STATE OF NEW YORK

6708

2023-2024 Regular Sessions

IN SENATE

May 5, 2023

Introduced by Sen. COMRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

AN ACT to amend the election law, in relation to the examination of voting machines by the state board of elections

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

Section 1. Subdivisions 1 and 3 of section 7-201 of the election law, as amended by chapter 181 of the laws of 2005, are amended to read as follows:

1. Any person or corporation owning or being interested in any voting machine or system may apply to have the state board of elections examine such machine or system. Such applicant shall pay to the board before the examination a fee equal to the cost of such examination. The state board of elections shall cause the machine or system to be examined and a report of the examination to be made and filed in the office of the state board. Such examination shall include a determination as to whether the machine or system meets the requirements of section 7-202 of this title and a thorough review and testing of any electronic or computerized features of the machine or system. Such report shall state an opinion as to whether the kind of machine or system so examined can safely [~~and~~], properly, and securely be used by voters and local boards of elections at elections, under the conditions prescribed in this article and the requirements of the federal Help America Vote Act. If the report states that the machine or system can be so used, and the board after its own examination so determines, in accordance with subdivision four of section 3-100 of this chapter, the machine or system [~~shall~~] may be deemed approved, and machines or systems of its kind may be adopted for use at elections as herein provided. Notwithstanding that a machine or system meets the requirements of section 7-202 of this title, the state board, in its discretion, may reject the use of such machine or system on the ground that it is not proper, safe and/or secure. The voting

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

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machine or system shall be examined by examiners or testing laboratories to be selected for such purpose by the state board. Each examiner or laboratory shall receive compensation and expenses for making an examination and report as to each voting machine or system examined by him or it. Neither any member of the state board of elections nor any examiner or owner or employee of any testing laboratory, shall have any pecuniary interest in any voting machine or system. Any form of voting machine or system not so approved, cannot be used at any election.

3. If at any time after any machine or system has been approved pursuant to the provisions of subdivision one or two of this section, the state board of elections has any reason to believe that such machine or system does not meet all the requirements for voting machines or systems set forth in this article, it shall forthwith cause such machine or system to be examined again in the manner prescribed by subdivision one of this section. If the opinions in the report of such examinations do not state that such machine or system can safely [~~and~~], properly **and securely** be used by voters at elections under the conditions prescribed by this article, the state board of elections shall forthwith rescind its approval of such machine or system. After the date on which the approval of any machine or system is rescinded, no machines or systems of such type may be purchased for use in this state. **Notwithstanding that a machine or system meets the requirements of section 7-202 of this title, the state board, in its discretion, may rescind its approval of such machine or system on the ground that it is not proper, safe and/or secure.** The state board of elections shall examine all machines or systems of such type which were previously purchased, to determine if they may continue to be used in elections in this state.

§ 2. This act shall take effect immediately.