

2017

ANNUAL REPORT



New York State Assembly

Carl E. Heastie

Speaker

Committee on
Election Law

Michael J. Cusick

Chairman



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December 15, 2017

Honorable Carl Heastie
Speaker of the Assembly
New York State Assembly
Legislative Office Building, 932
Albany, New York 12248

Dear Mr. Speaker:

It is with great pleasure that I present to you the 2017 Annual Report of the Assembly Standing Committee on Election Law.

The 2017 legislative session was an active one for the Election Law Committee. The Committee reported significant legislation that was later enacted into law, including providing poll workers the flexibility to work split shifts on Election Day, requiring the NYS Board of Elections to publish candidates' campaign websites, clarifying witness requirements for nominating and designating petitions, and saving county boards of election money by eliminating the unnecessary requirement to publish a candidate's residence prior to an election.

Other important legislative initiatives which the Committee reported and the Assembly passed included:

- Closing the LLC "loophole";
- Authorizing the use of Electronic Poll Registration Books at poll sites;
- Establishing a system for online voter registration;
- Expanding voter registration opportunities through NYS agencies assisted/automatic voter registration;
- Providing for a period of early voting to allow all voters sufficient opportunity to cast their ballot;
- Allowing for universal voter registration transfer between all New York State counties;

- Proposing a constitutional amendment to provide all voters the opportunity to vote by absentee ballot;
- Requiring political communications be attributed to the person(s) or committee who paid for them;
- Combining state and federal primaries into one June Primary;
- Establishing an Attorney General pre-clearance process to ensure minority voting rights are protected; and
- Creating a ballot layout that is easier for voters to read and use.

I am proud of the Committee's record of achievement this past year. The Committee and Assembly have diligently, aggressively, and intelligently advanced policies to increase transparency, fairness and integrity in the electoral process. In that capacity, the Committee held a public hearing on November 28, 2017, to continue the examination of the State's election infrastructure with a focus on measures in place to protect the integrity of the system against cyber-infiltration or attack.

The goal of this Committee remains unchanged: to instill in voters the confidence that our electoral system is structurally honest, fair to all New Yorkers, and secure against cyber threats. Through this Committee's oversight of existing institutions and its advocacy of initiatives designed to bring about reforms, New York has made, and continues to make, great strides towards this goal. The 2018 session will, no doubt, again see forceful debate concerning issues such as campaign finance reform and the ways in which we can modernize our elections systems across the State.

Sincerely,



Michael J. Cusick
Chairman
Election Law Committee

**2017 ANNUAL REPORT
of the
New York State Assembly
Standing Committee on Election Law**

**Michael J. Cusick
Chairman**

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I. INTRODUCTION

Committee Jurisdiction

The jurisdiction of the Assembly Standing Committee on Election Law (hereinafter known as “the Committee”) includes all legislation that affects elections on the national, state and local levels, including ballot access, voter registration and enrollment, voter education and outreach, campaign financing and related administrative procedures of the State Board of Elections and local boards of elections.

Executive Summary

During the 2017 legislative session, the Assembly Standing Committee on Election Law remained focused on the aim of expanding the opportunity for voters to meaningfully participate in the electoral process as well as improving and modernizing the process and opportunity for eligible citizens to register to vote.

The Committee championed, and the Assembly passed, legislation to enact “Early Voting” which would allow voters an opportunity to vote at their convenience during a period of seven days prior to Election Day. The Assembly also passed a constitutional amendment which would allow all New York State voters to vote by absentee ballot should they choose to do so. The Assembly passed two measures designed to improve the ease and efficiency with which eligible New Yorkers are able to register to vote: the first would create a system through which eligible citizens could register online; the second would expand the opportunity to register to vote when interacting with a variety of state agencies. Additionally, the Assembly passed legislation that would allow New York State poll sites to use electronic voter registration poll books, which would streamline and expedite the process of signing in and checking the registration status of voters on Election Day. These reforms would add NYS to the growing list of states that put the needs of voters first and foremost. The Committee also considered the needs of varied interests in passing legislation that establishes a combined federal and state (non-presidential) June primary. Such legislation would save the taxpayers an estimated 50 million dollars by combining primaries for state and federal offices.

Since the Supreme Court’s 2010 *Citizens United* decision, the electoral process in New York has been inundated with unprecedented amounts of unregulated independent expenditure money. The impact of *Citizens United* is abundantly clear: unfettered money dilutes the voices of the people in electoral politics. In recognizing the need for campaign finance reform, the Assembly passed several pieces of reform legislation, including closing the “LLC Loophole” to prevent wealthy donors from making unlimited campaign contributions to individual recipients. The Assembly additionally passed legislation to ensure that political communications must include the name of the person/s or committee who paid for it.

II. HIGHLIGHTS OF THE 2017 LEGISLATIVE SESSION

Witness requirements for a designating petition or independent nominating petition (A.567, Abinanti; Chapter 106)

This law codifies a New York Court of Appeals decision and deletes the requirement that a witness to a party designating petition or an independent nominating petition must reside in the district of the office in the petition.

Placing male and female candidates on the ballot (A.280, Bichotte; Chapter 173)

This law provides that boards of elections shall determine by lot whether to first print the contest for male or female candidates and shall use the same order for all ballots in the entire county or city of New York.

Designating and nominating petitions (A.3422, Galef; Chapter 176)

This law clarifies the requirements for designating and nominating petitions to include the directive to add a district number for the public office, if applicable.

Repeals section 2-126 of the election law relating to party funds and restrictions on expenditures (A.8019, Lifton; Chapter 210)

This law removes §2-126 of the election law, which has been ruled unconstitutional.

Split shifts for poll workers (A.6907-A, Hunter; Chapter 293)

This law authorizes poll workers to work split shifts in addition to full day shifts, providing boards of election more flexibility to staff poll sites on Election Day.

Posting campaign website addresses of certain candidates (A.5740-A, Seawright; Chapter 307)

This law requires the state board of elections and local boards of elections to publish the campaign website addresses of certain candidates for public office.

Publication of candidate's residence (A.5588, Cusick; Chapter 310)

This law removes the requirement that a candidate's residence address be published in the legal notice along with the name of the candidate prior to an election.

Extending the hours for primary elections in Dutchess County (A.8086, Skartados; Chapter 367)

This law extends the polling hours in Dutchess County for primary elections to 6 am to 9 pm.

III. 2017 COMMITTEE INITIATIVES WHICH PASSED THE ASSEMBLY BUT WERE NOT CONSIDERED BY THE SENATE

Special ballots for election workers (A.79, Cahill)

This bill would allow election workers to submit special ballots any time after such ballots are printed and until the close of polls on Election Day.

Accessible sample ballots (A.267-B, Rosenthal)

This bill would require the State Board of Elections to create a system that would allow ballot information to be made publicly available via its website, as well as the website of a county board of elections, and in such a way as to be accessible to the voters with certain disabilities.

Email notifications (A.1057, Galef)

This bill would authorize the inclusion, at a voter's option, of an email address in the voter registration application and notices to be sent via email and by USPS.

Poll watchers (A.1259, Buchwald)

This bill would clarify the process for appointing poll watchers for any general, primary, special or village or town election.

Permissive town referendums (A.1345, Zebrowski)

This bill would require town special elections initiated by a petition to be held at the next general election unless specified in the petition. The bill would also provide that town elections proposed by town board motions can be held on either a general, special, or biennial election.

Closing the LLC loophole (A.1926, Kavanagh)

This bill would add Limited Liability Companies (LLCs) to §14-116 of the Election Law, which governs political contributions made by corporations and joint stock associations, imposing the same \$5,000 contribution limits for LLCs. This bill also requires disclosure of membership interests and requires attribution of an LLC's contributions to its members.

Email address option on voter registration form (A.1949, Mayer)

This bill would require an optional place for the voter to include an email address on the voter registration form. Currently, the State Board of Elections includes this information on the registration form but is not required to do so by statute.

Early voting (A.2064, Kavanagh)

This bill would establish a system for early voting throughout the state requiring a seven-day period for in-person voting prior to any primary, special, or general election day.

Uniform Election Night Procedure Act (A.2092, Kavanagh)

This bill would improve uniformity and clarity in Article Nine of the Election Law following the enactment of the "Election Night Poll Site Procedures Act," streamlining the process for winding down poll sites at the end of an election day.

Political communications (A.2158-A, Zebrowski)

This bill would require that political communications disclose the identity of the political committee that made the expenditure for the communication.

Primary elections, deadlines and transmission of ballots (A.3052, Cusick)

This bill would set a June primary for all state and local elections and would amend certain deadlines to facilitate the timely transmission of ballots to military and other overseas voters in order to comply with the federal Military and Overseas Voter Empowerment (MOVE) Act. This bill would also amend the public officer's law to require that a vacancy occurring at least three months prior to the next general election be held at such general election, unless previously filled at a special election.

Voter Friendly Ballot Act (A.3379, Kavanagh)

This bill would create a ballot layout that is easier for voters to read and use and would help ensure a more voter-friendly experience.

Universal Voter Registration Transfer (A.3411, Kavanagh)

This bill would allow voters who move anywhere within the state to vote at a polling site in their new election district. A voter whose name does not appear on the voter registration list would be able to vote via affidavit ballot.

Allow 17-year-olds to register and vote (A.3549, Cusick)

This bill would amend the constitution to allow persons who will be 18 years old at the time of a presidential election to vote in primary elections.

Enacts “The Young Adult Voter Registration Act” (A.3843-A, Sepulveda)

This bill would require public and private schools to make voter registration forms and registration assistance available to all students and require the Department of Education to send a voter registration form to all graduating students and any other student who requests one.

Additional voting during a state of emergency (A.4073, Abinanti)

This bill would provide for an additional day of voting during a state of emergency in which it is determined that the ability of voters to vote has become, or will imminently become impossible and cannot be mitigated in time for the scheduled voting, and allow a party caucus, and filings for a party caucus to be postponed for a reasonable time due to an emergency.

Braille absentee ballots (A.4961-B, Weprin)

This bill would enable blind or visually impaired persons to request and receive Braille or large-print absentee ballots for all elections.

Voter Enfranchisement Modernization Act (A.5382, Cusick)

This bill would establish an electronic voter registration system through which voters may register to vote online.

Electronic poll books (A.5547, Cusick)

This bill would authorize electronic poll books at a county's option and updates the list of supplies to be delivered to poll sites.

Size of election districts (A.5576, Cusick)

This bill would increase the number of registrants an election district may contain with the approval of the county board of elections.

Closed party primary warning (A.5735-A, Carroll)

This bill would notify applicants registering to vote in bold font on their registration form that New York practices a closed party primary system, unless party rules allow otherwise.

Pre-clearance for voting policies (A.5925, Walker)

This bill would establish a pre-clearance process for any proposed changes to voting regulations or procedures that affect jurisdictions that are subject to Section 5 of the Voting Rights Act in order to ensure that the right of citizens to vote is not denied on account of race, color or language.

Agency Assisted Voter Registration (A.6283, Walker)

This bill would require designated agencies to incorporate a voter registration application into existing agency applications, so that the applicant is also completing a voter registration. An applicant would have the right to decline registration. The bill would also provide that any person whose maximum term of imprisonment has expired or upon discharge from community supervision is automatically reinstated as a voter unless they decline.

Filing Requirements for certain candidate committees (A.6732, Seawright)

This bill would eliminate the one thousand dollar (\$1,000) filing threshold and thus require all candidates or their authorized committee to electronically file with the NYSBOE, while removing the requirement for all local and county filers to file with their respective county board of elections.

Special ballots for victims of domestic violence (A.7009, Paulin)

This bill would create a special ballot for victims of domestic violence to vote in the same manner as voters who vote via absentee ballot, if they choose to.

Alternative poll site staffing (A.7383, Buchwald)

This bill would authorize a board of elections to design an alternative poll site staffing plan to more efficiently conduct an election. Alternative poll site staffing plans would be required to be filed with the State Board of Elections. Such plan would need to provide for at least four inspectors, equally divided among the major parties, to be assigned to each poll site, and all staffing would be required to be bipartisan.

Ballots by mail (A.7623, Vanel)

This bill would authorize voting by mail by amending the NYS Constitution to remove the cause requirements for absentee ballot voting.

Extends time period to conduct a run-off election in New York City (A.7745-A, Carroll)

This bill would extend the date of a NYC runoff election by one week in the event that no candidate for the offices of the Mayor, Public Advocate, or City Comptroller won more than 50 percent of votes in their respective primary election.

Specification of objections for petitions and nominations (A.7761, Steck)

This bill would establish statewide uniformity with regard to specific objections to nominating petitions, designating petitions or certificates of nomination or ballot access documents.

IV. Election Committee Public Hearing

On November 28, 2017, the Committee held a public hearing on ensuring the integrity of elections in New York. The hearing focused on examining the measures that are in place to protect the integrity of the election system against cyber-infiltration or attack and to address reports by the FBI about foreign governments attempting to infiltrate U.S. voter records. The Committee heard testimony from the New York State Board of Elections, the New York City Board of Elections, Election Commissioners' Association (ECA), Schoharie County Information Technology and Services, Common Cause NY, and Verified Voting, as well as written testimony submitted by the New York State Association of Counties (NYSAC). Hearing testimony indicated that, from a cybersecurity standpoint, the 2016 primary and general elections went fairly smoothly and that New York's election officials responded with additional measures following the FBI's alerts regarding potential attacks. The testimony also indicated that New York's paper ballot and optical scan system provides additional integrity through the availability of paper backups and mandatory audit procedures. However, the ever-changing cyber threats and challenges facing the election system may require new manpower, coordination of federal, state and local governments, new technologies and improved efforts to maintain this integrity in the New York election system going forward.

Appendix A

**SUMMARY OF ACTION ON ALL BILLS
REFERRED TO THE COMMITTEE ON ELECTION LAW**

<u>FINAL ACTION</u>	<u>ASSEMBLY BILLS</u>	<u>SENATE BILLS</u>	<u>TOTAL BILLS</u>
BILLS REPORTED WITH OR WITHOUT AMENDMENT			
TO FLOOR; NOT RETURNING TO COMMITTEE (FAVORABLE)	20	0	20
TO WAYS AND MEANS	17	0	17
TO CODES	5	0	5
TO RULES	5	0	5
TO JUDICIARY	2	0	2
TOTAL	49	0	49
BILLS HAVING COMMITTEE REFERENCE CHANGED			
TO _____ COMMITTEE	0	0	0
TO _____ COMMITTEE	0	0	0
TO _____ COMMITTEE	0	0	0
TO _____ COMMITTEE	0	0	0
TOTAL	0	0	0
SENATE BILLS SUBSTITUTED OR RECALLED			
SUBSTITUTED		2	2
RECALLED		0	0
TOTAL		2	2
BILLS DEFEATED IN COMMITTEE	0	0	0
BILLS HELD FOR CONSIDERATION WITH A ROLL- CALL VOTE	2	0	2
BILLS NEVER REPORTED, HELD IN COMMITTEE	188	7	195
BILLS HAVING ENACTING CLAUSES STRICKEN	4	0	4
MOTIONS TO DISCHARGE LOST	0	0	0
TOTAL BILLS IN COMMITTEE	243	9	252
TOTAL NUMBER OF COMMITTEE MEETINGS HELD	7		

APPENDIX B

2017 CHAPTERS

<u>BILL NUMBER</u>	<u>SPONSOR</u>	<u>DESCRIPTION</u>	<u>CHAPTER NUMBER</u>
A.567	Abinanti	Petition Witness Qualifications	106
A.280	Bichotte	Order of Appearance on ballot	173
A.3422	Galef	Includes District Number on Petitions	176
A.8019	Lifton	Repeals §2-126 of the Election Law	210
A.6907-A	Hunter	Split Shifts for Poll Workers	293
A.5740-A	Seawright	Posting of Candidate Campaign Website	307
A.5588	Cusick	Publication of Candidate's Residence	310
A.8086	Skartados	Extends Primary Polling Hours in Dutchess County	367