

NEW YORK STATE ASSEMBLY • SHELDON SILVER, SPEAKER



2014 ANNUAL REPORT



Committee on
Election Law
Michael J. Cusick, Chairman



MICHAEL J. CUSICK
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December 15, 2014

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 2014 Annual Report of the Assembly Standing Committee on Election Law.

The 2014 legislative session was active for the Election Law Committee. The Committee reported significant legislation that was later enacted into law including the "National Popular Vote" interstate compact which is an agreement among the states to elect the president of the United States by national popular vote.

Additionally, several important legislative changes to the Election Law were enacted as part of the SFY 2014-15 Budget, including:

- The establishment of an independent Enforcement Counsel at the State Board of Elections (SBOE or "Board") with authority to investigate violations of the Election Law;
- The creation of a compliance unit at the SBOE, tasked with examining and helping to correct deficiencies in campaign financial statements filed with the Board
- Provisions to strengthen the law pertaining to the disclosure of independent expenditures; and
- The implementation of a pilot program for optional public financing for the 2014 election for the Office of State Comptroller.

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

- Establishing early voting in primary, general, and special elections in the State of New York;
- Moving New York's primary for state elections to June to provide for a single federal and state primary and ensure the timely transmission of ballots to military voters stationed overseas;
- Providing that absentee ballots for all elections shall be made available in Braille upon the request of a blind or visually impaired voter; and
- Allows for half-day shifts for poll clerks;
- Creating a ballot layout that is easy 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 reform both the administrative agencies that monitor the electoral process and the laws by which they are governed. In that capacity, the Committee held a public hearing on December 12, 2014 to examine the implementation and operations of a new compliance unit, established within the SBOE, as well as explore ways to enhance compliance of campaign finance laws.

The goal of this Committee remains unchanged: 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 and continues to make great strides towards this goal. The 2015 session will, no doubt, again see intense debate concerning the issues of campaign finance reform and the ways in which New Yorkers access the polls.

Sincerely,



Michael J. Cusick
Chairman
Election Law Committee

**2014 ANNUAL REPORT
of the
New York State Assembly
Standing Committee on Election Law**

**Michael J. Cusick
Chairman**

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TABLE OF CONTENTS

	PAGE
I. INTRODUCTION	5
II. HIGHLIGHTS OF THE 2014 LEGISLATIVE SESSION	7
III. 2014 COMMITTEE INITIATIVES WHICH PASSED THE ASSEMBLY BUT WERE NOT CONSIDERED BY THE SENATE	10
IV. APPENDICES:	
APPENDIX A-SUMMARY OF ACTION ON ALL BILLS REFERRED TO THE ELECTION LAW COMMITTEE	13
APPENDIX B-2014 CHAPTERS	14

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

Building on its work over the past several years, in 2014 the Assembly Standing Committee on Election Law remained active and focused on the consistent aim of expanding the opportunity for voters to meaningfully participate in the electoral process. The Committee is proud that in a time when many states are seeking to obstruct the rights of voters, we have advanced legislation to expand accessibility to the electoral process in New York.

In keeping with this pledge to expand the franchise to as many New Yorkers as possible, the Committee referred and the Assembly passed legislation authorizing early voting. Early voting legislation would establish a two-week period before Election Day for New Yorkers to vote, set up multiple poll sites throughout each county, and ensure safeguards are in place to prevent fraud. The fact remains that many voters in New York State have familial, professional and personal responsibilities that prevent them from voting on Election Day. Early voting allows voters the opportunity to fulfill their civic duty without sacrificing other aspects of their lives.

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. Independent expenditures are those funds which are spent independent of candidates and campaigns which, in effect, serve as unregulated campaign advertisements. The impact of Citizens United is abundantly clear: unfettered money dilutes the voices of the people in electoral politics. In an effort to combat the undue influence of money on elections, the SFY 2014-2015 State Budget included legislation that strengthens the disclosure requirements for independent expenditures. As part of the new law, any person or entity making an independent expenditure must register with the State Board of Elections as a political committee and

disclose specific information about contributions and expenditures. Any independent expenditures totaling more than \$1000 must include the name of the person that paid for the communication and state that it was not authorized or requested by any candidate.

In 2014, the Committee championed "The Fair Election Act" which would set up a voluntary system of public financing of elections in New York State. The Fair Election Act of 2014 would reward small contributions from regular citizens and minimize the weight of traditional big dollar contributors by lowering contribution limits for candidate participating in public financing and prohibiting contributions from corporations and limited liability corporations from being matched. This bill was passed by the Assembly. Additionally, in the SFY 2014-15 Budget, an optional public financing pilot program was established for the 2014 State Comptroller race.

II. HIGHLIGHTS OF THE 2014 LEGISLATIVE SESSION

The Establishment of an Election Law Enforcement Counsel (A.8555-D Budget; Chapter 55)

As part of the 2014 State Budget, an Independent Division of Election Law Enforcement was created within the State Board of Elections. This new unit is headed by an enforcement counsel appointed by the Governor to a five year term. The enforcement counsel must be approved by a majority vote of the Assembly and the Senate sitting separately.

The enforcement counsel has the independent authority to investigate violations of the Election Law upon complaint or upon his or her own initiative.

The Establishment of a Compliance Unit within the State Board of Elections (A.8555-D Budget; Chapter 55)

As part of the 2014 State Budget, a new compliance unit was created within the State Board of Elections to examine campaign financial statements filed with the Board. When such statements are found deficient, the compliance unit must notify the person that filed the statement in order to correct any deficiencies. A failure to correct a deficiency can result in the enforcement counsel seeking civil and criminal penalties.

The Strengthening of Independent Expenditure Disclosure Requirements (A.8555-D Budget; Chapter 55)

As part of the 2014 State Budget, the law pertaining to independent expenditure disclosures was strengthened by requiring more disclosure for political communications made to 500 members or more of a general public audience. As part of the new law, any person or entity making an independent expenditure must register with the State Board of Elections as a political committee and disclose certain information about contributions and expenditures. Additionally, independent expenditures totaling more than \$1000 must clearly state the name of the person that paid for the communication and state that it was not authorized or requested by any candidate.

Matching Financing for the 2014 State Comptroller Election (A.8555-D Budget; Chapter 55)

As part of the 2014 State Budget, a public finance matching pilot program was included for the 2014 State Comptroller race. The program's centerpiece is a 6-1 match of contributions from New York State residents (up to \$175). The program will be funded by surplus moneys in the Abandoned Property Fund. The law establishing the public financing system will expire and be deemed repealed on December 31, 2014.

Enacting the agreement among the states to elect the president by national popular vote. (A.4422-A, J. Dinowitz; Chapter 19)

This law enacts an interstate agreement among member states to award their electoral votes for president to the candidate that receives a majority of the popular vote cast within all 50 states including the District of Columbia. Currently, the interstate agreement has been endorsed by 11 States representing 165 Electoral votes (61% of the 270 votes needed to activate a national popular vote).

Designating petitions. (A.9407, S. Silver; Chapter 20)

This law provides that the first day to sign a designation petition for state and local primary elections in 2014 will be 42 days, instead of 37 days, before the last day to file such petitions. This change was enacted in recognition of the Shavuot observance.

Extends the time period in which certain elected officials have to file their oath of office. (A.8999, M. Fitzpatrick; Chapter 30)

This law will allow for those duly elected officials in the Town of Smithtown in the most recent town-wide election (November 2013), who failed to timely file their oaths of office within the statutory deadline, to properly cure that ministerial defect and serve out their full four-year terms.

Filing and posting notice of party caucus. (A.412, A. Paulin; Chapter 249)

This law simplifies the notice requirement for party nomination caucuses for village elections while ensuring sufficient notice to village residents.

Security of Lever voting machines. (A.1230, T. Abinanti; Chapter 250)

This law ensures the security of lever voting machines used in village elections after such elections have concluded.

Poll Watchers. (A.5075, J. Millman; Chapter 254)

This law prohibits a candidate from serving as poll watcher in an election district in which they appear on the ballot.

The retention of poll books. (A.8340, D. Buchwald; Chapter 263)

This law synchronizes the retention of poll books with that of other election-related materials.

The continued use of lever voting machines. (A9321-A, M. Schimel; Chapter 273)

This law allows for the continued use of lever voting machines for school districts, villages and special districts in their respective local elections until December 31, 2015 and requires a report by the State Board of Elections.

Absentee ballot applications for village elections conform to current state board of election absentee ballot requirements. (A.5065-A S. Galef; Chapter 289)

This law conforms the absentee ballot provisions of Article 15 of the election law (village elections) to those of §8-400 of the election law, which pertain to all other absentee ballot requirements.

III. 2014 COMMITTEE INITIATIVES WHICH PASSED THE ASSEMBLY BUT WERE NOT CONSIDERED BY THE SENATE

Voter friendly ballot act. (A.204-A, Kavanagh)

This bill would create a ballot layout that is easier for voters to read and use and would help ensure more accurate voting.

Rotation on ballot. (A.458, Dinowitz)

This bill would ensure that the names of the candidates in primary elections will continue to be rotated on the ballot in succeeding election districts.

Early voting. (A.689-A, Silver)

This bill would establish early voting in primary, general and special elections in the state of New York.

Witness to a party designating petition. (A.1464, Abinanti)

This bill would codify a New York Court of Appeals decision and delete 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.

Technical amendments to section 7-126 of the Election Law. (A.1880, Weprin)

This bill would enact technical amendments to make certain provisions of the election law relating to ballots consistent with current practices. The bill would also repeal a section of the election law relating to the use of pasters (labels to replace someone on an already printed ballot). It also amends the laws relating to the use of absentee ballots so that the board of elections may receive applications for absentee ballots up to the day before an election.

Voter pre-registration. (A.2042-B, Kavanagh)

This bill would add a section to the New York voter registration form allowing 16 and 17 year olds to pre-register to vote. The boards of elections would store this information and use it to register the applicants when they reach the age of eligibility following verification of their qualifications and address.

Annual reports of boards of elections. (A.4600, Quart)

This bill would improve public access to information about local boards of elections through an annual report.

Employment of election poll clerks. (A.4670, Quart)

This bill would authorize the board of elections to employ election poll clerks to work half-day shifts with adjusted compensation. The board of elections is permitted to appoint election inspectors for 8 hour shifts. This permission would be extended to poll clerks, as well.

Attorneys as poll watchers. (A.6776-B, Weprin)

This bill would authorize attorneys to be poll watchers anywhere in New York if they are state residents and licensed to practice law in the state.

Political communications. (A.8187-C, Zebrowski)

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

State primary and military voters. (A.8198, Silver)

This bill would move the New York primary to June in order to merge the federal non-presidential primary and state primary and ensure the timely transmission of ballots to military voters stationed overseas.

Braille absentee ballots. (A.8815-A, Weprin)

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

Long Island Power Authority. (A.8823-A, Thiele)

This bill would eliminate the inclusion of signature requirements and other references to the Long Island Power Authority from the Election Law.

Richmond County. (A.8930, Cusick)

This bill would include the recently created thirteenth judicial district (Richmond County) as part of those districts in NYC that submit a roll of the convention to the secretary or chairman

of the party which is empowered to fix the time and place of the convention rather than a certificate submitted to the State Board of Elections.

Party emblems. (A.9046, Fahy)

This bill would remove the requirement that party emblems be included in ballot design in an effort to make ballots more readable.

Westchester county board of elections. (A.9244-B, Paulin)

This bill would create a provision requiring the Westchester county board of elections to stay open until midnight on the last day of a filing period.

General election ballot. (A.9906, Cusick)

This bill would provide that a vacant office shall appear only once on a general election ballot.

APPENDIX A

**2014 SUMMARY SHEET
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	9	0	9
TO FLOOR; RECOMMITTED AND DIED	0	0	0
TO WAYS AND MEANS	1	0	1
TO CODES	2	0	2
TO RULES	8	0	8
TO JUDICIARY	1	0	1
TOTAL	21	0	21
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		3	3
RECALLED		0	0
TOTAL		3	3
BILLS DEFEATED IN COMMITTEE	0	0	0
BILLS NEVER REPORTED, HELD IN COMMITTEE	23	0	23
BILLS NEVER REPORTED, DIED IN COMMITTEE	162	6	168
BILLS HAVING ENACTING CLAUSES STRICKEN	5	0	5
MOTIONS TO DISCHARGE LOST	0	0	0
TOTAL BILLS IN COMMITTEE	211	9	220
TOTAL NUMBER OF COMMITTEE MEETINGS HELD	8		

APPENDIX B

2014 CHAPTERS

<u>BILL NUMBER</u>	<u>SPONSOR</u>	<u>DESCRIPTION</u>	<u>CHAPTER NUMBER</u>
A.4422-A	Dinowitz	National Popular Vote	19
A.9407	Silver	Signing designating petitions	20
A.8999	Fitzpatrick	File oath of office	30
A.412	Paulin	Notice of party caucuses	249
A.1230	Abinanti	Security of lever voting machines	250
A.5075	Millman	Candidates serving as poll watchers	254
A.8340	Buchwald	Retention of poll books	263
A.9321-A	Schimel	Continued use of lever voting machines	273
A.5065-A	Galef	Village absentee ballot applications	289