

CHAPTER 180

AN ACT to amend the election law, in relation to enacting the "election consolidation and improvement act of 2005"; and to repeal certain provisions of such law relating to special provisions governing the boards of elections of certain counties, and the authority of cities and towns to create, consolidate, divide or alter election districts

Became a law July 12, 2005, with the approval of the Governor.
Passed by a majority vote, three-fifths being present.

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

Section 1. Short title. This act shall be known and may be cited as the "election consolidation and improvement act of 2005".

§ 2. Section 3-224 of the election law, as amended by chapter 24 of the laws of 1988, is amended to read as follows:

§ 3-224. Voting machines; use of by other than the board of elections. The board of elections [~~or the local legislative body of a city or town,~~] may permit towns, villages, school districts, fire, ambulance, water, sanitation, police and other special districts within the county to use voting machines and other equipment owned by it and used for the conduct of elections or for educational and instructional purposes, upon such rental and other terms and conditions as shall be fixed by it. Such board [~~or body~~] may similarly permit the use of such machines by associations and organizations for the conduct of elections where it judges the use of such machines for elections conducted by such associations and organizations will be in the public interest.

§ 3. The election law is amended by adding a new section 3-226 to read as follows:

§ 3-226. Boards of elections; ownership, care, custody and control of voting machines. 1. Boards of elections shall direct the purchase, acquisition or lease of voting machines, of a kind authorized by law, which shall be selected by such board provided, however, nothing in this section shall preclude the state board of elections from distributing voting machines to boards of elections without charge. All voting machines, and appliances and equipment relating to or used in the conduct of elections shall be in the care, custody and control of the board of elections. Such board shall cause all necessary repairs and maintenance to be made and employ such help as may be necessary in making such repairs and in moving, setting up and caring for all election materials, equipment and appliances, including voting machines. All supplies, equipment or election appliances to be used or furnished by such board shall be purchased by such board. All expenses of such board of elections shall be certified, audited and paid as are other claims against the county, or in the case of the city of New York, by such city, and all expenses connected with elections and matters preliminary relating thereto, including compensation of inspectors and clerks of election, shall be a county charge, except, at the option of the county, all or any part of the type of expenses connected with elections

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

and matters preliminary or relating thereto that were previously incurred by towns and cities, may be apportioned pursuant to this chapter to a city or town.

2. The board of elections shall publish or post, as the case may be, all notices, lists and other materials relating to elections to which this section applies, and which are required by law to be published or posted in the county, or a political subdivision therein, except publications made by the state board of elections and village clerks.

3. Lists of persons recommended to serve as inspectors of election and poll clerks shall be filed by the chairperson of the county committees of the political parties entitled to representation on the board of elections.

§ 4. Subdivision 6 of section 3-302 of the election law is amended to read as follows:

6. Voting machine custodians shall be paid for their services an amount fixed by the board of elections, which amount shall, however, be approved by the [~~governing~~] legislative body of the [~~municipality requiring their services~~] county and shall be payable by the [~~respective municipality requiring their services~~] county, or in the case of the city of New York, payable by such city.

§ 5. Subdivisions 1, 2, 3 and 4 of section 3-412 of the election law, subdivisions 1, 2 and 3 as amended by chapter 90 of the laws of 1991, are amended to read as follows:

1. Each board of elections shall, at least once every year, conduct a mandatory school for the instruction of election inspectors, poll clerks and election coordinators [~~who have not served previously or who have not attended this school within the past three years~~]. They shall be given written notice stating the time and place at which such school or schools shall be held.

2. Election inspectors, poll clerks and election coordinators shall be instructed concerning the election law, the taking of registrations, the use of voting machines, disability etiquette and their duties in connection therewith as soon as possible after their designation.

3. Election inspectors, poll clerks and election coordinators as required [~~herein~~] by this section shall, [~~after~~] upon their original designation, and [~~at least once~~] every [~~three years~~] year thereafter, complete a course of instruction, and, before certification, pass an examination thereon. The state board of elections shall supply each board of elections with instructional material to be used in the preparation for such examinations and shall give each such board of elections uniform directions for the conduct of such examinations, which, it shall be the duty of the board to follow. Every such board may utilize additional materials selected by it in the course of instruction. No person taking such examination shall be permitted to know the questions or answers in advance or be given access to the answers during the examination. If such inspectors or clerks pass such examination, [~~or if they are not required to attend the course of instruction,~~] the board of elections shall certify the designated election inspector or poll clerk.

4. The county board of elections shall within two weeks notify those who have passed the examination [~~or who are excused from examination~~], that they are certified to serve.

§ 6. Subdivisions 1 and 2 of section 3-420 of the election law, subdivision 1 as amended by chapter 545 of the laws of 1997 and subdivision 2 as renumbered by chapter 373 of the laws of 1978, are amended to read as follows:

1. Election inspectors, poll clerks, election coordinators and qualified voters appointed to act in place of an absent inspector, clerk or coordinator shall be paid for their services on the days of registration and election, by the [~~town or city~~] county containing the election district in which they serve, in an amount fixed by the [~~town or city~~] county legislative body, subject to such limitations as shall be prescribed or authorized by statute, except that in the city of New York the amount of such compensation shall be payable by such city and shall be fixed by the mayor at a daily rate which, in the case of election inspectors shall not be less than one hundred thirty dollars and in the case of election coordinators not less than two hundred dollars. Such inspectors, poll clerks, election coordinators and qualified voters at a general or special village election conducted by the board of elections shall be paid by such village in an amount fixed by the village board of trustees subject to any such limitations.

2. An election inspector or poll clerk who attends a required training session shall be paid not less than [~~five~~] twenty-five dollars for each meeting plus, at the option of the county, transportation expenses not to exceed the mileage allowance approved by the [~~respective municipality~~] county legislative body for their permanent employees, payable by the [~~respective municipality in which they serve~~] county or in the case of the city of New York, by such city. For administrative purposes, each county may establish one or more categories for the mileage allowance, based on the range of distance traveled, and pay the mileage allowance for that category.

§ 7. Section 3-500 of the election law is REPEALED.

§ 8. Subdivisions 3, 4, 6 and 7 of section 3-502 of the election law are REPEALED, and subdivisions 5 and 8 are renumbered subdivisions 3 and 4.

§ 9. Subdivisions 3, 4 and 6 of section 3-504 of the election law are REPEALED, and subdivisions 5 and 7 are renumbered subdivisions 3 and 4.

§ 10. Section 3-506 of the election law is REPEALED.

§ 11. Subdivision 6 of section 4-100 of the election law is REPEALED.

§ 12. Subdivision 1 of section 4-104 of the election law, as amended by chapter 359 of the laws of 1989, is amended and a new subdivision 9 is added to read as follows:

1. Every [~~city or town legislative body except the city council of the city of New York, shall submit to the board of elections, a list of~~] board of elections shall, in consultation with each city, town and village, designate the polling places in each election district in which the meetings for the registration of voters, and for any election may be held. The board of trustees of each village in which general and special village elections conducted by the board of elections are held at a time other than the time of a general election shall submit such a list of polling places for such village elections to the board of elections. A polling place may be located in a building owned by a religious organization or used by it as a place of worship. If such a building is designated as a polling place, it shall not be required to be open for voter registration on any Saturday if this is contrary to the religious beliefs of the religious organization. In such a situation, the [~~city or town legislative body shall submit~~] board of elections shall designate an alternate location to be used for voter registration. Such [~~list~~] polling places must be [~~submitted~~] designated by May first, of each year, and shall be effective [~~to designate such meeting places~~] for one year thereafter. Such a list required to be submitted by a village board of trustees must be submitted at least four months before each general

village election and shall be effective until four months before the subsequent general village election. No place in which a business licensed to sell alcoholic beverages for on premises consumption is conducted on any day of local registration or of voting shall be so designated. If, within the discretion of the board of elections a particular polling place so designated is subsequently found to be unsuitable or unsafe or should circumstances arise that make a designated polling place unsuitable or unsafe, then the board of elections is empowered to select an alternative meeting place. In the city of New York, the board of elections shall designate such polling places and alternate registration places if the polling place cannot be used for voter registration on Saturdays.

9. Whenever the board of elections shall determine that there is no building within an election district available and suitable for the meetings for the registration of voters or for any election, or that for reasons of efficiency or economy it is desirable to consolidate such meetings of one or more districts in one place, such board may designate a building for such purpose in an adjoining district in the same village, city or town and there may be as many distinctly separate meetings or polling places lawfully located in the same building as public convenience may require. Wherever possible, public schools, fire houses, municipal buildings or other buildings exempt from taxation shall be designated for such meetings and polling places. Such a determination shall be made only after notice to the chairpersons of the county committees of all political parties and reasonable opportunity for them to be heard.

§ 13. Section 4-136 of the election law, subdivision 1 as amended by chapter 359 of the laws of 1989 and subdivision 2 as amended by chapter 254 of the laws of 1979, is amended to read as follows:

§ 4-136. Election expenses; payment of. 1. ~~The~~ Except as provided for in subdivision two of this section, the expenses of providing polling places, voting booths, supplies therefor, ballot boxes and other furniture for the polling place for any election, including the storage, transportation and maintenance of voting machines, appliances and equipment or ballot counting devices, and the compensation of the election officers in each election district, shall be a charge upon the ~~[town or city, or, with respect to a village election, upon the village]~~ county in which such election district is situated, except in the city of New York where such expenses shall be a charge upon the city of New York.

2. ~~[All expenses related to any election other than a special election called by the governor, held at a different time than a primary or general election, shall be a charge upon the town, city, village, or other political subdivision or district involved. If the only contests on the ballot in any election district, at a primary election conducted by the board of elections, are for village office, all the expenses of such primary election in such election district shall be a charge upon such village.]~~

~~3.]~~ All expenses incurred under this chapter by the board of elections of a county outside of the city of New York shall be a charge against the county and in the city of New York the expenses of the board of elections shall be a charge against such city. The expenses incurred by the board of elections of a county outside the city of New York ~~[shall]~~ may, pursuant to section 3-226 of this chapter, be apportioned among the cities and towns therein, or in the case of a village election held other than at the time of the fall primary or general election, apportioned to such villages therein.

~~[4.]~~ 3. In the city of New York all leased or purchased equipment, supplies, ballots, printing and publications, except newspaper notices and advertisements, to be used or furnished by such board, shall be procured for it by the purchasing department or agency of such city as if such board were an agency of such city.

§ 14. Section 7-203 of the election law, as renumbered by chapter 234 of the laws of 1976, subdivision 2 as amended by chapter 659 of the laws of 1994, and subdivisions 3 and 4 as renumbered by chapter 161 of the laws of 1985, is amended to read as follows:

§ 7-203. Voting machines; requirement of use. 1. The ~~[local legislative governing body of every city or town, as the case may be,]~~ board of elections shall provide a sufficient number of voting machines to fully equip all election districts ~~[therein]~~ within its jurisdiction. Such voting machines shall be used at all general, special and primary elections conducted pursuant to this chapter.

2. ~~[At every general election except a general election in the city of New York in a year in which there is no election for electors of president and vice president of the United States or governor of the state or mayor of such city, any election district which, at the time of such election, contains more than eight hundred voters, excluding voters in inactive status, shall have two voting machines.]~~ Notwithstanding any provision of law to the contrary, the state board of elections shall establish, in accordance with subdivision four of section 3-100 of this chapter, for each election, the minimum number of voting machines required in each polling place and the maximum number of voters that can vote on one voting machine. Such minimum number of voting machines shall be based on the voting machine in use, taking into account machine functionality and capability and the need for efficient and orderly elections and, in the case of a general or special election, the number of registered voters, excluding voters in inactive status, in the election district or, in the case of a primary election, the number of enrolled voters, excluding voters in inactive status, therein.

3. In the event that ~~[such local legislative body]~~ the board of elections shall not agree upon ~~[and]~~, or the county shall not execute a contract or contracts for the purchase of, the necessary voting machines, such contract or contracts shall be awarded, made and executed by the state board of elections, in accordance with subdivision four of section 3-100 of this chapter, on approval of the attorney general as to form. The expense of making and entering into such contracts, including the preparation and printing of specifications, and also all payments for voting machines to be made thereunder, shall be chargeable to the ~~[city or town, as the case may be]~~ county, except in the city of New York where such expense shall be chargeable to such city, and it shall be the duty of the comptroller or other chief fiscal officer of the ~~[city or town]~~ county or city, as the case may be, to pay the same upon the certificate of the ~~[local board, body or]~~ officer making such contract, or upon the certificate of the state board of elections in the event that such contract be made by it. No provision of any charter or other law or ordinance governing the purchase of patented articles shall be deemed to apply to the purchase of voting machines pursuant to the provisions of this section. Nothing in this section shall be construed to prevent the state board of elections from distributing voting machines to boards of elections pursuant to other provisions of this chapter without charge.

4. The board of elections may purchase voting machines for use in demonstration and as extra machines within the county. [~~Such machines shall be in the custody and control of the county board of elections.~~]

§ 15. Subdivision 4 of section 7-207 of the election law, such section as renumbered by chapter 262 of the laws of 1986, is amended to read as follows:

4. It shall be the duty of the board [~~or officer charged by law with the duty of equipping the polling places~~] of elections to cause [~~the~~] such voting machine or machines, prepared as [~~above~~] provided pursuant to this section to be delivered at each of the respective polling places in which they are to be used, at least one hour before the time set for the opening of the polls. After the machine has been delivered, it shall be set up in the proper manner for use at the election, and it shall be the duty of the local authorities to provide ample protection against tampering with the machines.

§ 16. Subdivision 2 of section 15-116 of the election law, as added by chapter 901 of the laws of 1982, is amended to read as follows:

2. In Nassau county, appointments as inspectors of election for village elections shall be equally divided between the major political parties. All such inspectors shall be residents of the village in which they serve. Such inspectors shall be appointed from among those persons appointed as inspectors pursuant to the provisions of section [~~3-502~~] 3-420 of this chapter. If the number of inspectors appointed pursuant to such section [~~3-502~~] 3-420 who are eligible and willing to serve in any village is insufficient to fill all the positions in such village, then additional inspectors shall be appointed in the manner so prescribed by such section [~~3-502~~] 3-420.

§ 17. This act shall take effect on the fifteenth of November next succeeding the date on which it shall have become a law; provided however that within sixty days of such effective date, all voting machines, and all appliances, equipment and supplies relating to the use of such machines, which are in the care, custody, control or ownership of a city or town, outside of the city of New York, shall be placed under the care, custody, control and ownership of the appropriate board of elections for the county in which such city or town is located.

The Legislature of the STATE OF NEW YORK ss:

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

JOSEPH L. BRUNO
Temporary President of the Senate

SHELDON SILVER
Speaker of the Assembly
