

NEW YORK STATE
A S S E M B L Y

SHELDON SILVER, SPEAKER



committee on

Election Law

Joan L. Millman, Chairperson



Annual Report 2010

December 15, 2010

Honorable Sheldon Silver
Speaker of the Assembly
New York State Assembly
State Capitol
Albany, New York 12248

Dear Mr. Speaker:

It is with great pleasure that I present to you the 2010 Annual Report of the Assembly Standing Committee on Election Law. 2010 was an active and productive session that resulted in the enactment of 21 new laws or amended provisions of the Election Law.

During the 2010 session, the Committee reported significant legislation supporting the efficient and fair administration of elections by streamlining the process for paper ballots and providing local boards of elections greater flexibility in scheduling election inspectors and selecting both election inspectors and poll clerks. The law further clarified the responsibilities of election inspectors and the procedures to be followed when polls open.

The 2010 session saw the Committee report and the subsequent enactment of significant legislation to enhance access to polling places by the disabled and victims of domestic violence. Legislation was passed requiring polling places to be located near public transportation lines. In addition, basic accessibility guidelines for polling places have been established. Also, victims of domestic violence may now ask for a supreme court order that directs that their voter registration records be kept confidential.

Other legislative initiatives which the Committee reported and the Assembly passed include making absentee ballots available in Braille and large print. Other, more technical legislation would enable voters to list their email address or phone number on statewide voter registration forms, make technical corrections regarding political subdivisions and election districts, and allow the Board of Elections in the City of New York to retrieve unused paper ballots from the polling site. In addition, the Assembly

also passed legislation regarding political communications, independent expenditure reporting, enforcement proceedings and penalties for violations.

I am proud of the Committee's record of achievement during the past two years that I have been Chairperson. The Committee and Assembly have diligently, aggressively and intelligently tried to reform both the administrative agencies that monitor the electoral process and the laws by which it is governed.

The goal of this Committee is to instill in voters the confidence that our electoral system is structurally honest and fair to all New Yorkers. Through this Committee's oversight of existing institutions and its advocacy of initiatives designed to bring about reforms, New York has made great strides toward this goal. The 2011 session will, no doubt, again see intense debate concerning the issues of campaign finance reform and initiatives concerning the new voting machines. I look forward to the challenges that the upcoming session brings, and to your continued support throughout the year.

Sincerely,

Joan L. Millman
Chairperson
Election Law Committee

**2010 ANNUAL REPORT
of the
New York State Assembly
Standing Committee on Election Law**

**Joan Millman
Chairperson**

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I. INTRODUCTION

Committee Jurisdiction

The jurisdiction of the Assembly Standing Committee on Election Law 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.

II. HIGHLIGHTS OF THE 2010 LEGISLATIVE SESSION

Local boards of elections authorized to use election inspectors for half-day shifts. **(A.1308, K. Wright; Chapter 5 of 2010)**

This law authorizes local boards of elections to employ election inspectors to work half-day shifts, provided that at least one inspector from each of the two major political parties is present at the poll site for the entire time that the polls are open.

A single deadline for publishing enrollment lists by local boards of elections. **(A.8541, B. Lifton; Chapter 28 of 2010)**

This law establishes April 1st as the deadline for every year for publishing enrollment lists, thereby standardizing the procedure and providing more accurate information for the circulation of petitions in June.

Special ballots for victims of domestic violence. (A.3910-A, D. Gabryszak; Chapter 38 of 2010)

This law expands the category of individuals who may request special ballots by including the expanded definition of “family or household member” recently enacted in the Family Court Act, thereby extending the option for voting by special ballot to those threatened with emotional harm as well as physical harm.

Provides for a dual affidavit ballot/registration and enrollment form. **(A.4015-A, B. Kavanagh; Chapter 62 of 2010)**

This law provides that the affidavit ballot envelope be designed to serve as an application for registration and enrollment and that if a prospective voter who completes the affidavit is determined by the Board of Elections not to be registered or enrolled as the voter claims, that the voter shall be registered or have his enrollment changed pursuant to the information on the affidavit envelope.

Removes certain unnecessary personal information on absentee ballot applications. **(A.5276-B, S. Galef; Chapter 63 of 2010)**

This new law provides for a streamlined absentee ballot application to allow voters that meet the constitutional requirements to obtain an absentee ballot without invading the privacy of the voter. The New York State Constitution permits absentee voting if the voter is absent from his or her county, or unable to appear at the poll site because of illness or physically disabled. However, before enactment of this law, an absentee ballot application contains requests for personal information that goes far beyond the constitutional requirements; this tailors the information sought to that which is necessary.

Authorizes registration records of victims of domestic violence to be kept confidential in certain cases. (A.9368-A,D. Gabryszak; Chapter 73)

This law allows a victim of domestic violence to seek a supreme court order directing that his or her voter registration records be kept confidential. It also includes a definition of “victim of domestic violence” that conforms to the definition of such term in the Family Court Act. Keeping these records separate and apart from other registration records will afford domestic violence victims greater security.

Authorizes persons 17 years of age to serve as election inspectors and poll clerks during elections. (A.4467-A, R. Brodsky; Chapter 76)

This law allows authorized enrolled students who are 17 years of age with the consent of their school district and parents or legal guardians to serve as election inspectors and poll clerks during elections. By recruiting these young adults to serve in this capacity, this law will help reduce widespread shortages, while providing an excellent hands-on learning experience about democracy in action for young adults.

Changes the absentee ballot process by allowing qualified voters to request an absentee ballot from a board of elections by letter, telefax or other written instrument. (A.7347-B, S. Galef; Chapter 97)

This law adds telefax and other written means of communication as acceptable ways in which a request for an absentee ballot may be made.

Increases opportunities for voters in the military and others to vote. (A.10681-B, S. Silver; Chapter 104)

This law enacts certain provisions, that are required by federal law, that will increase the opportunity for military and special federal voters to cast their votes within a timeframe that allows those votes to be counted. It also streamlines the absentee ballot application to eliminate extraneous information that is not required by the New York State Constitution.

Permits manual audit of voter verifiable records. (A.1509, K. Wright; Chapter 129)

This law allows that a manual audit of the voter verifiable records applicable to any candidate may be directed in a special proceeding.

Preserves bipartisan nature of appointment of commissioners of boards of elections. (A.8525, A. Russell; Chapter 116)

This law will preserve the bipartisan nature of all boards of elections, as required by the New York State Constitution, by making the political party nomination of a board of elections commissioner effective within 30 days of the nomination when the legislative

body fails to act on the nomination and there are no members of the legislative body who are members of the party making the nomination.

Purchase or lease of election equipment, supplies and ballots in the city of New York. (A.8540, Hyer-Spencer; Chapter 155)

This law allows the New York City Board of Elections to use its expertise in the procurement of equipment, supplies and ballots while requiring it to comply with rules regarding competitive bidding.

Empowering boards of election to set standards for the change of mailing address and requiring candidates to provide the state board with depository information. (A.8693, Stirpe; Chapter 156)

This law simplifies the process for updating a mailing address on a political committee's statement establishing the committee and, for the first time would require that a candidate who does not establish a political committee provide the State Board of Elections with his or her depository name and address.

Authorizing canvassing of votes on Election Day with scanners. (A.11352-a, Millman; Chapter 163)

This law amends Article 9 of the Election Law to provide for the canvassing of ballots at the polls on Election Day when utilizing ballot scanners.

Opening the polls and duties of election inspectors. (A.11353-a, Millman; Chapter 164)

This law codifies the procedures for opening polling places on Election Day and the duties of the election inspectors. The bill continues procedures that have been in place in New York for many years regarding the opening of the polls and election inspector duties, except where the features of the new machine warrant a change in language or substance.

Defines "election day paper ballots" and use of party emblems. (A.11354-a, Millman; Chapter 165)

This law defines the "election day paper ballots" that will be used with the new ballot scanners, and conform the forms of absentee ballots to the new Election Day paper ballots where possible. The bill continues the format for ballots that has been in place in New York for many years except where the features of the new machines warrant a change in language or substance.

Expands the use of certain polling places making them accessible to persons with disabilities. (A.5707-a, Weinstein; Chapter 323)

This law expands the pool of available handicapped accessible polling places by mandating that buildings which obtain tax abatements or exemptions or other public benefits must be made available for use as polling places.

Authorizes withdrawal from a primary election run-off. (A.3563, Perry; Chapter 424)

This law provides a process for withdrawing from a primary election run-off by a qualifying candidate within three days after the initial primary.

Designating polling places on public transportation routes where possible. (A.7850, Paulin; Chapter 432)

This law ensure, whenever feasible, that polling places be designated on a line of public transportation to enable individuals, particularly those with physical disabilities, who do not have their own transportation to get to and from their polling places.

Alterating election districts by a board of elections to take advantage of advances in technology. (A.8692-c, Millman; Chapter 512)

This law provides boards of elections the flexibility to establish election districts to capitalize on the features and capabilities of the new voting machines, while ensuring that poll sites have adequate space.

Requiring polling places to be accessible to physically disabled voters. (A.10946, Cahill; Chapter 505)

This law provides for the continued accessibility of polling places for the physically disable and establishes basic accessibility guidelines to ensure consistency and encourage substantial compliance at polling sites.

**III. 2010 COMMITTEE INITIATIVES WHICH PASSED THE ASSEMBLY
BUT WERE NOT CONSIDERED BY THE SENATE**

Makes absentee ballots available in Braille and large-print. (A.3738-A, Koon).

This bill would enable blind and visually impaired persons to request Braille or large-print absentee ballots be made available to them.

Information to be included on statewide voter registration application forms. (A.8526, Gordon).

This bill would permit but not require voters to indicate their email address, in addition to their telephone number, thereby allowing a board of elections to contact the voter in the manner preferred by the voter.

Making technical corrections with regards to political subdivisions and election districts. (A.9540-A, Paulin).

This bill would amend Chapter 489 of the Laws of 2009 by requiring that poll workers are provided with maps, street finders, or other descriptions of all of the polling places and election districts within the political subdivision in which the polling place is located, rather than of those within the entire county.

Transporting unused paper ballots within the City of New York. (A.11226, Millman).

This bill would allow the Board of Elections in the City of New York to retrieve unused paper ballots from the poll site the day after election rather than requiring the police or peace officer retrieving the election returns on election night to also retrieve the unused ballots.

In relation to political communication, independent expenditure reporting, enforcement proceeding and penalties for violations. (A.11350, Silver).

This bill would prohibit candidates, political parties and committees from falsely identifying the source of political communications and to require the identification of the source of independent expenditures for political communications in support of or in opposition to candidates and ballot proposals to promote transparency and accountability.

**IV. 2010 BILLS WHICH PASSED BOTH HOUSES BUT WERE VETOED
BY THE GOVERNOR**

VETO NUMBER 6816

Requires the board of elections in the City of New York to maintain a voting machine storage and preparation facility in each borough of the City. (A.1458, Wright)

This bill, if signed, would have clearly and explicitly directed the board of Elections in the City of New York to establish and maintain both an office and a voting machine storage and preparation facility in each borough of the city.

APPENDIX A

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

<u>FINAL ACTION</u>	election law		
	<u>ASSEMBLY BILLS</u>	<u>SENATE BILLS</u>	<u>TOTAL BILLS</u>
BILLS REPORTED WITH OR WITHOUT AMENDMENT			
TO FLOOR; NOT RETURNING TO COMMITTEE	9	0	9
TO FLOOR; RECOMMITTED AND DIED	0	0	0
TO WAYS AND MEANS	2	0	2
TO CODES	5	0	5
TO RULES	5	0	5
TO JUDICIARY	2	0	2
TOTAL	23	0	23
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		5	5
RECALLED		2	2
TOTAL		7	7
BILLS DEFEATED IN COMMITTEE	0	0	0
BILLS NEVER REPORTED, HELD IN COMMITTEE	28	0	28
BILLS NEVER REPORTED, DIED IN COMMITTEE	234	17	251
BILLS HAVING ENACTING CLAUSES STRICKEN	5	0	5
MOTIONS TO DISCHARGE LOST	0	0	0
TOTAL BILLS IN COMMITTEE	290	24	314
TOTAL NUMBER OF COMMITTEE MEETINGS HELD	6		

**APPENDIX B
2010 CHAPTERS**

<u>BILL NUMBER</u>	<u>SPONSOR</u>	<u>DESCRIPTION</u>	<u>CHAPTER NUMBER</u>
A.1308	Wright	Authorizes the board of elections to employ election inspectors to work half-day shifts with adjusted compensation.	5
A.8541	Lifton	Relates to the deadline for the publication of enrollment lists.	28
A.3910-A	Gabryszak	Relates to the rights of a victim of domestic violence to cast special ballots if they leave their residence because of such violence.	38
A.4015-A	Kavanagh	Provides that an affidavit ballot shall also constitute an application to register to vote.	62
A.5276-B	Galef	Simplifies the absentee ballot process by removing requirement of certain information that is to be provided.	63
A.9368-A	Gabryszak	Authorizes a court to order the confidentiality of election registration records of a victim of domestic violence.	73
A.4467-A	Brodsky	Permits certain students enrolled in school to serve as election inspectors or poll clerks at elections under the election or education law.	76
A.7347-B	Galef	Relates to applications for absentee ballots.	97
A.10681-B	Silver	Relates to military ballots and absentee ballots.	104
A.1509	Wright	Allows that a manual audit of the voter verifiable records applicable to any candidate may be directed in a special proceeding.	129
A.8525	Russell	Provides the timing of appointment of commissioners of election where no members of a legislative body who are members of the political party filing the certificate.	116

2010 CHAPTERS

<u>BILL NUMBER</u>	<u>SPONSOR</u>	<u>DESCRIPTION</u>	<u>CHAPTER NUMBER</u>
A.8540	Hyer-Spencer	Relates to the lease or purchase of equipment, supplies, ballots, printing and publications by the New York city board of elections.	155
A.8693	Stirpe	Authorizes the board to set standards for the change of mailing address and requires a candidate to provide the board with depository information.	156
A.11352-A	Millman	Relates to canvassing votes; repealer.	163
A.11353-A	Millman	Enacts provisions relating to the opening of the polls and duties of election inspectors.	164
A.11354-A	Millman	Enacts provisions relating to the form of election day paper ballots and absentee ballots.	165
A.5707-A	Weinstein	Requires owners of buildings receiving state benefits to make available rooms for voting and registration which are accessible to the handicapped.	323
A.3563	Perry	Authorizes withdrawal from a primary election run-off.	424
A.7850	Paulin	Provides that polling places, whenever practicable, to be designated directly on a public transportation route.	432
A.8692-C	Millman	Relates to the creation of election districts and deployment of voting systems; repealer.	512
A.10946	Cahill	Requires polling places to be accessible to physically disabled voters.	505

APPENDIX C

2010 BILL VETO

<u>BILL NUMBER</u>	<u>SPONSOR</u>	<u>DESCRIPTION</u>	<u>VETO NUMBER</u>
A.1458	Wright	Requires the board of elections in the city of New York to maintain voting machine storage and preparation facility in each borough of the city.	6816