

NEW YORK STATE ASSEMBLY

ANNUAL REPORT

2020



COMMITTEE ON
ELECTION LAW

CARL E. HEASTIE
SPEAKER

CHARLES D. LAVINE
CHAIRMAN



CHARLES D. LAVINE
Assemblyman 13th District
CHAIR
Judiciary Committee

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

COMMITTEES
Codes
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December 15, 2020

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 2020 Annual Report of the Assembly Standing Committee on Election Law.

The 2020 legislative session was unique. The Committee reported numerous bills that addressed the COVID-19 pandemic, many of which were enacted into law, including the expansion of availability of absentee ballots to keep voters safe from the virus.

I am proud of the Committee's achievements under the difficult circumstances of COVID-19. The Committee and the Assembly continued to work to advance policies that increase fairness, transparency, and safety in the electoral process.

The goal of the Committee remains unchanged: to instill in voters the confidence that our electoral system is structurally honest, fair, and safe to all New Yorkers. Through this Committee's advocacy of initiatives designed to bring about reforms, New York has made, and continues to make, great strides towards this goal. The 2021 session will, no doubt, again see issues related to the ways in which we can modernize our elections systems to provide New Yorkers with the most effective and safe way to exercise their right to vote.

Sincerely,

Charles Lavine

Chairman

Election Law Committee

2020 ANNUAL REPORT
Of the
New York State Assembly
Standing Committee on Election Law

Charles Lavine

Chairman

MEMBERS

MAJORITY

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Jeffrey Dinowitz

Joseph Lentol

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Latrice Walker

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Introduction

Committee Jurisdiction

The jurisdiction of the Assembly Standing Committee on Election Law (“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 election.

Executive Summary

The 2020 legislative session was marked by many challenges stemming from the nationwide COVID-19 pandemic. The Committee rose to the challenge, crafting and reporting many bills aimed at keeping people safe while maintaining the ability of voters to exercise their civic duty. Many of these initiatives were signed into law, including legislation providing for automatic voter registration (“AVR”), which will make registration easier and more accessible; legislation making absentee ballot voting more widely available, including for persons who do not feel safe voting in person due to public health concerns; and legislation specifying that, in addition to other locations, there must be an early voting polling site in the most populous municipality in each county, thereby assuring improved access to early voting.

The Committee also approved a constitutional amendment related to the independent redistricting committee. This resolution, if passed by a new legislature in 2021 and approved by voters of New York State, would amend the Constitution to make improvements to the congressional and legislative redistricting process.

BILLS SIGNED INTO LAW IN THE 2020 LEGISLATIVE SESSION

Relates to committees to receive notices for opportunities to ballot (A.8999; Chapter 33; Galef)

Chapter 456 of 2019 requires individuals nominated to serve on a committee to receive notices concerning opportunity to ballot petitions to sign and accept such nomination to serve; otherwise such nomination shall be null and void. This 2019 law further requires that all certificates of acceptance by a candidate be filed no later than the fourth day after the last day to file petitions for the opportunity to ballot.

This 2020 chapter amendment replaces the "nomination" with "appointment" in several places, as appointment is the correct term in relation to committees to receive notices for opportunity to ballot petitions.

Relates to the elimination of duplicate electronic filing (A.9001; Chapter 34; Seawright)

Chapter 416 of 2019 provides that any candidate or authorized candidate's committee required to file electronically with the State Board of Elections satisfies that requirement by filing electronically with a local campaign finance board if the filing format and audit procedures of the local board meet or exceed the requirements imposed by Article 14 of the Election Law, the data is publicly available at a substantial equivalent to the State Board's publication standards, and the local board provides the State Board with notice of filing delinquencies.

This 2020 chapter clarifies that if any one of the three requirements listed is no longer followed by a local campaign finance board, then the local filers will have to file with the State Board of Elections.

Relates to changes to the entrance to or exit from polling place (A.8257; Chapter 232; Jacobson)

This law provides that while polling places are open, neither the entrance nor the exit shall be altered unless the change increases access for persons with disabilities or is necessary to maintain public safety or due to an emergency. Any alteration must be clearly marked with signage placed adjacent to the former entrance or exit.

Relates to the timing of certain voter registration checks (A.9128; Chapter 21; Lavine)

This law temporarily increases (through 12/31/20) the mailing requirements with respect to annual voter registrant checks. It requires that such mailings be sent no less than 85 nor more than 90 days before a primary election.

Relates to the disclosure of the identities of political committees making certain expenditures for political communications (A.9002; Chapter 87; Zebrowski)

Chapter 454 of 2019 was enacted with the aim of publicly identifying the political committee responsible for making a political communication. It requires that a statement accompany certain political communications including printed, digital, visual and audio communications. Generally the political committee must state that the advertisement was "paid for by" the (named) political committee that made the expenditure.

This 2020 chapter amendment clarifies that exceptions in paragraphs three and four of section 14-106 of the Election Law addressed in the 2019 chapter do not apply to independent expenditure committees.

Establishes the New York Automatic Voter Registration Act (A.8280-C; Chapter 350; Walker)

This law establishes an electronic personal voter registration process integrated within designated agency applications. It also requires the State Board of Elections to promulgate necessary rules and regulations for Automatic voter registration (AVR). Automatic voter registration will be made available in an increasing number of state agencies when a person interacts with the agency for other purposes.

Relates to absentee voting (A.10833; Chapter 139; Dinowitz)

This law specifies that, for purposes of voting by absentee ballot, "illness" includes instances where a voter does not wish to appear personally at the polling place because of a risk of contracting an illness or spreading an illness to others.

Relates to requests for absentee ballots (A.10807; Chapter 138; Taylor)

This law removes the 30-day start date for the receipt and acceptance of absentee ballot applications by county boards of election. The law is designed to help facilitate absentee voting during the pandemic period. This law expires on December 31, 2020.

Relates to the receipt by boards of election of certain absentee ballots that do not bear a dated postmark (A.10808; Chapter 140; Bichotte)

This law establishes a presumption that an absentee ballot received by mail by a board of elections, that does not bear or display a dated postmark was timely mailed or delivered. The presumption applies if the ballot envelope bears a stamp of the receiving board of elections indicating receipt on or before Election Day.

Relates to providing voters an opportunity to contest challenges to absentee ballots (A.10830; Chapter 141; Lavine)

This law establishes procedures for when a board of elections receives an unsigned or (when required) insufficiently witnessed absentee ballot affirmation. Under this law, the board must afford the voter an opportunity to cure the defect by supplying the required signature in a timely manner.

Relates to requiring that an early voting site be maintained in the municipality with the largest population in each county (A. 8610-B; Chapter 344; McDonald)

This law requires that the municipality with the highest population in each county be designated as an early voting site. The law is designed to ensure improved access to early voting.

Relates to the notice of the days and hours for voting in primary and general elections (A1385-B; Chapter 200; Perry)

This law requires the Board of Elections to print the date and time of all upcoming primary and general elections in bold type on address verification notices sent out prior to each election.

2020 CONSTITUTIONAL AMENDMENT REPORTED BY THE COMMITTEE THAT PASSED THE ASSEMBLY AND SENATE AND WOULD REQUIRE PASSAGE IN A SUBSEQUENT LEGISLATIVE TERM

Relates to the functioning of the independent redistricting commission (A10839; requires second passage; Zebrowski)

This amendment to the NYS Constitution would require that incarcerated persons be counted in the census at their last place of residence (prior to incarceration). It would also require the state to conduct and apply the results of its own count if the federal census does not show the total number of inhabitants of the state including undocumented persons and non-taxed Native Americans. It would also specify the required number of Senators and remove certain requirements when drawing Senate district maps. It would require the redistricting commission to prepare and submit a redistricting plan on or before November 1, but no later than November 15 in a year ending in 1 and require the commission to send a second plan if the first is not approved by the Legislature or is vetoed by the governor by January 1. It would also require a vote of seven commissioners to send a plan to the Legislature but does not require an affirmative vote from a member appointed by different political leaders. It would also remove provisions that would change how the co-executive directors are chosen by the members of the commission depending on the parties in control of each house of the Legislature and would require a majority vote of the commission to appoint each co-executive director. It would also alter the period within which commission actions must be taken in order to conform the commission's work to New York's new, earlier primary election dates. Finally, it would clarify the procedures that would apply if the commission were unable to approve a redistricting plan.

**2020 COMMITTEE INITIATIVES THAT PASSED THE ASSEMBLY BUT WERE NOT CONSIDERED
BY THE SENATE**

Relates to specification of objections to designating petitions, independent nominating petitions, certificates of nomination and ballot access documents (A.452; Steck)

This bill would establish statewide uniformity regarding specific objections to nominating petitions, designated petitions, certificates of nomination and ballot access documents.

Relates to the use of voting systems by municipalities (A.1864; Abinanti)

This bill would permit municipalities conducting their own elections to obtain from the board of elections, whenever possible, voting systems for use at the election.

Relates to the prohibition of private individuals or entities paying the administrative expenses associated with a referendum (A.2644; Lavine)

To address potential conflict-of-interest concerns, this bill would prohibit a private individual, partnership, corporation, organization or similar entity from directly or indirectly paying the cost incurred by the government for the administration of a state or municipal referendum.

Relates to the number of registrants an election district may contain with the approval of the county board of elections; increases number on county committee (A.6093; Cusick)

This bill would raise the registrant enrollment limit for each election district in the state from a maximum of 1,150 registrants to a maximum of 2,000 registrants. The bill would also eliminate a statutory cap on the number of members a county party committee may have from each election district; any such limit on the number of members from each election district would be specified in party rules.

ELECTION LAW COMMITTEE PUBLIC HEARING

On August 11, 2020, the Committee held a joint public hearing with the Assembly Committee on Local Governments together with the Senate Committees on Elections and Local Governments. This hearing was held to hear from interested persons and groups concerning the absentee voting process during recently-concluded state and federal legislative primaries.

A state of emergency was declared in New York State in March of 2020 due to the COVID-19 pandemic. The pandemic and declared state of emergency impacted local governments tasked with administering the federal presidential primary, which originally had been slated for April 28, 2020, and numerous special elections. By executive order, the New York federal and state primaries were rescheduled to June 23, 2020. Yet great concerns remained about how to ensure the election could be held safely. An April 2020 executive order signed by the governor clarified that any voter could request an absentee ballot based on the risk from COVID-19. A second executive order required that every New Yorker eligible to vote in the election would receive a postage-paid absentee ballot.

More than 1.7 million absentee ballots were requested for the June 2020 primary in New York State and as of July 1, 2020, nearly 1 million of those ballots had been completed and returned. As a comparison, in the 2016 presidential primary, only 115,000 absentee ballots were completed and returned.

Lawsuits were filed in the spring of 2020 challenging some of the new procedures. Some voters complained of never receiving an absentee ballot despite properly applying for a ballot. Some absentee ballots were challenged by third-parties on technical and other grounds.

Testimony received at this hearing demonstrated that, though the state has made great strides in the absentee ballot process, COVID-19 created challenges that were difficult to anticipate. Witnesses asserted that additional, statutory improvements were needed. Among the recommendations were earlier access to absentee ballots, elimination of all cause requirements for voting by absentee and expansion of opportunities to cure defects in absentee ballot submissions.

2020 SUMMARY SHEET

SUMMARY OF ACTION ON ALL BILLS

REFERRED TO THE COMMITTEE ON

Election Law

TOTAL NUMBER OF COMMITTEE MEETINGS HELD 4

<u>ASSEMBLY</u>	<u>SENATE</u>	<u>TOTAL</u>
<u>BILLS</u>	<u>BILLS</u>	<u>BILLS</u>

BILLS REPORTED FAVORABLE TO:

Codes	0	0	0
Judiciary	0	0	0
Ways and Means	3	0	3
Rules	3	0	3
Floor	8	0	8
TOTAL	14	0	14

COMMITTEE ACTION

Held For Consideration	9	0	9
Defeated	0	0	0
Enacting Clause Stricken	3	0	3
REMAINING IN COMMITTEE	285	13	298

BILLS REFERENCE CHANGED TO:

Labor 1

Ways and Means 6

TOTAL	7	0	7
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2020 CHAPTERS

<u>BILL NUMBER</u>	<u>SPONSOR</u>	<u>DESCRIPTION</u>	<u>CHAPTER NUMBER</u>
A.9128	Lavine	Timing requirements of annual voter registrant checks	21
A.8999	Galef	Amendment to Chapter 456 of 2019	33
A.9001	Seawright	Amendment to Chapter 416 of 2019	34
A.9002	Zebrowski	Amendment to Chapter 454 of 2019	87
A.10801	Taylor	Time limits for absentee ballot requests	138
A.10833	Dinowitz	Definition of "illness" in absentee ballot request	139
A.10808	Bichotte	Validity of absentee ballots bearing a timestamp	140
A.10830	Lavine	Opportunity to contest challenges to an absentee ballot	141
A.1385-B	Perry	Notice of days and hours of voting	200
A.8257	Jacobson	Changes of entrance and exit of polling places	232
A.8610-B	McDonald	Early voting polling places	344
A.8280-C	Walker	Automatic Voter Registration	350