

New York State Assembly

Carl E. Heastie

Speaker



Committee on
Election Law

Michael J. Cusick

Chairman

2016

ANNUAL REPORT



MICHAEL J. CUSICK
Assemblyman 63rd District
Richmond County

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STATE OF NEW YORK
ALBANY

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December 15, 2016

Honorable Carl Heastie
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 2016 Annual Report of the Assembly Standing Committee on Election Law.

The 2016 legislative session was active for the Election Law Committee. The Committee reported significant legislation that was later enacted into law, including streamlining the submission process for required campaign materials (digitally) to the NYS Board of Elections, ensuring New York State remains a permanent member of the "National Popular Vote Interstate Compact," and creating a special ballot for emergency/ first responders to ensure their vote is safeguarded during an emergency or natural disaster.

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

- Closing the LLC "loophole";
- Requiring political communications be attributed to the person(s) or committee who paid for them;
- Authorizing the use of Electronic Poll Registration Books at poll sites;
- Establishing a system for online voter registration;
- Combining State and Federal primaries into one June Primary;
- Providing for a period of early voting to allow all voters sufficient opportunity to cast their ballot;

- Proposing a Constitutional amendment to provide all voters the opportunity to vote by absentee ballot;
- Ensuring voters have the option of receiving communications from the NYS or County Board/s of Election through electronic means (email);
- Providing campaign treasurers with improved training to ensure campaign accounts are properly managed;
- Prohibiting political contributions made to party "housekeeping" accounts from being used for campaign purposes;
- Establish 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 29, 2016 to examine the condition of the State's election infrastructure with a specific 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 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 2017 session will, no doubt, again see forceful debate concerning the issues of campaign finance reform and the ways in which we conduct our elections in New York State.

Sincerely,



Michael J. Cusick
Chairman
Election Law Committee

**2016 ANNUAL REPORT
of the
New York State Assembly
Standing Committee on Election Law**

**Michael J. Cusick
Chairman**

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Jeffrey Dinowitz
Joseph Lentol
Barbara Lifton
Brian Kavanagh
David Weprin
Thomas Abinanti
David Buchwald
Michael Blake
Latrice Walker

MINORITY

Bill Nojay
Thomas McKeivitt
Chad Lupinacci
Karl Brabenec

STAFF

Daniel Salvin, Assistant Secretary for Program and Policy

Jessica A. Norgrove, Associate Counsel

Matthew Aumand, Analyst

Joann D. Butler, Team Executive Secretary

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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

Building on its work over the past several years, in 2016 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 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. Additionally, legislation passed the Assembly 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 25 million dollars by combining such 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 also passed legislation prohibiting the use of Committee “housekeeping” campaign funds for political purposes and strengthened the Election Law by adding new definitions clarifying the activities of certain types of committees including PACs. 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 2016 LEGISLATIVE SESSION

13th Judicial District Roll Call (A.4186; Cusick; Chapter 42)

This law includes the thirteenth judicial district (Richmond County) as part of those districts in NYC which 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.

Provides for the repeal of subdivision 8 of section 4-104 of the Election Law, relating to the amount paid to lease a polling station (A.7597; Cusick; Chapter 43)

This law repeals 4-104(8) of the Election Law, which established the amounts to be paid for the use of poll sites based upon whether they were accessible. Since federal and state law requires that all poll sites be accessible, there is no longer any need for such distinction. By repealing this provision it will remove confusion for election administrators relating to the designation of accessible poll sites, without exception.

Ensures "Mail Check" notifications are properly delivered/returned and cost effective for Boards of Election (A.7817; Cusick; Chapter 44)

This law ensures that non delivered mail check notifications, which provide voters with vital information regarding upcoming elections, including poll site location, are not forwarded to a new address ensuring the return of updated address information to the local board of elections for mail that cannot be delivered as addressed. This law also allows such mail check notifications to be delivered by standard mail instead of first class mail saving County Board of Election/s an estimated one million dollars annually.

Repeals section 3-408 of the Election Law relating to election inspectors and clerks (A.3330; Fahy; Chapter 102)

This law repeals section 3-408 of the election in order to clarify the process for the canvassing of absentee ballots, which must be counted centrally at Board offices or facilities, ensuring consistency, accuracy and transparency in the election process.

Filing Electronic Copies of Political Campaign Materials with the NYS Board of Elections (A.10105; Steck; Chapter 139)

This law allows campaign materials, required to be filed in post-election reports to the New York State Board of Elections, to be filed electronically, in addition to being filed by regular mail.

Ethics reform package (A.10742, Heastie (Rules), Chapter 286)

This law prohibits identified coordination and imposes enhanced disclosures with regard to independent expenditures and defines and prohibits certain spending by political action committees and independent expenditure committees. This law also requires housekeeping monies to be kept in segregated accounts and authorizes designated three-person committees to appoint or remove political committee treasurers. Additionally, the bill enhances lobbying disclosures and penalties for violations of the lobbying law, requires disclosures of issue advocacy spending, requires registration of political consultants, excludes communications with journalists and editorial boards from lobbying, and enhances due process protections for persons under investigation by the Joint Commission on Public Ethics.

National Popular Vote Interstate Compact. (A.6044, Dinowitz; Chapter 421)

Chapter 19 of the Laws of 2014 added New York State to the “National Popular Vote Interstate Compact”. That law was set to expire if the provisions required to enact the interstate compact were not achieved by December 31, 2018. This law removes the expiration provision and keeps New York State as a member of the interstate compact permanently.

**III. 2016 COMMITTEE INITIATIVES WHICH PASSED THE ASSEMBLY BUT WERE NOT
CONSIDERED BY THE SENATE**

Westchester County Board of Elections (A.138, 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.

Witness to a party designating petition (A.302-B, 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.

Allow 17-year olds to register and vote (A.504, 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.

Email address option on voter registration form (A.1952, 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.

Special ballots for election workers (A.2086, 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.

Braille absentee ballots (A.2104-A, Weprin)

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

Attorneys as poll watchers (A.2824-A, 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.

Absentee ballot statement clarified (A.2871, Aubry)

This bill would conform the 'statement of the absentee voter' printed on an absentee ballot to comply with the law that a person convicted of a felony and sentenced to a period of imprisonment may vote once they have completed their maximum sentence of imprisonment or have been discharged from parole.

Voter Friendly Ballot Act (A.3389-B, 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.

Ballots by mail (A.3874-B, Brennan)

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

Placement of office on ballots (A.4147, Cusick)

This bill would clarify that an office shall appear only once on the general election ballot.

Size of election districts (A.4189-A, Cusick)

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

Political communications (A.4286-B, Zebrowski)

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

Publication of candidate's residence (A.5236, Cusick)

This bill would remove 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.

E-mail notifications (A.5534-A, Galef)

This bill would authorize the inclusion, at a voter's option, of an e-mail address in the voter registration application, and notices to be sent via e-mail and by U.S.P.S.

Closing the LLC loophole (A.6975-B, 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 \$5000 contribution limits for LLCs. This bill also requires disclosure of membership interests and requires attribution of an LLC's contributions to its members.

Placing male and female candidates on the ballot (A.6999, Bichotte)

This bill would provide that boards of elections shall determine by lot whether to first print the contest for male or female candidates and use the same order for all ballots in the entire county or city of New York for elections for party positions that are separated by gender.

The use of campaign contributions for Party "Housekeeping Accounts" (A.7392, Simon)

This bill would prohibit contributions made to "housekeeping" accounts from being used to promote or oppose a candidate. The bill would also require housekeeping funds to be kept in segregated accounts and provides that such funds may only be transferred to similarly segregated accounts intended for housekeeping purposes.

Defines Political Action Committee "PAC" and Independent Expenditure Committee "IE" for the purposes of Election Law (A.7397-A, Cusick)

This bill would clarify Election Law by defining PAC and IE committees as well as indicate the allowable spending and contributions of both. The bill would provide a penalty up to \$1000 or the cost of the expenditure, whichever is greater, for violations of this section.

Long Island Power Authority (A.7544, Thiele)

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

Uniform Election Night Procedure Act (A.7925, 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 of 2013", streamlining the process for winding down poll sites at the end of an election day.

Early voting (A.8582-B, 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.

Electronic poll books (A.8608-A, Cusick)

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

Specification of objections for petitions and nominations (A.8719-A, 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.

Primary elections, deadlines and transmission of ballots (A.9108, 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 officers law to require that a vacancy occurring at least three months prior to the next general election be held thereat, unless previously filled at a special election.

Training for treasurers (A.9558-A, Galef)

This bill would provide for the mandatory training and curriculum for treasurers of political committees.

Poll watchers (A.10317, Buchwald)

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

Voter Enfranchisement Modernization Act (A.10370, Cusick)

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

Designating and nominating petitions (A.10419, Galef)

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

Pre-clearance for voting policies (A.10712, Walker (Rules))

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.

IV. Election Committee Public Hearing

On November 29, 2016, the Committee held a public hearing on ensuring the integrity of elections in New York. The focus of the Committee was on 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 and the Schoharie County Information Technology and Services as well as written testimony by the New York Democratic Lawyers Council. 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, technologies and 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)	13	0	13
TO WAYS AND MEANS	11	0	11
TO CODES	2	0	2
TO RULES	14	0	14
TO JUDICIARY	2	0	2
TOTAL	42	0	42
BILLS HAVING COMMITTEE REFERENCE CHANGED			
TO _____	0	0	0
TO _____	0	0	0
TO _____	0	0	0
TO _____	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	18	0	18
BILLS NEVER REPORTED, DIED IN COMMITTEE	167	6	173
BILLS HAVING ENACTING CLAUSES STRICKEN	13	0	13
MOTIONS TO DISCHARGE LOST	0	0	0
TOTAL BILLS IN COMMITTEE	240	8	248
TOTAL NUMBER OF COMMITTEE MEETINGS HELD	7		

APPENDIX B

2016 CHAPTERS

<u>BILL NUMBER</u>	<u>SPONSOR</u>	<u>DESCRIPTION</u>	<u>CHAPTER NUMBER</u>
A.4186	Cusick	13 th Judicial District Roll Call	42
A.7597	Cusick	Repealer Regarding Leasing of Polling Stations	43
A.7817	Cusick	“Mail Check” Notifications	44
A.3330	Fahy	Repealer Regarding Election Inspectors and Clerks	102
A.10105	Steck	Filing Electronic Copies of Political Campaign Materials	139
A.6044	Dinowitz	National Popular Vote Interstate Compact	421