



Below is a summary and analysis of the bills proposed for legislative action for the week of January 14th, 2019.

Early Voting

Prime Sponsor: Senator Myrie

2017-2018 Legislative History: Reported from Senate Elections & died in Rules; A9608B (Lavine) Passed Assembly 4/17/18 98-36

2018 Senate Democratic Conference Co-Sponsors: Stewart-Cousins, Addabbo, Alcantara, Avella, Bailey, Benjamin, Carlucci, Dilan, Gianaris, Hamilton, Hoylman, Kennedy, Krueger, Mayer, Montgomery, Peralta, Sepulveda, Serrano

Background

This proposal establishes a system of early voting in each county throughout the state. Currently, New York is one of only sixteen states where early voting is not available. Excluding the states where all voting is conducted by mail, only 12 states do not offer early voting: Alabama, Connecticut, Delaware, Kentucky, Mississippi, Missouri, New Hampshire, New York, Pennsylvania, Rhode Island, South Carolina, and Virginia. In the remaining states that offer early voting, the time windows for doing so vary widely, from three days (Oklahoma) to 46 days (Minnesota).

A nearly identical proposal was included in the Executive's 2018-19 budget proposal but ultimately dropped out of the final enacted budget.

Since current election law does not envision any form of early voting other than absentee balloting with an excuse, someone who does not qualify for an absentee ballot but has work or family obligations on Election Day may not be able to cast a ballot.

What This Bill Does

At least one polling location would have to be made available with additional locations, up to seven, for each 50,000 registered voters in each respective county. Local boards could always establish more than seven sites and a board of elections office can qualify as an early voting location. If a Board of Elections does not agree by majority vote to plan to assign election districts to early voting sites, then all voters in the county must be able to vote at any poll site for early voting in the county.

Upon a majority vote of any board however, the number of early voting sites may be reduced if a reasonable determination is made that the number is still sufficient to meet voter demand for primary and special elections. No such accommodation could be made for general elections.

Polling locations must be open to accommodate early voting beginning two full weekends prior to any special, primary, or general elections and staffed equally on a bipartisan basis. This timeframe has been expanded from the previous iteration of this bill to accommodate two full weekends of early voting.

Early voting would conclude the second day prior to any election. Polls would have to be open for at least 8 hours between 7 a.m. and 8 p.m. each week day during the early voting period. At least one polling place shall remain open until 8 p.m. on at least two week days in each calendar week during the early voting period. On weekends, polls would be required to remain open for at least 5 hours between 9 a.m. and 6 p.m. on each Saturday, Sunday, and legal holidays during the early voting period.

Voters would be qualified to vote for all offices he or she is qualified and entitled to at an early voting location throughout their respective county.

Local Boards would be responsible for including information about early voting in publications and through online dissemination. Local Boards would have to develop early voting procedures, subject to approval by the State Board of Elections (SBOE).

Early voting locations and hours of operation for each general election must be designated by May 1st of each year and no later than 45 days before any primary or special election.

Any ballots cast during early voting would not be canvassed or examined until after the close of the polls on Election Day. The local Boards would be responsible for securing all ballots and scanners at the close of each day of early voting.

Finally, the SBOE is authorized to enact any rule or regulation necessary for the implementation of early voting. These regulations shall include, but are not limited to (i) ensuring ballots cast early are counted and cast as if on Election Day; (ii) the privacy of voters is respected; and (iii) the voting history record for each voter be continually updated to reflect each instance of early voting by such voter.

Last year, the Executive estimated costs associated with implementation of early voting to be \$6.4 million statewide for an 8-day period. Senate Majority Finance anticipates that with an additional weekend of early voting costs would be up to \$10 million.

SBOE administrators noted that primary consolidation in 2019 goes hand in hand with having early voting in 2019. They recommend that early voting begins in November 2019 for the general and that the primary is held in June. Their concern is that early voting in 2019 with a primary in September would be administratively unworkable and thus would push the start of early voting into 2020, a presidential year.

Holding early voting only in the November general would cut the costs of early voting in 2019.

Effective Date: This bill would take effect for early voting in the 2019 general election and full phase in of early voting for all elections on January 1, 2020.

Pre-Registration of 16 & 17 Year Olds

Prime Sponsor: Senator Carlucci

2017-18 Legislative History: Died in Senate Elections. Died 3rd Reading Assembly calendar.

2018 Senate Democratic Conference Co-Sponsors: Addabbo, Alcantara, Avella, Bailey, Breslin, Dilan, Hoylman, Kavanagh, Kennedy, Klein, Krueger, Parker, Savino, Sepulveda, Serrano, Valesky

Background

As of January 1, 2019, 13 states (CA, CO, DE, FL, HI, LA, MD, MA, NC, OR, RI, UT, WA) and the District of Columbia allow 16-year-olds to pre-register to vote. Four more states (ME, NV, NJ, and WV) allow 17-year-olds to pre-register to vote.

Additionally, 5 states (AK, GA, IA, MI, and TX) permit certain 17-year-olds to pre-register to vote depending on when they turn 18.

What This Bill Does

This bill amends the election law to allow teens 16 years or older to pre-register to vote. Those teenagers taking advantage of this change would have to meet all other qualifications in order to register to vote. Upon reaching the age of eighteen, the local Board of Elections shall automatically register said individual. An individual's "pre-registration" would be marked 'pending' until such time, after which the registration would become effective.

Voter registration applications will include a space for pre-registering applicants to affirm they understand that they will be unable to vote until they turn 18.

Local boards of election would also be required to adopt policies to promote student voter registration and pre-registration. These policies could include, but not be limited to collaboration with county boards of elections to conduct said registration and pre-registration. Pre-registering to vote however cannot be a course requirement or graded assignment for students.

In the past, the Executive has included this proposal as part of the executive omnibus good government budget proposal.

We believe that costs for pre-registration would be modest and could be managed within existing State and local election administration resource levels.

Effective Date: This bill would takes effect on January 1, 2020.

Same Day Voter Registration Constitutional Amendment

Prime Sponsor: Senator Gianaris

2017-2018 Legislative History: Died in Senate & Assembly Judiciary Committees

2018 Senate Democratic Conference Co-Sponsors: Avella, Hoylman, Krueger, Stavisky

Background

Fifteen states (CA, UT, ID, MT, WY, CO, MN, IA, WI, IL, VT, ME, NH, CT, HI) plus the District of Columbia currently allow voters to register on Election Day. Two states (NC, MD) allow for same-day registration only during early voting.

The NYS Constitution requires that voter registration be completed at least 10 days before each election.

Under current law, a voter registration application postmarked 25 days before the primary, general or special election and received at least 20 days before such election, or delivered in person to the county board of elections at least 10 days before a special election entitles the applicant to vote in that election.

What This Bill Does

This concurrent resolution would amend the constitution to remove the ten-day requirement, thereby allowing the Legislature to enact a same-day registration law by amending the deadlined referenced above in current law.

As a constitutional amendment, this concurrent resolution must pass both houses of the Legislature in two consecutive sessions (for example, in 2019 and in 2021) and win approval through a statewide voter referendum. This would be the first passage of the constitutional amendment.

Due to the timeline required to implement a constitutional change, there would not be any State or local fiscal impact until 2022 at the earliest. At that time, dependent upon the technology and administrative procedures utilized, the cost would be substantial. For example, utilization of electronic poll books would be in excess of \$60 million.

“No Excuse”/Vote by Mail Constitutional Amendment

Prime Sponsor: Senator Comrie

2017-2018 Legislative History: Died in Senate Judiciary. Passed Assembly 4/17/18.

2018 Senate Democratic Conference Co-Sponsors: Addabbo, Alcantara, Avella, Bailey, Breslin, Carlucci, Dilan, Gianaris, Hamilton, Hoylman, Kaminsky, Kavanagh, Kennedy, Klein, Krueger, Mayer, Montgomery, Parker, Peralta, Persaud, Rivera, Sanders, Savino, Sepulveda, Serrano, Stavisky

Background

Twenty-seven states and the District of Columbia permit voting by mail. Voting by mail is the only form of voting in Colorado, Oregon, and Washington.

The NYS Constitution allows the legislature to enact laws enabling absentee voting, but requires the voter to be absent from their county of residence (or NYC) or be unable to vote in person due to illness or physical disability in order to cast an absentee ballot.

What This Bill Does

This concurrent resolution amends the constitution to remove those requirements and allow the legislature to provide by law for any manner of voting.

As a constitutional amendment, this concurrent resolution must be passed by two consecutive, separately elected legislatures (e.g. in 2019 and 2021) and be approved by statewide voter referendum. This would be the amendment's first passage in the legislature. Furthermore, after the amendment is approved, New York's election laws would need to be updated to provide no excuse absentee voting or other methods of voting.

The cost impact of this proposal is expected to be nominal, and would not occur until 2022 due to the constitutional amendment schedule.

Universal Transfer of Voter Registration Records

Prime Sponsor: Senator Carlucci

2018 Legislative History: Died in Senate Elections. Died on Assembly 3rd reading cal.

2017-2018 Senate Democratic Conference Co-Sponsors: Alcantara, Avella, Dilan, Kaminsky, Parker, Savino, Valesky

Background

Under current law, a registered voter who moves within a county or within the City of New York may vote in his or her new election district without re-registering to vote. In these situations, local Boards of Elections automatically transfer such voter's registration when they receive notice of a change of address, or when a voter completes an affidavit ballot envelope attesting to a new address.

Voters who move from one county to another within the state, however, are prohibited from voting from their new address on Election Day, unless they update their voter registration by the applicable deadline. While a local Board of Elections may receive notice of a voter's change of address via the National Change of Address system, under current law it is prohibited from re-registering the individual to vote from the new address.

According to the State Board of Elections, approximately 30% of formal address changes occur for individuals moving across county lines.

The National Change of Address ("NCOA") database is a set of data that includes permanent change-of-address records maintained by the U.S. Postal Service. Everytime U.S. citizens move and submit a change-of-address-form to their local post office, their new addresses are recorded in the the NCOA database. The NCOA database is used internally by U.S.P.S. to properly forward mail to its intended recipient. U.S.P.S. also enters into special agreements granting access to the NCOA database for the purposes of updating records with the address changes customers submitted to the post office.

What This Bill Does

This bill amends the election law to allow a voter who moves *anywhere* within the State to vote in his or her new election district. Boards of elections would automatically transfer registrations for such a voter, as they currently do for voters who move within their county or within the City of New York. Affidavit ballots would be verified using the statewide voter file. The SBOE is also empowered to promulgate regulations as to the procedures for transferring a voter from one county to another.

This bill would have modest cost implications for local Boards of Election and/or the State Board of Elections to modify voter registration management systems. The State Board of Elections has expressed support for an "online voter registration portal" that would ease the burden on local Boards of Election, with a state cost of approximately \$4.5 million.

Effective Date: 60 Days after it shall have become a law.

Consolidation of Federal and State Primaries

Prime Sponsor: Majority Leader Stewart-Cousins

2017-2018 Legislative History: Died in Veterans, Homeland Security and Military Affairs. Assembly bill died on third reading.

2018 Senate Democratic Conference Co-Sponsors: Addabbo, Alcantara, Brooks, Carlucci, Comrie, Dilan, Gianaris, Hoylman, Kavanaugh, Krueger, Persaud, Serrano, Stavisky

Background

In 2009, President Barack Obama signed into law the federal Military Overseas Voter Empowerment (MOVE) Act. The MOVE Act was an amendment that expanded the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986. The UOCAVA required states and territories to allow members of the U.S. Uniformed Services and merchant marine, their family members, and U.S. citizens residing outside the United States to register and vote absentee in elections for federal offices.

The MOVE Act was designed to provide greater protections of the voting rights of military personnel, their families, and other overseas citizens. Among other provisions, the MOVE Act requires states to transmit validly-requested absentee ballots to UOCAVA voters no later than 45 days before a federal election, when the request has been received by that date, except where the state has been granted an undue hardship waiver approved by the Department of Defense for that election. New York State was granted such a waiver in 2010.

In 2012, however, the state was not granted a waiver and, as a consequence, proceeded to have three different elections: a June primary for congressional and U.S. Senate party nominations, a September primary for state elected offices, and a November general election in addition to the February presidential primary.

The 2012 primary date change was pursuant to a preliminary injunction and Order of the United States District Court for the Northern District of New York dated January 27, 2012. The January 27, 2012 Order set the 2012 federal non-presidential primary date as June 26, 2012 and provided that in subsequent even-numbered years, New York's non-presidential primary date shall be the fourth Tuesday of June, unless the New York State legislature passes legislation resetting the primary for a different date that would comply fully with the UOCAVA requirements. Subsequent remedial orders have been issued supplementing the original Order every two years since.

New York State's primary was held in June until 1974, when it was changed to its current date of the first Tuesday after the second Monday in September.

In 2018, New York was the *only* state to hold separate federal and state primaries. See "Only in New York: Where Primary Day Comes Twice a Year," N.Y. Times, available at <http://www.nytimes.com/2018/06/25/nyregion/new-york-primary-congress-state-federal.html>.

Issue

As currently written, New York State's election law regarding military and overseas voters does not comply with the 45-day absentee ballot delivery requirement codified in the federal MOVE

Act. Because of the overall structure of the deadlines and due dates in state election law, the time-frame in which military and overseas ballots must be mailed, as a matter of federal law, necessitates various changes to interdependent sections of the state election law. This bill conforms state election law to the federal requirements, while also establishing a state primary election day the fourth Tuesday in June that coincides with the 2018 federal non-presidential primary day which has been fixed by U.S. District Court Judge Gary Sharpe in the case of *The United States of America v. State of New York*.

Analysis

This bill amends every provision in the election law that fixes specific dates pertaining to running for office in order to conform those provisions to a deadline and due date scheme that accommodates a primary election in June rather than September.

Specifically, the bill makes many conforming changes to the electoral calendar. Some of the most notable changes are:

- Polling places must be designated by March 15th each year, a month and a half earlier than the current May 1st deadline;
- Certified texts of ballot proposals must be submitted three months prior to the general election at which such proposal is to be voted upon. The existing deadline is 36 days in advance;
- Local Boards of Elections must publish updated enrollment lists before February 1 each year. The existing language sets a deadline of April 1;
- Petition deadlines are moved three weeks earlier relative to the primary date;
- Judicial conventions are moved to the first full week of August;
- Parties are also given a longer period to file “certificates of party nomination made other than at a primary election”;
- Petitions for independent nominations are moved earlier in the year to conform with the new primary schedule, from 11-12 weeks prior to the general election to 23-24 weeks prior to the general election, with matching changes in the deadlines for acceptances/declinations, certificates to fill vacancies, etc; and
- A vacancy occurring three months before the general election (except in the offices of Governor, Lt. Governor, or U.S. Senator) shall be filled at the general election held next thereafter, unless otherwise provided by the constitution or previously filled at a special election. (The existing language sets this cutoff date at September 20, substantially less than three months before the general election).

Effective Date: Effective immediately for the 2018 local elections.

A table of political calendar events based on this bill includes, but is not limited to, the following dates:

| Event | 2018 | 2019 | 2020 |
|---|--|--|--|
| Primary Election | September 13 | June 25 | June 23 |
| First day for signing designating petitions | June 5 | February 26 | February 25 |
| Dates for filing designating petitions | July 9 - 12 | April 1 - 4 | March 31 - April 2 |
| Last day to authorize designations | July 16 | April 8 | April 6 |
| Last day to accept/decline a designation | July 16 | April 8 | April 6 |
| Last day to fill vacancy after declination | July 20 | April 12 | April 10 |
| Last day to file authorization of substitution after a declination | July 24 | April 16 | April 14 |
| Primary - Mail Registration | Last day to postmark application: August 19 Last day application must be received by BOE: August 25 | Last day to postmark application: May 31 Last day application must be received by BOE: June 5 | Last day to postmark application: May 29 Last day application must be received by BOE: June 3 |
| Primary - In Person Registration (last day application must be received by BOE) | August 19 | May 31 | May 29 |
| Primary - Change of Address | August 24 | June 5 | June 3 |

Closing the "LLC Loophole"

Prime Sponsor: Senator Kavanagh

2017-2018 Legislative History: Died in Senate Rules. Passed Assembly 123-11.

2018 Senate Democratic Conference Co-Sponsors: Dilan, Hoylman, Krueger, Mayer, Peralta, Sepulveda

Background

In 1996 the State Board of Elections (SBOE), via a formal and binding legal opinion, classified political contributions made by Limited Liability Corporations in the same manner as individuals. The opinion is in direct contrast to the campaign finance limits for contributions made by corporations or partnerships. The SBOE has deadlocked repeatedly on the issue of reconsidering this opinion. In litigation brought by the Brennan Center, the Third Department Appellate Division also recently held that this interpretation was one for the Legislature, not for the courts.

The SBOE's opinion is significant, because individuals are subject to much higher donation caps than corporations are. Furthermore, single individuals or corporations can set up multiple LLCs, circumventing the donation caps. LLCs are also very opaque; it is very hard, and in many cases impossible, to identify who is ultimately responsible for directing an LLC's contributions.

What This Bill Does

Enactment of this legislation would have two main effects. *First*, it would impose on LLCs "or other corporate entities" the same \$5,000 aggregate contribution cap that currently applies to corporations. (Contribution limits for individuals depend on the office, but ranged in 2018 from \$4,400 for Assembly races to \$44,000 to statewide races.) *Second*, it would require that contributions made through LLCs be imputed to the LLC's members, in the same way that contributions from partnerships are imputed under current law, and would require contributing LLCs to disclose its beneficial ownership with the SBOE each year. The SBOE is also required to enact regulations to prevent the avoidance of these rules.

Finally, any member or owner of any corporation, LLC, or other corporate entity which violates these provisions or participates in, aids, abets, or advises or consents to violating these provisions, shall be guilty of a misdemeanor. Currently the law only applies to officers, directors, stockholders, attorneys, or agents of any corporation or joint-stock association.

Effective Date This bill would take effect seven days after it becomes a law.

