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Election Law Proposals for 2011

The following is a brief description of the State Board of Elections legislative proposals to address the administration of elections for 2011.

- SBE 11-01 **Poll Watcher Qualifications:** This bill amends subdivision 4 of §8-500 of the Election Law to prohibit candidates from being poll watchers in those districts where they are running for office.
- SBE 11-02 **Filing of Papers by Express Courier:** This bill adds a new subdivision (3) to §1-106 of the Election Law to recognize delivery services other than the United States Postal Service for the delivery of papers under the Election Law. The bill also amends §5-210(3) to include the State Board of Elections as an entity to receive timely voter registration forms.
- SBE 11-03 **Exempt Election Workers from Jury Duty:** This bill amends Judiciary Law §524 to provide an exemption from jury duty for election inspectors, poll clerks and election coordinators.
- SBE 11-04 **Campaign Financial Disclosure Filings:** This bill would increase the possible fine for a campaign filing violation from \$500 to \$1,000 dollars.
- SBE 11-05 **Publication of Election Results:** This bill would eliminate the outdated and costly requirement that certified election results be printed in certain legal ads.

OVER

- SBE 11-06 **Deadline for Receipt and Canvass of Absentee Ballots:** Eliminates the requirement for an extended retention period for unused ballots in years in which no federal office appears on the ballot. This will help alleviate costs borne by county boards of elections for significant storage space in which such unused ballots are required to be stored.
- SBE 11-07 **Preservation of Ballots and Records of Voting Machines:** Replaces the parts of §9-209 of the Election Law regarding the manner in which ballots are to be canvassed, which were inadvertently removed from the statute in 2010.
- SBE 11-08 **Canvass of Primary Return and Notices to Delegates:** Corrects an omission in the law and adds the recently created thirteenth judicial district to the delegate notice requirements contained in the election law.

New York State Board of Elections Legislative Proposal SBE 11-01

AN ACT to amend the election law in relation to qualifications of poll watchers.

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

1 Section 1. Subdivision 4 of section 8-500 of the election law is
2 amended to read as follows:

3 4. Each watcher must be a qualified voter of the city or county
4 in which he is to serve and no person shall be appointed or act
5 as a watcher who is a candidate for any public office to be voted
6 for by the voters of the district in which he is to serve.

7 §2. This act shall take effect immediately.

EXPLANATION: Matter underscored is new; matter bracketed [] is old law to be omitted.

MEMORANDUM IN SUPPORT

ASSEMBLY BILL # A.

SENATE BILL # S.

ASSEMBLY SPONSOR(S):

SENATE SPONSOR(S):

TITLE: An act to amend the election law in relation to qualifications of poll watchers.

SUMMARY OF PROVISIONS:

This bill amends subdivision 4 of §8-500 of the election law to prohibit candidates from being poll watchers in those districts where they are running for office.

JUSTIFICATION:

The possibility of active or passive electioneering, or the appearance thereof, is eliminated by prohibiting candidates from being poll watchers in the districts where they are candidates on the ballot.

LEGISLATIVE HISTORY:

The State Board proposed this as legislation in 1998, 1999, 2005 and 2010.

FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

Immediately.

AN ACT to amend the election law in relation to filing of papers.

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

1 Section 1. Section 1-106 of the election law is amended by adding
2 a new subdivision (3) to read as follows:

3 3.(A) Any reference in this title to the United States mail
4 shall be treated as including a reference to any delivery service
5 designated by the secretary of the treasury of the United States
6 pursuant to section seventy-five hundred two of the internal
7 revenue code and any reference in this title to a postmark or a
8 postmark by the United States mail shall be treated as including
9 a reference to any date recorded or marked in the manner
10 described in section seventy-five hundred two of the internal
11 revenue code by a designated delivery service. If the State
12 Board of Elections finds that any delivery service designated by
13 such secretary is inadequate for the needs of the state, the
14 State Board of Elections may withdraw such designation for
15 purposes of this article. The State Board of Elections may also
16 designate additional delivery services meeting the criteria of
17 section seventy-five hundred two of the internal revenue code for
18 purposes of this article, or may withdraw any such designation if
19 the State Board of Elections finds that a delivery service so
20 designated is inadequate for the needs of the state. Any

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1 reference in this title to the United States mail shall be
2 treated as including a reference to any delivery service
3 designated by the State Board of Elections and any reference in
4 this title to a postmark by the United States mail shall be
5 treated as including a reference to any date recorded or marked
6 in the manner described in section seventy-five hundred two of
7 the internal revenue code by a delivery service designated by the
8 State Board of Elections.

9 (B) Any equivalent of registered or certified mail designated by
10 the United States secretary of the treasury, or as may be
11 designated by the State Board of Elections pursuant to the same
12 criteria used by such secretary for such designations pursuant to
13 section seventy-five hundred two of the internal revenue code,
14 shall be included within the meaning of registered or certified
15 mail as used in this title. If the State Board of Elections
16 finds that any equivalent of registered or certified mail
17 designated by such secretary or the State Board of Elections is
18 inadequate for the needs of the state, the State Board of
19 Elections may withdraw such designation for purposes of this
20 article.

21 § 2. Section 5-210(3) is amended to read as follows:

22 3. Completed application forms, when received by any [county]
23 board of elections.

EXPLANATION: Matter underscored is new; matter bracketed [] is old law to be omitted.

1 § 3. This act shall take effect immediately.

MEMORANDUM IN SUPPORT

ASSEMBLY BILL# A.

SENATE BILL# S.

ASSEMBLY SPONSOR(S):

SENATE SPONSOR(S):

TITLE: An act amend the election law in relation to filing of papers.

SUMMARY OF PROVISIONS:

This bill adds a new subdivision (3) to §1-106 of the Election Law to recognize delivery services other than the United States Postal Service for the delivery of papers under the Election Law.

The bill also amends §5.210(3) to include the State Board of Elections as an entity to receive timely voter registration forms.

JUSTIFICATION:

The Election Law was developed when the only trusted delivery service was the United States Postal Service. Since that time many reliable private courier services have come into existence, such as Federal Express, United Parcel Service, and other "overnight" courier services. This bill adopts the system used by both the New York State Division of Tax and Finance and the Federal Internal Revenue Service in only allowing recognized delivery services.

Currently if a person sends their voter registration information in a timely manner to an erroneous County Board of Elections, the correct Board of Elections will deem that registration information as timely and process the information. This amendment would clarify that if that information is erroneously sent to the New York State Board of Elections, but is otherwise timely, that this information will be deemed timely and processed by the correct County Board of Elections upon their receipt.

LEGISLATIVE HISTORY:

The State Board proposed this as legislation in 2010.

FISCAL IMPACT:

None.

EFFECTIVE DATE:

New York State Board of Elections

Legislative Proposal SBE 11-02

This act shall take effect immediately.

AN ACT amend the judiciary law in relation to providing an exemption from jury duty for service as an election inspector, poll clerk or election coordinator.

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

1 Section 1. Subdivision (a) of section 524 of the judiciary law is
2 amended to read as follows:

3 (a) A person who has served on a grand or petit jury in any
4 court of the unified court system or in a federal court or acted
5 as an election inspector, poll clerk or election coordinator
6 pursuant to title IV of article 3 of the election law shall not
7 be competent to serve again as a trial or grand juror in any
8 court of the unified court system for four years subsequent to
9 the last day of such service, provided, however, that any person
10 who serves on a grand or petit jury for more than ten days shall
11 not be competent to serve again as a trial or grand juror for a
12 period equal to the period authorized by this subdivision or
13 subdivision (c) of this section, as appropriate, plus four years.

14 § 7. This act shall take effect on the first day of January next
15 succeeding the date on which it shall have become a law.

EXPLANATION: Matter underscored is new; matter bracketed [] is old law to be omitted.

MEMORANDUM IN SUPPORT

ASSEMBLY BILL # A.

SENATE BILL # S.

ASSEMBLY SPONSOR(S):

SENATE SPONSOR(S):

TITLE: An act to amend the judiciary law in relation to providing an exemption from jury duty for service as an election inspector, poll clerk or election coordinator

SUMMARY OF PROVISIONS:

This bill amends Judiciary Law section 524. This act provides for an exemption from jury duty for service as an election inspector, poll clerk or election coordinator

JUSTIFICATION:

Providing an exemption from jury duty for election day workers is a reward for this public service and will be seen as an incentive to volunteer on election day.

LEGISLATIVE HISTORY:

This proposal has been submitted by the Board in past years.

FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

This law shall take effect on the first day of January next succeeding the date on which it shall have become law.

AN ACT to amend the election law, in relation to increasing penalties.

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

1 Section 1:

2 §14-126. Violations; penalties. 1. Any person who fails to
3 file a statement required to be filed by this article shall be
4 subject to a civil penalty, not in excess of [five hundred]one
5 thousand dollars, to be recoverable in a special proceeding or
6 civil action to be brought by the state board of elections or
7 other board of elections.

8 2. Any person who knowingly and willfully fails to file a
9 statement required to be filed by this article within ten days
10 after the date provided for filing such statement or any person
11 who knowingly and willfully violates any other provision of this
12 article shall be guilty of a misdemeanor.

13 3. Any person who knowingly and willfully contributes, accepts
14 or aids or participates in the acceptance of a contribution in an
15 amount exceeding an applicable maximum specified in this article
16 shall be guilty of a misdemeanor.

17 4. Any person who shall, acting on behalf of a candidate or
18 political committee, knowingly and willfully solicit, organize or
19 coordinate the formation of activities of one or more

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1 unauthorized committees, make expenditures in connection with
2 the nomination for election or election of any candidate, or
3 solicit any person to make any such expenditures, for the purpose
4 of evading the contribution limitations of this article, shall be
5 guilty of a class E felony.

6 §2: This act shall take effect 120 days after enactment.

EXPLANATION: Matter underscored is new; matter bracketed [] is old law to be omitted.

MEMORANDUM IN SUPPORT

ASSEMBLY BILL# A.

SENATE BILL# S.

ASSEMBLY SPONSOR(S):

SENATE SPONSOR(S):

TITLE:

An act to amend the election law in relation to civil penalties for non compliance with financial disclosure mandates.

SUMMARY OF PROVISIONS:

Election Law §14-126 is amended to increase the civil penalty for failure to file mandated campaign financial disclosure reports from \$500 to \$1000.

JUSTIFICATION:

The civil penalty was last increased in 1996. A lawsuit resulting in a civil penalty is brought by the State Board as a last step in a process that involves repeated attempts to work with mandated filer to obtain requisite campaign financial disclosure. Every effort is made to assist those who have not made the required filing.

FISCAL IMPLICATION:

No cost to the State. The revenue to the State is undetermined.

LEGISLATIVE HISTORY:

The State Board proposed this as legislation in 2010.

EFFECTIVE DATE:

This act shall take effect 120 days after it shall have become a law.

AN ACT amend the election law in relation to publication of certified copies of election results.

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

1 Section 1. Section 9-212 of the election law is amended by adding
2 to read as follows:

3 § 9-212. Determinations by county canvassing boards.

4 1. The canvassing board shall determine each person elected by
5 the greatest number of votes to each county office, and each
6 person elected by the greatest number of votes to each city, town
7 or village office of a city, town or village of which it is the
8 board of canvassers. The canvassing board shall also determine
9 whether any ballot proposal submitted only to the voters of the
10 county, or only to the voters of a city, town or village which it
11 is the board of canvassers, as the case may be, has by the
12 greater number of votes been adopted or rejected.

13 2. All such determinations shall be in writing and signed by the
14 members of the canvassing board or a majority of them and filed
15 and recorded in the office of the board of elections. [Except in
16 the city of New York and in the counties of Nassau, Orange and
17 Westchester, the board of elections shall cause a copy of such
18 determinations, and of the statements filed in its office upon
19 which such determinations were based, to be published once in

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1 each of the newspapers designated to publish election notices and
2 the official canvass. The statement of canvass to be published,
3 however, shall not give the vote by election districts but shall
4 contain only the total vote for a person, or the total vote for
5 and the total vote against a ballot proposal, cast within the
6 county, or within the portion thereof, if any, in which an office
7 is filled or ballot proposal is decided by the voters if the
8 canvass of the vote thereon devolves upon the county board of
9 canvassers. Such totals shall be expressed in arabic numerals.]

10 3. The board of elections shall prepare and forthwith transmit to
11 each person determined by the canvassing board to have been
12 elected a certified statement, naming the office to which such
13 canvassing board has declared him elected.

14 § 2. This act shall take effect immediately.

MEMORANDUM IN SUPPORT

ASSEMBLY BILL # A.

SENATE BILL # S.

ASSEMBLY SPONSOR(S):

SENATE SPONSOR(S):

TITLE: An act to amend the election law in relation to publication of certified copies of election results

SUMMARY OF PROVISIONS:

This bill amends section 9-212(2) of the election law to eliminate the requirement that certified copies of election results be published in certain legal ads.

JUSTIFICATION:

With the on-site and immediate coverage of elections by the news media the results of an election are immediately known by the public. The current requirement to subsequently publish the certified results are antiquated, redundant and costly.

LEGISLATIVE HISTORY:

The State Board proposed this as legislation in 2010.

FISCAL IMPLICATIONS:

None to the State. Could result in a significant cost savings to the counties.

EFFECTIVE DATE:

This act shall take effect immediately.

AN ACT to amend the election law in relation to the deadline for receipt of absentee ballots.

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

1 **§ 8-412. Absentee ballots; deadline for receipt[, and delivery**
2 **to polling place]**

3 2. Absentee ballots received by the board of elections [before
4 the close of the polls on election day from voters whose
5 applications were received by such board at least seven days
6 before election day] shall be [may be delivered to the
7 inspectors of election in the manner prescribed by this chapter
8 or] retained at the board of elections and cast and canvassed
9 pursuant to the provisions of section 9-209 of this chapter [as
10 such board shall, in its discretion, determine by resolution
11 adopted at least thirty days before election day. All ballots
12 received by the board of elections from voters whose
13 applications were received by such board later than seven days
14 before election day, all ballots received by such board between
15 election day and the seventh day after election day, and all
16 federal write-in ballots received from absentee voters, shall be

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1 retained at the board and shall be cast and canvassed in the
2 same manner as other ballots retained by such board].

3
4 § 9-209. Canvass of absentee, military and special ballots and
5 ballots cast by voters with registration poll records
6 missing on days of election or voters who have not had their
7 identity previously verified or who have moved after
8 registering.

9
10 Before completing the canvass of votes cast in any primary,
11 general, special, or other election at which voters are
12 required to sign their registration poll records before
13 voting, the board of elections shall proceed in the manner
14 hereinafter prescribed to cast and canvass any absentee,
15 military, special presidential, special federal or other
16 special ballots and any ballots voted by voters who moved
17 within the county or city after registering, voters who are in
18 inactive status, voters whose registration was incorrectly
19 transferred to another address even though they did not
20 move, voters whose registration poll records were missing on the
21 day of such election, voters who have not had their

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1 identity previously verified and voters whose registration poll
2 records did not show them to be enrolled in the party in which
3 they claimed to be enrolled. Each such ballot shall be retained
4 in the original envelope containing the voter's affidavit and
5 signature, in which it is delivered to the board of elections
6 until such time as it is to be cast and canvassed.

7
8 1. (a) The board of elections shall designate itself or such
9 of its employees as it shall deem appropriate as a set of poll
10 clerks to cast and canvass such ballots, and fix a time and
11 place for their meeting for such purpose, provided that such
12 meeting shall be no more than fourteen days after a general or
13 special election and no more than eight days after a
14 primary election at which such ballots are voted. The board may
15 designate additional sets of poll clerks and if it designates
16 more than one such set shall apportion among all such sets the
17 election districts from which such ballots have been received,
18 provided that all such ballots from a single election
19 district shall be assigned to a single set of clerks, and that
20 each such set shall be divided equally between representatives
21 of the two major political parties. Each such set of clerks

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1 shall be deemed a central board of inspectors for purposes of
2 this section.

3

4 (b) At least five days prior to the time fixed for such
5 meeting, the board shall send notice by first class mail to each
6 candidate, political party, and independent body entitled to
7 have had watchers present at the polls in any election district
8 in the board's jurisdiction. Such notice shall state the time
9 and place fixed by the board for such canvass.

10

11 (c) Each such candidate, political party, and independent body
12 shall be entitled to appoint such number of watchers to
13 attend upon each central board of inspectors as such
14 candidate, political party, or independent body was entitled to
15 appoint at such election in any one election district for
16 which such central board of inspectors is designated to
17 act.

18

19 2. (a) (i) Upon assembling at the time and place fixed for
20 such meeting, each central board of inspectors shall
21 examine, cast and canvass the envelopes and the ballots therein

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1 contained as nearly as practicable in the following manner:
2 [provided by this chapter for a board of inspectors to consider,
3 cast and canvass absentee ballot envelopes.]

4 1) If a person whose name is on an envelope as a voter has
5 already voted in person at such election, or if his name
6 and residence as stated on the envelope are not on a
7 registration poll record, or the computer generated list
8 of registered voters or the list of special presidential
9 voters, or if there is no name on the envelope, or if the
10 envelope is not sealed, such envelope shall be laid aside
11 unopened.

12
13 2) If there is more than one ballot envelope executed by
14 the same voter, the one bearing the later date of
15 execution shall be accepted and the other rejected. If it
16 cannot be determined which envelope bears the later date,
17 then all such envelopes shall be rejected.

18
19 3) If such person is found to be registered and has not
20 voted in person, an inspector shall compare the signature,
21 if any, on each envelope with the signature, if any, on

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1 the registration poll record, the computer generated list
2 of registered voters or the list of special presidential
3 voters, of the person of the same name who registered from
4 the same address. If the signatures are found to
5 correspond, such inspector shall certify thereto by
6 signing his or her initials in the ``Inspector's
7 Initials'' line on the computer generated list of
8 registered voters or in the ``remarks'' column as
9 appropriate.

10
11 4) If such person is found to be registered and has not
12 voted in person, and if no challenge is made, or if a
13 challenge made is not sustained, the envelope shall be
14 opened, the ballot or ballots withdrawn without unfolding,
15 and the ballot or ballots deposited in the proper ballot
16 box or boxes, or envelopes, provided however that, in the
17 case of a primary election, the ballot shall be deposited
18 in the box only if the ballot is of the party with which
19 the voter is enrolled according to the entry next to his
20 or her name on the computer generated registration list;
21 if not, the ballot shall be rejected without inspection or

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1 unfolding and shall be returned to the envelope which
2 shall be endorsed ``not enrolled``. At the time of the
3 deposit of such ballot or ballots in the box or envelopes,
4 the inspectors shall enter the words ``absentee vote`` or
5 ``military vote`` in the space reserved for the voter's
6 signature on the aforesaid list or in the ``remarks``
7 column as appropriate, and shall enter the year and month
8 of the election on the same line in the spaces provided
9 therefor.

10
11 5) As each envelope is opened, if one or more of the
12 different kinds of ballots to be voted at the election are
13 not found therein, the clerks, or inspectors, shall make a
14 memorandum showing what ballot or ballots are missing. If
15 a ballot envelope shall contain more than one ballot for
16 the same offices, all the ballots in such envelope shall
17 be rejected. When the casting of such ballots shall have
18 been completed the clerks or inspectors shall ascertain
19 the number of such ballots of each kind which have been
20 deposited in the ballot box by deducting from the number
21 of envelopes opened the number of missing ballots, and

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1 shall make a return thereof. The number of absentee
2 voters' ballots deposited in the ballot box shall be added
3 to the number of other ballots deposited in the ballot
4 box, in order to determine the number of all ballots of
5 each kind to be accounted for in the ballot box.

6
7 (ii) If the board of inspectors determines that a person was
8 entitled to vote at such election it shall cast and canvass such
9 ballot if such board finds that ministerial error by the board
10 of elections or any of its employees caused such ballot envelope
11 not to be valid on its face.

12
13 (iii) If the board of elections determines that a person was
14 entitled to vote at such election, the board shall cast and
15 canvass such ballot if such board finds that the voter
16 appeared at the correct polling place, regardless of the fact
17 that the voter may have appeared in the incorrect election
18 district.

19
20 (b)(i) Such board of inspectors shall also cast and
21 canvass any federal write-in absentee ballots validly cast by an

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1 absentee voter, a military voter or a special federal voter
2 for the offices of president and vice-president, United
3 States senator and representative in congress. Such
4 board of inspectors shall also cast and canvass any federal
5 write-in absentee ballots validly cast by a military voter for
6 all questions or proposals, public offices or party positions
7 for which a military voter is otherwise eligible to vote as
8 provided in section 10-104 of this chapter.

9
10 (ii) Federal write-in absentee ballots shall be cast and
11 canvassed only if: (A) an application for an absentee, military
12 or special federal ballot was received from the absentee,
13 military or special federal voter at least thirty days before
14 election day; (B) the federal write-in absentee ballot
15 was submitted from inside or outside the United States by a
16 military voter or was submitted from outside the United States
17 by a special federal voter; (C) such ballot is received by
18 the board of elections not later than thirteen days following
19 the day of election or seven days after a primary election; and
20 (D) the absentee, military or special federal ballot which
21 was sent to the voter is not received by the board of elections

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1 by the thirteenth day following the day of a general or
2 special election or the seventh day after a primary election.

3

4 (iii) If such a federal write-in absentee ballot is received
5 after election day, the envelope in which it is received must
6 contain: (A) a cancellation mark of the United States
7 postal service or a foreign country's postal service; (B) a
8 dated endorsement of receipt by another agency of the
9 United States government; or (C) if cast by a military voter,
10 the signature and date of the voter and one witness thereto
11 with a date which is ascertained to be not later than the day
12 before election day.

13

14 (iv) If such a federal write-in absentee ballot contains the
15 name of a person or persons in the space provided for a vote for
16 any office, such ballot shall be counted as a vote for such
17 person or persons. A vote for a person who is the candidate of a
18 party or independent body either for president or vice-president
19 shall be deemed to be a vote for both the candidates of such
20 party or independent body for such offices. If such a ballot
21 contains the name of a party or independent body in the

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1 space provided for a vote for any office, such ballot shall be
2 deemed to be a vote for the candidate or candidates, if
3 any, of such party or independent body for such office.
4 In the case of the offices of president and vice-president
5 a vote cast for a candidate, either directly or by writing
6 in the name of a party or independent body, shall also be
7 deemed to be votes for the electors supporting such candidate.
8 Any abbreviation, misspelling or other minor variation in the
9 form of the name of a candidate or a party or
10 independent body shall be disregarded in determining the
11 validity of the ballot, if the intention can be ascertained.

12

13 (c) The following provisions shall apply to casting and
14 canvassing of all such ballots which are counted by machine and
15 all other provisions of this chapter with respect to
16 casting and canvassing such ballots which are not inconsistent
17 with this paragraph shall be applicable to such ballots.

18

19 (i) [Such ballots shall be counted by placing them, arranged by
20 election district, in the counting machine.

21

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1 (ii)] Such ballots may be separated into sections before being
2 placed in the counting machine.

3
4 (ii)[i)] Any write-in ballots and any ballots which cannot be
5 counted by the machine shall be counted manually subject to all
6 the applicable provisions of this chapter with respect to
7 counting of ballots.

8
9 (iii)[v)] The record of the vote counted by machine for each
10 candidate and for and against each ballot proposal, printed
11 by election district, shall be preserved in the same
12 manner and for the same period as the returns of canvass for the
13 election.

14
15 (d) Any person lawfully present may object to the refusal to
16 cast or canvass any ballot on the grounds that the voter is a
17 properly qualified voter of the election district, or in the
18 case of a party primary duly enrolled in such party, or to
19 the casting or canvassing of any ballot on the grounds that
20 the voter is not a properly qualified voter of the election
21 district, or in the case of a party primary not duly enrolled

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1 in such party, or otherwise not entitled to cast such ballot.
2 When any such objection is made, the central board of inspectors
3 shall forthwith proceed to determine such objection and reject
4 or cast such ballot according to such determination. If the
5 board cannot agree as to the validity of the ballot it
6 shall set the ballot aside, unopened, for a period of three days
7 at which time the ballot envelope shall be opened and the vote
8 counted unless otherwise directed by an order of the court.

9
10 (e) Upon completing the casting and canvassing of
11 ballots as hereinabove provided for any election district, the
12 central board of inspectors shall thereupon, as nearly
13 as practicable in the manner provided in this chapter for
14 absentee ballots, verify the number of ballots so cast,
15 tally the votes so cast, add such tally to the previous tally
16 of all votes cast in such election district, and announce
17 the result.

18

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MEMORANDUM IN SUPPORT

ASSEMBLY BILL #: A.

SENATE BILL #: S.

ASSEMBLY SPONSOR(S):

SENATE SPONSOR(S):

TITLE: An act to amend the election law in relation to absentee ballots.

SUMMARY OF PROVISIONS:

§ 8-412, of the election law is amended to make the provisions contained therein consistent with the language of certain provisions enacted by chapter 163 of 2010, which disallowed boards of elections from longer sending absentee ballots to poll sites to be canvassed by election inspectors.

In addition §9-209 is amended to add language that was inadvertently repealed from the election law in 2010's legislative efforts to accommodate New York State's new voting systems and processes.

JUSTIFICATION:

The changes to §8-412, reinforces the requirement that absentee ballots must be canvassed at the board of elections rather than at the individual poll sites.

The addition of the language to § 9-209, is the replacement of essential language required to provide the county boards of elections with specific guidance as to how absentee ballot envelopes and ballots are to be processed.

LEGISLATIVE HISTORY:

New bill.

FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

Immediately.

AN ACT to amend the election law in relation to the preservation of ballots and records of voting machines.

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

1 § 3-222. Preservation of ballots and records of voting machines
2
3 1. Except as hereinafter provided, removable memory cards or
4 other similar electronic media[voting machines] shall remain
5 sealed[locked] against reuse[voting for a period of thirty days
6 or] until such time as the information stored on such media has
7 been preserved in a manner consistent with procedures developed
8 and distributed by the state board of elections[fifteen days
9 before the next election, if such machines are needed for use at
10 such next election]. Provided however that the information
11 stored on such electronic media [a machine may be unlocked if a
12 discrepancy discovered in the recanvass of voting machines
13 required by this chapter makes it necessary to examine the
14 machine to determine if it has malfunctioned and provided
15 further that a machine may be opened]and all the data and
16 figures therein may be examined upon the order of any court or
17 judge of competent jurisdiction or may be examined [opened] by

EXPLANATION: Matter underscored is new; matter bracketed [] is old law to be omitted.

1 direction of a committee of the senate or assembly to
2 investigate and report upon contested elections of members of
3 the legislature voted for by the use of [such] voting machines
4 utilizing such electronic media and such data and such figures
5 examined by such committee in the presence of the officer having
6 the custody of such voting machines and electronic media.

7

8 2. [Write-in] Ballots shall be preserved for two years after
9 such election and the packages thereof may be opened and the
10 contents examined only upon order of a court or judge of
11 competent jurisdiction, or by direction of such committee of the
12 senate and assembly if the ballots relate to the election
13 under investigation by such committee, and at the expiration of
14 such time, such ballots may be disposed of at the discretion of
15 the officer or board having charge of them.

16

17 3. Except as hereinafter provided, packages of protested, void
18 and wholly blank ballots, open packages of unused ballots and
19 all absentee and military, special federal, special presidential
20 and emergency ballots and ballot envelopes, if any, opened or
21 unopened, shall be preserved for two years after the election.

EXPLANATION: Matter underscored is new; matter bracketed [] is old law to be omitted.

1 Sealed packages of unused ballots shall be retained for four
2 months, and may then be destroyed, provided a certificate
3 articulating the election district identifying data and numbers
4 of such ballots is filed with the balance of ballots described
5 in this section, for the balance of the two year retention
6 period. Except as hereinafter provided, boxes containing voted
7 paper ballots, if any, shall be preserved inviolate for four
8 months after the
9 election, or until one month before the next election occurring
10 within five months after a preceding election if such boxes are
11 needed for use at such next election and if the officer or board
12 in charge of such voted paper ballots is required by law to
13 furnish ballot boxes therefor. Provided, however, that such
14 ballot boxes and such packages may be opened, and their contents
15 and the absentee and military, special federal, special
16 presidential and emergency ballots and ballot envelopes may be
17 examined, upon the order of any court or justice of competent
18 jurisdiction. Boxes and envelopes containing absentee, military
19 and emergency ballots voted at a general or special election,
20 for the office of member of the senate or assembly, packages of
21 void, protested and wholly blank ballots, unopened absentee and

EXPLANATION: Matter underscored is new; matter bracketed [] is old law to be omitted.

1 military ballot envelopes and the packages of unused ballots, in
2 connection with such election, also may be opened, and their
3 contents and such envelopes also may be examined, by direction
4 of a committee of the senate or assembly to investigate and
5 report on contested elections of members of the legislature.
6 Unless otherwise ordered or directed by such a court, justice or
7 committee, such boxes shall be opened and their contents and
8 such packages and the envelopes containing voted ballots and
9 ballot envelopes shall be destroyed, at the expiration of the
10 period during which they are required by the provisions of this
11 section to be preserved, except that instead of being destroyed,
12 they may be sold and the proceeds paid over in the manner
13 provided with respect to the sale of books, records and papers
14 pertaining to an election.

15

16 [4. The results of the annual test of each voting machine of a
17 type approved after September first, nineteen hundred eighty-
18 six, which is required by this chapter, shall be preserved for
19 two years.]

20

EXPLANATION: Matter underscored is new; matter bracketed [] is old law to be omitted.

1 4[5]. All records and documents pertaining to ballot label
2 programming and ballot label programming data for any election
3 for any voting machine of a type approved after September first,
4 nineteen hundred eighty-six and all records pertaining to the
5 periodic maintenance testing of any such programming and
6 programming data or the testing of any such machine in
7 connection with any such election shall be preserved for two
8 years after such election.

EXPLANATION: Matter underscored is new; matter bracketed [] is old law to be omitted.

MEMORANDUM IN SUPPORT

ASSEMBLY BILL #: A.

SENATE BILL #: S.

ASSEMBLY SPONSOR(S):

SENATE SPONSOR(S):

TITLE: An act to amend the elections law in relation to the preservation of ballots and records of voting machines.

SUMMARY OF PROVISIONS:

Section 1 of the bill clarifies that the removable memory cards or other similar electronic media utilized by the new HAVA compliant voting systems must be securely kept until such time as the information on the media has been preserved in a legal manner.

Section 3 of the bill amends the current ballot retention requirements to reduce the amount of time that unused election ballots must be retained by the county boards of election from two years to 4 months when a certification of the number of ballots and their identifying information is filed and kept for the remainder of the two year period.

JUSTIFICATION:

With the transition to the new HAVA compliant voting systems the county boards of election are now faced with the burdensome and costly requirement to retain even the unused ballots for a full two year period. This is a very voluminous amount of paper and necessarily requires the counties to expend additional money to rent and keep a storage area large enough and with appropriate environmental controls, to securely and properly retain this amount of paper. By requiring a certification of the amounts and identification information associated with these unused ballots and allowing their destruction after 4 months, it will necessarily save the counties money while not lessening the intention of the retention requirements.

LEGISLATIVE HISTORY:

New Bill.

FISCAL IMPLICATIONS:

Will result in a cost savings to the counties.

EFFECTIVE DATE:

The bill shall take effect immediately and shall apply retroactively to the 2011 primary and general elections:

1 AN ACT to amend the election law in relation to addition of
2 thirteenth judicial district

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

3 § 9-200. Canvass of primary returns by board of elections;
4 notices to delegates; certificates

5

6 2. The board forthwith upon the completion of the canvass for
7 members of a state committee and delegates and alternates to a
8 national, state or judicial district convention, shall transmit
9 to the state board of elections a certificate stating the name
10 and residence of each member of a state
11 committee and delegate and alternate elected from a district
12 wholly within the jurisdiction of such board, except that, in
13 respect to a judicial district convention in the first, second,
14 eleventh, [and]twelfth, and thirteenth judicial districts, the
15 board of elections, instead of transmitting such certificate,
16 shall compile the roll of the convention and transmit it to the
17 chairman or secretary of the committee which, by party rules, is
18 empowered to fix the time and place of the convention. The board

EXPLANATION: Matter underscored is new; matter bracketed [] is old law to be omitted.

1 of elections shall send by mail to each delegate and alternate
2 elected a notice of his election. The certificate or roll of the
3 convention shall list the delegates and alternates elected at a
4 primary in the order of the votes received by each delegate or
5 alternate, with the delegate or alternate receiving the highest
6 number of votes listed first. Tie votes shall be indicated in a
7 manner prescribed by the state board of elections. If there
8 shall have been no contested election for alternates, the names
9 of the alternates shall appear on the certificate or roll in the
10 order in which their names appeared on the petition which
11 designated them.

12

13 § 9-202. Canvass of primary returns by state board of elections;
14 convention rolls

15

16 The state board of elections upon receipt by it from boards of
17 elections of the tabulated statements of votes at a primary
18 election required to be filed with it shall proceed forthwith to
19 canvass such statements. Upon the completion of the canvass it
20 shall make, certify and file in its office tabulated statements
21 of the number of votes cast for all the candidates for

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1 nomination to each public office or for election to each party
2 position, and the number of votes cast for each such candidate.
3 The candidate receiving the highest number of votes shall be the
4 nominee of his party for such office or shall be elected to such
5 party position, as the case may be, and the board, if requested,
6 shall furnish to the elected candidates a certificate
7 of election. From such certified statements of the votes for
8 delegates and alternates elected to a state or judicial district
9 convention of any party, other than a judicial district
10 convention in the first, second, eleventh, [and] twelfth, and
11 thirteenth judicial districts, the state board shall forthwith
12 compile the roll of each such convention in duplicate and
13 transmit it, if for a state convention, to the chairman and
14 secretary of the state committee of the party, and if for a
15 judicial district convention, to the chairman and secretary of
16 the committee which, by party rules, is empowered to fix the
17 time and place of the convention. The roll of the convention
18 shall list the candidates elected at a primary in the order of
19 the votes received by each candidate together with the number of
20 votes received by each such candidate. If there shall have been
21 no contested election for alternates, the names of the

EXPLANATION: Matter underscored is new; matter bracketed [] is old law to be omitted.

1 alternates shall appear on the roll in the order in which their
2 names appear on the petition which designated them. The state
3 board of elections shall transmit copies of the certified
4 statements of the votes for delegates and alternates to a
5 national convention of a party to the chairman and secretary of
6 the state committee of such party.

EXPLANATION: Matter underscored is new; matter bracketed [] is old law to be omitted.

MEMORANDUM IN SUPPORT

ASSEMBLY BILL #: A.

SENATE BILL #: S.

ASSEMBLY SPONSOR(S):

SENATE SPONSOR(S):

TITLE: An act to amend the election law in relation to the notice to delegates.

SUMMARY OF PROVISIONS:

The bill amends §9-200 and 9-202 to include the recently created thirteenth judicial districts in the notice to judicial delegate provisions of the election law.

JUSTIFICATION:

It is important that the delegates in the thirteenth judicial district are treated identically to those in the other twelve judicial districts. When the thirteenth district was created, these election law provisions were not updated. The proposed changes will help ensure that any actions relative to all five judicial districts in and for the City of New York, including the newly-created thirteenth district, occur in the proper manner and are handled by the appropriate board of elections.

LEGISLATIVE HISTORY:

New bill.

FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

Immediately.