothing contained herein  
42 shall be deemed to invalidate any special, military, absentee, ~~[mili-~~  
43 ~~tary]~~ special federal or special presidential ballot duly received on  
44 the original date of the ~~[general]~~ election.

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

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

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

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

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

27 § 4. This act shall take effect immediately.