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## BOARD OF ELECTIONS

IN  
THE CITY OF NEW YORK  
EXECUTIVE OFFICE, 32 BROADWAY  
NEW YORK, NY 10004-1609  
(212) 487-5300  
FAX (212) 487-5349  
[www.vote.nyc.ny.us](http://www.vote.nyc.ny.us)

### AGENDA COMMISSIONERS MEETING TUESDAY, APRIL 21, 2009 AT 1:30 P.M.

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1. Minutes
  - a) 3/24/09
  - b) 3/31/09
  - c) 4/07/09
  - d) 4/14/09
2. George Gonzalez
  - a) HAVA Update
    - 2009 Pilot Commitment Survey
  - b) Invitation to Testify at Senate Elections Committee Public Hearing – April 24, 2009
3. Steven H. Richman
  - a) Authorization to Contract Temporary Legal Services
4. Rosanna Rahmouni
  - a) Poll Site Designations for the 2009 Election
5. John Ward
  - a) Comparative Expenditures
  - b) FY09/FY10 OTPS Report

#### For Your Information

- HAVA Pilot Program
- 2008 Annual Report – New York State Assembly, Committee on Election Law

#### News Items of Interest

- *Newsday.com*: Election helped Suffolk employees rake in OT pay
- *The New York Times*: Lawyers, Votes and Money in House Fight
- *Newsday.com*: Election Board: New machines 'impossible' by primary

COUNTY NAME: \_\_\_\_\_

DATE: \_\_\_\_\_

We intend to conduct a pilot project using scanners and no lever machines in our county in the 2009 Primary and General Elections: YES \_\_\_\_\_ NO \_\_\_\_\_

If you checked YES, tell us what will constitute your pilot project:

\_\_\_\_\_ Countywide

How many election districts \_\_\_\_\_

How many poll sites \_\_\_\_\_

How many voters \_\_\_\_\_

\_\_\_\_\_ In one or more cities or towns: \_\_\_\_\_ (tell us how many cities or towns)

How many election districts \_\_\_\_\_

How many poll sites \_\_\_\_\_

How many voters \_\_\_\_\_

\_\_\_\_\_ In one or more poll sites:

How many poll sites \_\_\_\_\_

How many election districts \_\_\_\_\_

How many voters \_\_\_\_\_

Signed: \_\_\_\_\_

Commissioner

Commissioner

PLEASE RETURN VIA E-MAIL OR FAX. IF FAXING, SEND YOUR FAX TO 518-486-4546

THANK YOU



**STANDING COMMITTEE ON ELECTIONS  
CHAIRMAN, JOSEPH. P. ADDABBO**

*Comm / KAT  
Admin*

April 14, 2009

Mr. Marcus Cederqvist  
Executive Director  
New York City Board of Elections  
32 Broadway, 7<sup>th</sup> Floor  
New York, NY 10004

Dear Mr. Cederqvist:

**RE: Voter Registration Reform Public Hearing**

Please be advised that the New York Senate Standing Committee on Elections will hold a hearing on **April 24 at 10:00 a.m. at the Senate Hearing Room, 250 Broadway, 19th Floor, New York, New York 10007** regarding the above referred topic.

You are hereby requested to attend this hearing and testify for up to five minutes, in person or through a designated member of the New York City Board of Elections, on one or more of the following bills on the agenda:

- **S1616** (Senator Valesky) —Allows voters to register and vote on Election Day through a Constitutional amendment.
- **S3372** (Senator Addabbo) —Allows voters to register and vote on Election Day (once Constitution is amended).
- **Bill Number TBD** —Reduces the deadlines for changing party enrollment to 25 days prior to an election for unaffiliated voters and 90 days for those already registered to a party.
- **S3996** (Senator Addabbo) —Reduces the deadline by which a registration must be received from 25 to 10 days before an election.
- **S3995** (Senator Addabbo) —Provides an additional opportunity for new registrants to indicate choice of party enrollment where original choice was omitted or void.
- **S1266** (Senator Montgomery) —Educates the incarcerated and those released but serving sentences about their voting and absentee ballot rights and provides for assistance in registering and voting by absentee ballot.
- **S4035** (Senator Addabbo) —Requires State Board of Elections to address forms to local county board when voter downloads from the Web-site.

It would be greatly appreciated if you would submit your testimony no later than April 20 and could bring 10 copies of your written testimony to the hearing for the panel, and additional copies for the public and the media. Thank you for your cooperation.

Sincerely,

David Kogelman  
Counsel to the Elections Committee

Andrew Stengel  
Senior Advisor for Government Reform

# NEW YORK STATE SENATE

## Notice of Public Hearing



### **New York State Senate Standing Committee on Elections**

Joseph P. Addabbo, Jr.

Chair

Senator Martin Malave Dilan

Senator Thomas W. Libous

Senator Jose M. Serrano

Senator Joseph A. Griffo

Senator Brian X. Foley

Senator Thomas P. Morahan

**SUBJECT:** To address a number of proposals to update and reform the state's voter registration laws and regulations.

**April 24, 2009**

**10A.M. -1 PM.**

**New York State Senate  
250 Broadway – 19<sup>th</sup> Floor  
New York, New York 10007**

The goal of the public hearings is to seek comment about a series of election reform proposals. The April hearings in Buffalo (April 23) and New York City (April 24), are the first in a series that will continue in May, June, September and November, and are dedicated to increasing awareness about election policy and voting. For the next three months of session, and beyond, the Committee will focus on a different issue: voter registration; voting/casting a ballot and poll sites; Board of Elections oversight; the election code; and oversight of the elections in November.

This dialogue between lawmakers and the public is part of the Senate's commitment to beginning a robust committee process, development of sound public policy through open dialogue and an overall transparent legislative procedure.

The hearing in New York City on April 24 will focus on the following bills:

- **S1616** (Senator Valesky) —Allows voters to register and vote on Election Day through a Constitutional amendment.
- **S3372** (Senator Addabbo) —Allows voters to register and vote on Election Day (once Constitution is amended).
- **Bill Number TBD** —Reduces the deadlines for changing party enrollment to 25 days prior to an election for unaffiliated voters and 90 days for those already registered to a party.
- **S3996** (Senator Addabbo) —Reduces the deadline by which a registration must be received from 25 to 10 days before an election.
- **S3995** (Senator Addabbo) —Provides an additional opportunity for new registrants to indicate choice of party enrollment where original choice was omitted or void.
- **S1266** (Senator Montgomery) —Educates the incarcerated and those released but serving sentences about their voting and absentee ballot rights, and provides assistance in registering and voting by absentee ballot.
- **S4035** (Senator Addabbo) —Requires State Board of Elections to address forms to local county board when voter downloads from the website.

***Witnesses at the hearing are by invitation, and those accepting the invitation should indicate their response*** on the reply form. If you are unable to attend in person, the Committee also encourages the submission of written testimony, which will be considered by the Committee and will be made part of its record. Written testimony may be e-mailed as an attachment in any common format to the Elections Committee at: [oliver@senate.state.ny.us](mailto:oliver@senate.state.ny.us).

Persons wishing to attend or testify at this hearing should complete and return the reply form as soon as possible, but no later than **Tuesday, April 21**. It is important the form be fully completed and returned so persons may be notified in the event of postponement or cancellation of the hearing. Witnesses are asked to keep oral testimony to no more than five minutes in length. If you are testifying, please submit 10 copies of their prepared statement for the Committee and bring additional copies for the public and media. If you are attending but not testifying, you may also submit written testimony.

In order to meet the needs of those who may have a disability, the New York State Senate has made its facilities and services available to all individuals with disabilities. Accommodations will be provided for individuals with disabilities, upon reasonable request, to afford such individuals access and admission to Senate facilities and activities.

Questions about this hearing may be directed to Bernadette Oliver at (518) 455-2310 ([oliver@senate.state.ny.us](mailto:oliver@senate.state.ny.us)).

**New York State Senate Standing Committee on Elections**

**Public Hearing Reply Form**

Please respond by April 21

Mail to:

New York State Senate Standing Committee on Elections  
Room 815 LOB, Albany, NY, 12247.  
Or fax to: 518-426-6875.

\_\_\_\_\_ I would like to testify at the hearing on April 24.

\_\_\_\_\_ I plan to attend, but do not wish to testify at the hearing on April 24.

\_\_\_\_\_ I will require assistance and/or handicapped accessibility information. Please specify the type of assistance required:

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NAME:

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TITLE:

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ORGANIZATION:

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ADDRESS:

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E-MAIL:

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TELEPHONE:

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FAX:

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## **NEWS FROM the NEW YORK STATE SENATE ELECTIONS COMMITTEE**

**For Immediate Release: Thursday, April 9, 2009**

**Contact: Michelle Friedman | michelle.b.friedman@gmail.com | 212-298-5586(w); 240-888-9007(m)**

**Contact: Austin Shafran | austinshafran@gmail.com | 518-455-2415(w); 917-417-3711(m)**

**\*\*PRESS RELEASE\*\***

### **SENATE ELECTIONS COMMITTEE TO BEGIN SERIES OF FIVE HEARINGS ACROSS NEW YORK ON REFORM BILLS AND OVERSIGHT**

*Hearings to Target Different Election-related Issues Now Through November*

This month, the Elections Committee, Chaired by Senator Joseph P. Addabbo Jr. (D-Howard Beach), will kick-off five public hearings dedicated to soliciting public comment on recently introduced and upcoming election reform proposals. The April hearings in Buffalo (April 23<sup>rd</sup>) and New York City (April 24<sup>th</sup>), are the first in a series that will continue in May, June, September and November, and will also increase awareness about election policy and voting. Each hearing will emphasize a different theme such as: voter registration; casting a ballot and poll sites; Board of Elections oversight; election code reform; and oversight of elections in November.

“I am pleased to announce this series of public hearings, which will open the legislative process to the public,” said Senator Joseph P. Addabbo Jr. “We in the Senate are committed to allowing citizens’ voices to be heard on matters that are of the utmost importance to the health and vitality of our democracy. Accordingly, we will address election issues with a deliberate approach, with hearings on voter registration, absentee ballots, election day and voting issues, Board of Elections oversight, new voting machines and other related matters.”

Senate Majority Leader Malcolm A. Smith said, “Through these hearings and the work of the Elections Committee, the Senate is taking significant steps to improve the election process by proactively including voters at all stages. By soliciting feedback now, we are ensuring that as the Committee proceeds, reform is made with the best interest of New Yorkers in mind. By educating voters on important issues such as voter registration and Election Day protocol, we continue to demonstrate that above all else, this is a legislature working for the people.”

These hearings will emphasize the necessity of individual participation in the electoral process, and provide voters with critical information on election procedure. Currently, more than 33 percent of eligible voters in New York are not registered, according to US Census data compiled by Dr. Michael McDonald, associate professor of public and international affairs at George Mason University.



This new dialogue between lawmakers and the public is part of the Senate's continued commitment to increasing the participation of Senators' in the committee system and openness and transparency in the legislative process.

Senator Addabbo concluded, "I am hopeful that through these hearings we will assure the people that they will be able to participate in the most fundamental process in our democracy and instill confidence in the voters that their votes and voices matter."

The bill package for the April public hearings include:

- **S1616** (Senator Valesky) —Allows voters to register and vote on Election Day through a Constitutional amendment.
- **S3372** (Senator Addabbo) —Allows voters to register and vote on Election Day (once Constitution is amended).
- **Bill Number TBD** —Reduces the deadlines for changing party enrollment to 25 days prior to an election for unaffiliated voters and 90 days for those already registered to a party.
- **S3996** (Senator Addabbo) —Reduces the deadline by which a registration must be received from 25 to 10 days before an election.
- **S3995** (Senator Addabbo) —Provides an additional opportunity for new registrants to indicate choice of party enrollment where original choice was omitted or void.
- **S1266** (Senator Montgomery) —Educates the incarcerated and those released but serving sentences about their voting and absentee ballot rights and provides for assistance in registering and voting by absentee ballot.
- **S4035** (Senator Addabbo) —Requires State Board of Elections to address forms to local county board when voter downloads from the Web-site.

The complete hearing schedule is:

**April—Voter Registration**

Hearings April 23<sup>rd</sup> in Buffalo at the Erie County Legislature, April 24<sup>th</sup> in NYC at 250 Broadway  
Committee meeting April 29<sup>th</sup>

**May—Casting a Ballot/ Poll Sites**

Hearings May 11<sup>th</sup> in Albany, May 14<sup>th</sup> in Syracuse (TBD)  
Committee meeting May 19<sup>th</sup>

**June—Board of Elections Oversight**

June 3<sup>rd</sup> in Albany, June 12<sup>th</sup> in NYC  
Committee meeting June 16<sup>th</sup>

**STATUS:**

**S1616 VALESKY** Same as A 3734 Gianaris (MS)  
 Constitution, Concurrent Resolutions to Amend  
 TITLE....Removes ten day advance voter registration requirement  
 02/03/09 REFERRED TO JUDICIARY  
 02/09/09 TO ATTORNEY-GENERAL FOR OPINION  
 02/19/09 OPINION REFERRED TO JUDICIARY

**SUMMARY:**

VALESKY, KRUEGER, OPPENHEIMER, SAVINO

Amd Art 2 S5, Constn

Amends the constitution to delete the requirement that registration for purposes of voting be completed at least ten days before election day and provides that laws be made to adequately safeguard against deception in the exercise of the right of suffrage; enables the legislature to enact legislation permitting persons to register to vote on election day and also to implement adequate safeguards against fraud.

**BILL TEXT:**

## STATE OF NEW YORK

1616

2009-2010 Regular Sessions

### IN SENATE

February 3, 2009

Introduced by Sen. VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

#### CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing an amendment to section 5 of article 2 of the constitution, in relation to the ten day advance registration requirement

1 Section 1. Resolved (if the Assembly concur), That section 5 of arti-  
 2 cle 2 of the constitution be amended to read as follows:  
 3 § 5. Laws shall be made for ascertaining, by proper proofs, the citi-  
 4 zens who shall be entitled to the right of suffrage hereby established,  
 5 and for the registration of voters[; ~~which registration shall be~~  
 6 ~~completed at least ten days before each election~~] with such provision as  
 7 in the judgment of the legislature is adequate to safeguard against  
 8 deception in the exercise of the right of suffrage. Such registration  
 9 shall not be required for town and village elections except by express  
 10 provision of law.  
 11 § 2. Resolved (if the Assembly concur), That the foregoing amendment  
 12 be referred to the first regular legislative session convening after the  
 13 next succeeding general election of members of the assembly, and, in  
 14 conformity with section 1 of article 19 of the constitution, be  
 15 published for three months previous to the time of such election.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD89060-01-9

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**SPONSORS MEMO:**

**NEW YORK STATE SENATE  
INTRODUCER'S MEMORANDUM IN SUPPORT  
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S1616

SPONSOR: VALESKY

TITLE OF BILL:

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY proposing an amendment to section 5 of article 2 of the constitution, in relation to the ten day advance registration requirement

PURPOSE:

This concurrent resolution proposing constitutional amendment would begin the long task of amending the constitution to allow for same day voter registration.

SUMMARY OF PROVISIONS:

This bill amends section 5 of article 2 of the constitution to eliminate the ten day advance voter registration requirement. If adopted, the legislature would set guidelines for this provision.

JUSTIFICATION:

Same day registration is a sensible way to encourage voter participation and strengthen our democracy, Yet, due to specific provision in the New York State Constitution requiring ten day advance voter registration, the legislature is unable to enact same day voter registration legislation. This amendment is the first step in clearing the way for this important election reform.

LEGISLATIVE HISTORY:

Introduced as S.5013 in 2007

FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

This amendment may be referred to the first regular legislative session

convening after the next succeeding general election of members of the Assembly, for further consideration.

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**STATUS:**

S3372 ADDABBO

No Same as

Election Law

TITLE....Provides that qualified persons who are not registered to vote may register on a day of election at their polling places

03/17/09 REFERRED TO ELECTIONS

**SUMMARY:**

ADDABBO

Amd S5-210, E1 L

Provides that qualified persons who have never previously registered to vote may register on any day, including a day of election, that the board of elections is open for business; requires establishment of a procedure to enable such registrants to cast their votes at the appropriate polling places.

**BILL TEXT:**

## STATE OF NEW YORK

3372

2009-2010 Regular Sessions

### IN SENATE

March 17, 2009

Introduced by Sen. ADDABBO -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

AN ACT to amend the election law, in relation to allowing for polling place voter registration for any qualified person who is not registered to vote

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 5-210 of the election law is amended by adding a  
2 new subdivision 1-a to read as follows:

3 1-a. (a) Notwithstanding any other provision of this article relating  
4 to registration requirements, any qualified person who is not registered  
5 in this state may apply personally for registration and enrollment by  
6 appearing at the appropriate polling place for the election district in  
7 which he or she resides on the day of any primary, general or special  
8 election during the hours that such polling place is open for voting. To  
9 be eligible to register pursuant to this subdivision, a person must  
10 provide acceptable forms of identification containing proof of resi-  
11 dence, as determined by state law implementing the Help Americans Vote  
12 Act of 2002 (Public Law 107-252). Any person who so registers to vote  
13 shall execute the following instrument in substantially the following  
14 form:

15 "I, (name), do hereby certify, under penalty of perjury, that, to the

S. 3372

2

1 (c) The board of elections shall establish a procedure by which a  
2 person who registers pursuant to this subdivision may cast his or her  
3 vote at the appropriate polling place.  
4 § 2. This act shall take effect on the first of January after a  
5 concurrent resolution entitled "CONCURRENT RESOLUTION OF THE SENATE AND  
6 ASSEMBLY proposing an amendment to section 5 of article 2 of the  
7 constitution, in relation to the ten day advance registration require-  
8 ment", takes effect. Effective immediately, the state board of  
9 elections may promulgate any rule or regulation necessary for the timely  
10 implementation of this act on its effective date.

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**SPONSORS MEMO:**

**NEW YORK STATE SENATE  
INTRODUCER'S MEMORANDUM IN SUPPORT  
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S3372

SPONSOR: ADDABBO

TITLE OF BILL:

An act to amend the election law, in relation to allowing for polling place voter registration for any qualified person who is not registered to vote

PURPOSE:

The bill allows any qualified person who is not registered to vote in the State to go to his correct election district, register to vote and vote in any primary, general or special election during the hours the polling station is open.

SUMMARY OF PROVISIONS:

Section 1: Amends Election Law section 5-210 to add a new subdivision 1-a to allow any qualified person, who is not registered in the State, to personally go to the polling station for his election district during voting hours on the day of any primary, general or special election, and to register to vote and vote. The registrant is required to certify under penalty of perjury that he has resided at his stated address for more than thirty days prior to the election and has not already voted in the election. It further requires the person to provide acceptable identification containing proof of his residence, and provides that if the registrant is unable to provide such proof, he may vote by means of an affidavit ballot, which will not be counted until election officials can determine his residence and eligibility to vote.

Section 2: Provides for the Act to take effect on the first day of January after it becomes a law, and allows the state board of elections to immediately necessary to promulgate rules and regulations to age.

16 best of my knowledge, I am a qualified voter, having resided at (place  
17 of residence) for at least thirty days immediately preceding this  
18 election, that I am not disqualified on any legal grounds from voting  
19 and that I have not already voted at this election."

20 (b) If a registrant is unable to provide valid proof of residence as  
21 required by paragraph (a) of this subdivision, such registrant may be  
22 allowed to register for and vote in any election by affidavit ballot.  
23 Such affidavit ballot shall not be counted until election officials can  
24 determine such registrant's residence and eligibility to vote.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD08409-02-9

EXISTING LAW:

The New York State Constitution, Art. II, Sec. 5 requires that voter registrations must be completed no later than ten days prior to an election. This bill is designed to become effective pursuant to the adoption of an amendment of that section of the Constitution, which would eliminate the ten day requirement.

JUSTIFICATION:

Voters often do not start paying attention to an election, become engaged in it or get inspired to vote until a short time prior to election day, especially where only local contests are involved. But, by that time it may be too late to register to vote. This leaves the unregistered voter feeling disenfranchised and that his vote doesn't matter. Allowing voters to register and vote on the day of an election will encourage more people to participate in the democratic process.

LEGISLATIVE HISTORY:

None.

FISCAL IMPLICATIONS:

None.

LOCAL FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

This act takes effect on the first day of January after the adoption of a constitutional amendment removing the ten day advance registration requirement. The state board of elections is, upon enactment of this bill, immediately empowered to pass rules and regulations necessary for the timely implementation of the act when it becomes effective.

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**STATUS:****S3996** ADDABBO No Same as

Election Law

TITLE....Reduces the time for mailing and receipt of registration application to constitutional minimum

04/07/09 REFERRED TO ELECTIONS

**SUMMARY:**

ADDABBO

Amd S5-210, E1 L

Reduces the time for mailing and receipt of registration application to constitutional minimum.

**BILL TEXT:****STATE OF NEW YORK**

3996

2009-2010 Regular Sessions

**IN SENATE**

April 7, 2009

Introduced by Sen. ADDABBO -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

AN ACT to amend the election law, in relation to voter registration

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 3 of section 5-210 of the election law, as  
2 amended by chapter 179 of the laws of 2005, is amended to read as  
3 follows:

4 3. Completed application forms, when received by any county board of  
5 elections and, with respect to application forms promulgated by the  
6 federal election commission, when received by the state board of  
7 elections, or showing a dated cancellation mark of the United States  
8 Postal Service or contained in an envelope showing such a dated cancel-  
9 lation mark which is not later than the [~~twenty-fifth~~] fifteenth day  
10 before the next ensuing primary, general or special election, and  
11 received no later than the [~~twentieth~~] tenth day before such election,  
12 or delivered in person to such county board of elections not later than  
13 the tenth day before [~~a special~~] such election, shall entitle the appli-  
14 cant to vote in such election, if he or she is otherwise qualified,  
15 provided, however, such applicant shall not vote on a voting machine  
16 until his or her identity is verified. Any county board of elections  
17 receiving an application form from a person who does not reside in its  
18 jurisdiction but who does reside elsewhere in the state of New York,  
19 shall forthwith forward such application form to the proper county board  
20 of elections. Each board of elections shall make an entry on each such  
21 form of the date it is received by such board.

22 § 2. This act shall take effect immediately.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD08458-02-9

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**SPONSORS MEMO:**

**NEW YORK STATE SENATE  
INTRODUCER'S MEMORANDUM IN SUPPORT  
submitted in accordance with Senate Rule VI. Sec 1**

**BILL NUMBER:** S3996

**SPONSOR:** ADDABBO

**TITLE OF BILL:**

An act to amend the election law, in relation to voter registration

**PURPOSE:**

The bill authorizes voters whose applications are timely mailed and received to vote in the next following primary, general or special election.

**SUMMARY OF PROVISIONS:**

Section 1: Amends Election Law subdivision 3 of section 5-210, as amended by chapter 179 of the laws of 2005, to provide that an application postmarked by no later than fifteen days before the next primary, general or special election, which is received no later than ten days before such election, or which is delivered in person at least 10 days before such election to the county board of elections, shall entitle such applicant to vote at such election.

Section 2: Provides for the Act to take effect immediately.

Under current law, an application postmarked by twenty-five days before the next primary, general or special election, which is 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 special election. It fails to address the right of the applicant to vote in primary and general elections in the same circumstances, which appears to be a technical error.

**JUSTIFICATION:**

Article II, Section 5 of the New York State Constitution requires that in order to vote in an election a voter's registration must be completed at least ten days before such election. This bill reduces the time period prior to an election during which a person can register to vote and be entitled to vote to the constitutional ten day minimum, and clarifies that when a registration is received at least ten days before a primary, general or special election, the voter is entitled to vote in that election.

LEGISLATIVE HISTORY:

None.

FISCAL IMPLICATIONS:

None.

LOCAL FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

This act shall take effect immediately.

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**STATUS:**

S3995 ADDABBO No Same as

Election Law

TITLE....Provides additional opportunity for new registrant by mail to indicate choice of party enrollment where original choice omitted

04/07/09 REFERRED TO ELECTIONS

**SUMMARY:**

ADDABBO

Amd SS5-210 &amp; 5-302, E1 L

Provides additional opportunity for new registrant by mail to indicate choice of party enrollment where original choice was omitted or void, by requiring board of elections to notify registrant of ineffective enrollment and ineligibility to vote in a party primary and providing a place for the registrant to enroll or decline to enroll in a party by mail.

**BILL TEXT:**

## STATE OF NEW YORK

3995

2009-2010 Regular Sessions

### IN SENATE

April 7, 2009

Introduced by Sen. ADDABBO -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

AN ACT to amend the election law, in relation to failure of new registrants to enroll

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 9 of section 5-210 of the election law, as  
 2 amended by chapter 179 of the laws of 2005, is amended to read as  
 3 follows:  
 4 9. The county board of elections shall, promptly and in any event, not  
 5 later than twenty-one days after receipt by it of the application, veri-  
 6 fy the identity of the applicant. In order to do so, the county board of  
 7 elections shall utilize the information provided in the application and  
 8 shall attempt to verify such information with the information provided  
 9 by the department of motor vehicles, social security administration and  
 10 any other lawful available information source. If the county board of  
 11 elections is unable to verify the identity of the applicant within twen-  
 12 ty-one days of the receipt of the application, it shall immediately take  
 13 steps to confirm that the information provided by the applicant was  
 14 accurately utilized by such county board of elections, was accurately  
 15 verified with other information sources and that no data entry error, or  
 16 other similar type of error, occurred. Following completion of the

17 preceding steps, the county board of elections shall mail (a) a notice  
18 of its approval, (b) a notice of its approval which includes an indi-  
19 cation that such board has not yet been able to verify the identity of  
20 the applicant and a request for more information so that such verifica-  
21 tion may be completed, or (c) a notice of its rejection of the applica-  
22 tion to the applicant in a form approved by the state board of  
23 elections. Notices of approval, notices of approval with requests for  
24 more information or notices of rejection shall be sent by nonforwardable  
25 first class ~~or~~ return postage guaranteed mail on which is endorsed

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 "ADDRESS CORRECTION REQUESTED" and which contains a request that any  
2 such mail received for persons not residing at the address be dropped  
3 back in the mail. The voter's registration and enrollment shall be  
4 complete upon receipt of the application by the appropriate county board  
5 of elections. The failure of a county board of elections to verify an  
6 applicant's identity shall not be the basis for the rejection of a  
7 voter's application, provided, however, that such verification failure  
8 shall be the basis for requiring county board of elections to take the  
9 additional verification steps provided by this chapter. The notice shall  
10 also advise the registrant of the date when his registration and enroll-  
11 ment is effective, of the date and the hours of the next regularly sche-  
12 duled primary or general election in which he will be eligible to vote,  
13 of the location of the polling place of the election district in which  
14 he is or will be a qualified voter, whether such polling place is acces-  
15 sible to physically handicapped voters, an indication that physically  
16 handicapped voters or voters who are ill or voters who will be out of  
17 the city or county on the day of the primary or general election, may  
18 obtain an absentee ballot and the phone number to call for absentee  
19 ballot applications, the phone numbers to call for location of polling  
20 places, to obtain registration forms and the phone number to call to  
21 indicate that the voter is willing to serve on election day as an  
22 inspector, poll clerk or interpreter. The notice of approval, notice of  
23 approval with request for more information or notice of rejection shall  
24 also advise the applicant to notify the board of elections if there is  
25 any inaccuracy. Such notice shall include a statement of the party  
26 enrollment of the registrant, or, if no party was selected by the regis-  
27 trant, a statement that the registrant did not enroll in a party and is  
28 not eligible to vote in a party primary election. The notice shall  
29 include a postage paid card addressed to the county board of elections  
30 that contains a place where the registrant can mark a party enrollment  
31 or decline to be affiliated with any party, and a place for the signa-  
32 ture of the registrant preceded by an affirmation in the form prescribed  
33 by subdivision five of this section. The form of such mail notification  
34 shall be prescribed by the state board of elections and shall contain  
35 such other information and instructions as it may reasonably require to  
36 carry out the purposes of this section. The request for more information  
37 shall inform the voter that "THE FAILURE TO CONTACT THE BOARD OF  
38 ELECTIONS AND CORRECT ANY INACCURACIES IN THE APPLICATION OR PROVIDE  
39 REQUESTED ADDITIONAL INFORMATION MAY RESULT IN A REQUEST FOR IDENTIFICA-  
40 TION AT THE POLLS IN ORDER TO CAST A VOTE ON A VOTING MACHINE." If such  
41 notice is returned undelivered without a new address, the board shall  
42 forthwith send such applicant a confirmation notice pursuant to the  
43 provisions of section 5-712 of this article and place such applicant in  
44 inactive status. The state board of elections shall prepare uniform  
45 notices by this section as provided for in subdivision eight of section  
46 3-102 of this chapter.

47 § 2. Subdivision 3 of section 5-302 of the election law, as amended by  
48 chapter 659 of the laws of 1994, is amended to read as follows:

49 3. If marks are found in more than one of the boxes or circles or if  
50 no marks are found in any of the boxes or circles of any application  
51 form, the voter who used the application form shall be deemed not to be  
52 enrolled, and the words blank or void shall be entered in the space  
53 reserved on his registration poll record for the name of a political  
54 party or in the computer files from which the computer generated regis-  
55 tration lists are prepared. However if such application form sets forth  
56 the address of prior registration and such prior registration had not

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1 been previously cancelled, the party enrollment, if any, which is part  
 2 of such prior registration shall be entered in such space on such regis-  
 3 tration poll record or in such computer files. If a new application  
 4 form does not contain a mark for a party enrollment, but, no later than  
 5 thirty days after the registrant was sent notice of the lack of party  
 6 enrollment as required by subdivision nine of section 5-210 of this  
 7 title and at least twenty-five days before a primary election, the  
 8 registrant makes a party enrollment choice on the card provided with the  
 9 notice, signs the affirmation contained therein and mails it to the  
 10 board of elections, then the registrant's party enrollment shall not be  
 11 deemed to be a change of enrollment and shall be effective on the date  
 12 it is received by the county board of elections. A party enrollment  
 13 mailed more than thirty days after mailing of the notice of the lack of  
 14 enrollment shall be deemed to be a change of enrollment.

15 § 3. This act shall take effect on the sixtieth day after it shall  
 16 have become a law.

**SPONSORS MEMO:**

**NEW YORK STATE SENATE  
 INTRODUCER'S MEMORANDUM IN SUPPORT  
 submitted in accordance with Senate Rule VI. Sec 1**

**BILL NUMBER:** S3995**SPONSOR:** ADDABBO**TITLE OF BILL:**

An act to amend the election law, in relation to failure of new regis-  
 trants to enroll

The bill is designed to remind new registrants who did not enroll in a party that they will not be able to vote in primary elections and to afford them a second opportunity to enroll and participate in that part of the democratic process.

Section 1: Amends election law section 5-210(9) to add a requirement that the notice sent by the board of elections to a new registrant regarding approval or other disposition of his application shall also inform the registrant that the failure to enroll in a party will prevent him or her from being able to vote in primary elections. Such notice is required to be accompanied by a postage paid card addressed to the board of elections on which the registrant can mark a party enrollment or decline to be affiliated with one.

Section 2: Amends election law section 5-302(3) to provide that if a registrant failed to enroll in a party, but does so on the card provided with the notice from the board of elections within thirty after it was sent and at least twenty-five days before a primary election, then it will not be deemed a change of enrollment and will be effective when received by the board, thereby enabling the registrant to vote in the primary.

Section 3: Provides for the Act to take effect sixty days after it

becomes a law.

Currently, voters who fail to enroll in a party when they register cannot participate in primary elections unless they change their enrollment, which must be done several months or even more than a year before a primary.

This bill gives new voters, who may not have been aware of the impact of their failure to enroll in a party, a second chance to fully participate in a fundamental part of our democratic process. It is particularly important because in many areas of the state the winner of the primary is assured of election.

LEGISLATIVE HISTORY:

None.

FISCAL IMPLICATIONS:

Unknown, or minimal.

LOCAL FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

This act shall take effect sixty days after it becomes a law.

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**STATUS:****S1266 MONTGOMERY** Same as A 2266 Wright (MS)

Election Law

TITLE....Enacts the "voting rights notification and registration act"

01/28/09 REFERRED TO ELECTIONS

**SUMMARY:**

MONTGOMERY, DILAN, DUANE, HASSELL-THOMPSON, KRUEGER, MONSERRATE, ONORATO, PARKER, SAMPSON, SAVINO, THOMPSON

Amd SS5-211, 8-406, 8-407 &amp; 5-614, add S3-102-a, E1 L; amd S220.50, add S380.51, CP L; add SS510 &amp; 75, Cor L; add S259-jj, Exec L

Enacts the "voting rights notification and registration act"; allows for voting participation by eligible voters with felony convictions by providing notice regarding voting rights, assistance with voter registration and voting by absentee ballot, and data sharing among the department of correctional services, the division of parole, and the state board of elections.

**BILL TEXT:****STATE OF NEW YORK**

1266

2009-2010 Regular Sessions

**IN SENATE**

January 28, 2009

Introduced by Sens. MONTGOMERY, DILAN, DUANE, HASSELL-THOMPSON, KRUEGER, MONSERRATE, ONORATO, PARKER, SAMPSON, SAVINO, THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

AN ACT to amend the election law, the criminal procedure law, the correction law and the executive law, in relation to enacting the "voting rights notification and registration act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Short title. This act shall be known and may be cited as  
 2 the "voting rights notification and registration act".  
 3 § 2. The opening paragraph and subdivisions 2, 4, 5, 8, 12, 13 and 14  
 4 of section 5-211 of the election law, the opening paragraph and subdivi-  
 5 sion 14 as amended by chapter 200 of the laws of 1996, subdivisions 2  
 6 and 8 as amended and subdivisions 4, 5, 12 and 13 as added by chapter  
 7 659 of the laws of 1994, are amended to read as follows:  
 8 Each agency designated as a participating agency under the provisions  
 9 of this section shall implement and administer a program of distribution  
 10 of voter registration forms pursuant to the provisions of this section.  
 11 The following offices which provide public assistance and/or provide  
 12 state funded programs primarily engaged in providing services to persons

13 with disabilities are hereby designated as voter registration agencies:  
14 designated as the state agencies which provide public assistance are the  
15 department of social services and the department of health. Also desig-  
16 nated as public assistance agencies are all agencies of local government  
17 that provide such assistance and county probation departments. Desig-  
18 nated as state agencies that provide programs primarily engaged in  
19 providing services to people with disabilities are the department of  
20 labor, office for the aging, division of veterans' affairs, office of  
21 mental health, office of vocational and educational services for indi-  
22 viduals with disabilities, commission on quality of care for the mental-

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 ly disabled, office of mental retardation and developmental disabili-  
 2 ties, commission for the blind and visually handicapped, office of  
 3 alcoholism and substance abuse services, the office of the advocate for  
 4 the disabled and all offices which administer programs established or  
 5 funded by such agencies. Additional state agencies designated as voter  
 6 registration offices are the department of state ~~[and]~~, the ~~[division~~  
 7 ~~of]~~ workers' compensation board, the division of probation and correc-  
 8 tional alternatives when providing direct probation supervision services  
 9 under section two hundred forty-seven of the executive law. Such agen-  
 10 cies shall be required to offer voter registration forms to persons upon  
 11 initial application for services, renewal or recertification for  
 12 services ~~[and]~~, change of address relating to such services, ~~and orien-~~  
 13 tation or initial intake for the division of probation and correctional  
 14 alternatives and county probation departments. Such agencies shall also  
 15 be responsible for providing assistance to ~~[applicants]~~ such persons in  
 16 completing voter registration forms, receiving and transmitting the  
 17 completed ~~[application]~~ registration form from all ~~[applicants]~~ persons  
 18 who wish to have such form transmitted to the appropriate board of  
 19 elections. The state board of elections shall, together with represen-  
 20 tatives of the department of defense, develop and implement procedures  
 21 for including recruitment offices of the armed forces of the United  
 22 States as voter registration offices when such offices are so designated  
 23 by federal law. The state board shall also make request of the United  
 24 States Immigration and Naturalization Service to include applications  
 25 for registration by mail with any materials which are given to new citi-  
 26 zens. All institutions of the state university of New York and the city  
 27 university of New York, shall, at the beginning of the school year, and  
 28 again in January of a year in which the president of the United States  
 29 is to be elected, provide an application for registration to each  
 30 student in each such institution. The state board of elections may, by  
 31 regulation, grant a waiver from any or all of the requirements of this  
 32 section to any office or program of an agency, if it determines that it  
 33 is not feasible for such office or program to administer such require-  
 34 ment.

35 2. Strict neutrality with respect to a person's party enrollment shall  
 36 be maintained and all persons seeking voter registration forms and  
 37 information shall be advised that government services are not condi-  
 38 tioned on being registered to vote. No statement shall be made nor any  
 39 action taken to discourage the ~~[applicant]~~ person from registering to  
 40 vote.

41 4. Each participating agency shall provide to each ~~[applicant]~~ person  
 42 who does not decline to register to vote the same degree of assistance  
 43 with regard to the completion of the voter registration ~~[application]~~  
 44 form as is provided by the agency with regard to the completion of its  
 45 own form unless the ~~[applicant]~~ person refuses such assistance.

46 5. Employees of a voter registration agency who provide voter regis-  
 47 tration assistance shall not:

48 (a) seek to influence ~~[an applicant's]~~ a person's political preference  
 49 or party designation;

50 (b) display any political preference or party allegiance;

51 (c) make any statement ~~[to an applicant]~~ or take any action the  
 52 purpose or effect of which is to discourage ~~[the applicant]~~ a person  
 53 from registering to vote; or

54 (d) make any statement ~~[to an applicant]~~ or take any action the  
 55 purpose or effect of which is to lead ~~[the applicant]~~ a person to

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1 believe that a decision to register or not to register has any bearing  
2 on the availability of services or benefits.

3 8. Each participating agency, department, division or office that  
4 makes available voter registration forms pursuant to this section shall  
5 offer with each application for the services or assistance of such agen-  
6 cy, department, division or office, or, in the case of the county  
7 probation departments and the division of probation and correctional  
8 alternatives, upon orientation or initial intake, and with each recer-  
9 tification, renewal or change of address form relating to such service  
10 or assistance, a voter registration form together with instructions  
11 relating to eligibility to register and for completing the form except  
12 that forms used by the department of social services for the initial  
13 application for services, renewal or recertification for services and  
14 change of address relating to such services shall physically incorporate  
15 a voter registration [application] form in a fashion that permits the  
16 voter registration portion of the agency form to be detached therefrom.  
17 Such voter registration [application] form shall be designed so as to  
18 ensure the confidentiality of the source of the application. Included  
19 on each participating agency's application for services or assistance or  
20 on a separate form shall be:

21 (a) the question, "If you are not registered to vote where you live  
22 now, would you like to apply to register here today?"

23 (b) ~~The~~ the statement, "applying to register or declining to regis-  
24 ter to vote will not affect the amount of assistance that you will be  
25 provided by this agency."

26 (c) boxes for the applicant to check to indicate whether the applicant  
27 would like to register or decline to register to vote.

28 (d) the statement in prominent type, "IF YOU DO NOT CHECK EITHER BOX,  
29 YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS  
30 TIME."

31 (e) the statement, "If you would like help in filling out the voter  
32 registration [application] form, we will help you. The decision whether  
33 to seek or accept help is yours. You may fill out the [application]  
34 voter registration form in private."

35 (f) the statement, "If you believe that someone has interfered with  
36 your right to register or decline to register to vote, your right to  
37 privacy in deciding whether to register or in applying to register to  
38 vote, or your right to choose your own political party or other politi-  
39 cal preference, you may file a complaint with the state board of  
40 elections (address and toll free telephone number)."

41 (g) a toll free number at the state board of elections that can be  
42 called for answers to registration questions.

43 12. Completed [application] voter registration forms, when received by  
44 a participating agency not later than the twenty-fifth day before the  
45 next ensuing primary, general or special election and transmitted by  
46 such agency to the appropriate board of elections so that they are  
47 received by such board not later than the twentieth day before such  
48 election shall entitle the [applicant] person to vote in such election  
49 provided the board determines that the [applicant] person is otherwise  
50 qualified.

51 13. The state board of elections shall provide [application] voter  
52 registration forms for use pursuant to this section except that any  
53 agency which uses a form other than such registration form shall be  
54 responsible for providing such form. Forms which vary in design [~~and or~~]  
55 and/or content from the form approved by the state board of elections  
56 may only be used with the approval of such board.

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1 14. [Applications] Voter registration forms shall be processed by the  
2 board of elections in the manner prescribed by section 5-210 of this  
3 title or, if the [applicant] person is already registered to vote from  
4 another address in the county or city, in the manner prescribed by  
5 section 5-208 of this title. The board shall send the appropriate  
6 notice of approval or rejection as required by either subdivision nine  
7 of such section 5-210 or subdivision five of such section 5-208.

8 § 3. Section 220.50 of the criminal procedure law is amended by  
9 adding a new subdivision 8 to read as follows:

10 8. Prior to accepting a defendant's plea of guilty to a count or  
11 counts of an indictment or a superior court information charging a felo-  
12 ny offense for which the court will impose a sentence of incarceration,  
13 the court must advise the defendant on the record that conviction will  
14 result in loss of the right to vote until the individual has served his  
15 maximum sentence of incarceration and parole. The failure to advise the  
16 defendant pursuant to this subdivision shall not be deemed to affect the  
17 voluntariness of a plea of guilty or the validity of a conviction.

18 § 4. The criminal procedure law is amended by adding a new section  
19 380.51 to read as follows:

20 § 380.51 Statements regarding voting rights.

21 Before imposing a sentence of incarceration for a felony conviction,  
22 the court must advise the defendant on the record that the conviction  
23 will result in the loss of the right to vote until the individual has  
24 served his maximum sentence of incarceration and parole. The failure to  
25 advise the defendant pursuant to this section shall not be deemed to  
26 affect the voluntariness of a plea of guilty or the validity of a  
27 conviction.

28 § 5. The correction law is amended by adding a new section 510 to read  
29 as follows:

30 § 510. Voting by qualified inmates. 1. At the time of the initial  
31 orientation or intake of an inmate at a local correctional facility, the  
32 chief administrative officer of such local correctional facility, or his  
33 or her designee, shall inform the inmate in writing of his or her right  
34 to apply to register to vote. In addition, such notice shall be printed  
35 in block letters and posted in a prominent place where inmates congre-  
36 gate. Such posted notice shall include qualifications required to exer-  
37 cise the right to vote, and the availability at the correctional facili-  
38 ty of assistance to apply to register to vote, to request an absentee  
39 ballot application, and to vote by absentee ballot. Such chief adminis-  
40 trative officer, or his or her designee, shall assist inmates in apply-  
41 ing to register to vote in the same manner and to the same extent as the  
42 agencies listed in section 5-211 of the election law.

43 2. On an annual basis, thirty days before each primary and general  
44 election, the chief administrative officer, or his or her designee,  
45 shall provide each inmate with written information about qualifications  
46 and procedures for voting by absentee ballot and shall make absentee  
47 ballot applications available to all inmates.

48 In the event that an inmate of a local correctional facility is tempo-  
49 rarily absent from such facility, including, but not limited to, inmates  
50 receiving medical care at a local health care facility, the information  
51 required under this section shall be mailed to such inmate.

52 § 6. Section 8-406 of the election law, as amended by chapter 296 of  
53 the laws of 1988, is amended to read as follows:

54 § 8-406. Absentee ballots, delivery of. If the board shall find that  
55 the applicant is a qualified voter of the election district containing  
56 his residence as stated in his statement and that his statement is

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1 sufficient, it shall, as soon as practicable after it shall have deter-  
2 mined his right thereto, mail to him at an address designated by him, or  
3 deliver to him, or to any person designated for such purpose in writing  
4 by him, at the office of the board, such an absentee voter's ballot or  
5 set of ballots and an envelope therefor. If the ballot or ballots are to  
6 be sent outside of the United States to a country other than Canada or  
7 Mexico, such ballot or ballots shall be sent by air mail. However, if an  
8 applicant who is eligible for an absentee ballot is a resident of a  
9 facility operated or licensed by, or under the jurisdiction of, the  
10 department of mental hygiene, or a resident of a facility defined as a  
11 nursing home or residential health care facility pursuant to subdivi-  
12 sions two and three of section two thousand eight hundred one of the  
13 public health law, or a resident of a hospital or other facility oper-  
14 ated by the Veteran's Administration of the United States, or an inmate  
15 of a local correctional facility as defined by subdivision sixteen of  
16 section two of the correction law, such absentee ballot need not be so  
17 mailed or delivered to any such applicant but, may be delivered to the  
18 voter in the manner prescribed by section 8-407 of this [~~chapter~~] title  
19 if such facility is located in the county or city in which such voter is  
20 eligible to vote.

21 § 7. The section heading and subdivisions 1 and 3 of section 8-407 of  
22 the election law, the section heading as added by chapter 296 of the  
23 laws of 1988 and subdivisions 1 and 3 as amended by chapter 195 of the  
24 laws of 2001, are amended to read as follows:

25 Voting by residents of nursing homes, residential health care facili-  
26 ties, facilities operated or licensed, or under the jurisdiction of, the  
27 department of mental hygiene or hospitals or facilities operated by the  
28 Veteran's Administration of the United States, or by inmates of local  
29 correctional facilities.

30 1. The board of elections of a county or city in which there is  
31 located at least one facility operated or licensed, or under the juris-  
32 diction of, the department of mental hygiene, or a facility defined as a  
33 nursing home or residential health care facility pursuant to subdivi-  
34 sions two and three of section two thousand eight hundred one of the  
35 public health law or an adult care facility subject to the provisions of  
36 title two of article seven of the social services law, or a hospital or  
37 other facility operated by the Veteran's Administration of the United  
38 States, or a local correctional facility as defined by subdivision  
39 sixteen of section two of the correction law, shall provide that resi-  
40 dents or inmates of each such facility for which such board has received  
41 [~~twenty-five~~] fifteen or more applications for absentee ballots from  
42 voters who are eligible to vote by absentee ballot in such city or coun-  
43 ty at such election, may vote by absentee ballot only in the manner  
44 provided for in this section. Such board may, in its discretion, provide  
45 that the procedure described in this subdivision shall be applicable to  
46 all such facilities in such county or city without regard to the number  
47 of absentee ballot applications received from the residents of any such  
48 facility.

49 3. Not earlier than thirteen days before or later than the day before  
50 such an election such a board of inspectors shall, between the hours of  
51 nine o'clock in the morning and five o'clock in the evening, attend at  
52 each such facility for the residents or inmates of which the board of  
53 elections has custody of [~~twenty-five~~] fifteen or more absentee ballots  
54 or, if the board of elections has so provided, each such facility for  
55 which the board has custody of one or more such absentee ballots, pursu-  
56 ant to the provisions of this chapter.

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1 § 8. The correction law is amended by adding a new section 75 to read  
2 as follows:

3 § 75. Voting rights upon completion of sentence. 1. Upon the discharge  
4 from a correctional facility of any person who has reached his or her  
5 maximum sentence of imprisonment for the conviction of a felony, the  
6 department, and, subject to their agreement, federal correctional insti-  
7 tutions in New York, shall notify such person of his or her right to  
8 vote, provide such person with a form of application for voter registra-  
9 tion together with written information distributed by the board of  
10 elections on the importance and the mechanics of voting and shall assist  
11 such person in registering to vote in the same manner and to the same  
12 extent as the agencies listed in section 5-211 of the election law.

13 2. The department and, subject to their agreement, federal correction-  
14 al institutions in New York, shall, on or before the fifteenth day of  
15 each month, transmit to the state board of elections a list containing  
16 the following information about persons age eighteen or older who,  
17 during the preceding period, have become eligible to vote because of  
18 their discharge from incarceration: (a) name; (b) date of birth; (c)  
19 last known address with county of residence; and (d) driver's license  
20 number (if known) or last four digits of social security number (if  
21 known).

22 § 9. The executive law is amended by adding a new section 259-jj to  
23 read as follows:

24 § 259-jj. Voting rights upon discharge. 1. Upon discharge of a person  
25 from presumptive release, parole, or conditional release, or upon the  
26 expiration of a person's maximum sentence of imprisonment while under  
27 the supervision of the division of parole, the division of parole shall  
28 notify such person of his or her right to vote, provide such person with  
29 a form of application for voter registration together with written  
30 information distributed by the board of elections on the importance and  
31 the mechanics of voting and shall assist such person in registering to  
32 vote in the same manner and to the same extent as the agencies listed in  
33 section 5-211 of the election law.

34 2. The division of parole shall, on or before the fifteenth day of  
35 each month, transmit to the state board of elections a list containing  
36 the following information about persons age eighteen or older who,  
37 during the preceding period, have become eligible to vote because of  
38 their discharge from presumptive release, parole or conditional release,  
39 or upon the expiration of their maximum sentence of imprisonment while  
40 under the supervision of the division of parole: (a) name; (b) date of  
41 birth; (c) last known address with county of residence; and (d) driver's  
42 license number (if known) or last four digits of social security number  
43 (if known).

44 § 10. Section 5-614 of the election law is amended by adding three new  
45 subdivisions 6-a, 6-b and 6-c to read as follows:

46 6-a. Once every month, and within five days of receipt, the state  
47 board of elections shall obtain and transmit to local boards of  
48 elections the information provided by the department of correctional  
49 services pursuant to subdivision two of section seventy-five of the  
50 correction law, and by the division of parole pursuant to subdivision  
51 two of section two hundred fifty-nine-jj of the executive law.

52 6-b. Each local board of elections shall use such list, within ten  
53 days after receipt, to ensure that there are no remaining barriers to  
54 registration, including the use of electronic codes or other forms of  
55 eligibility demarcation, resulting from past convictions of the people  
56 so listed.

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1 6-c. Any voter registration application that was rejected after the  
 2 effective date of this subdivision and prior to the local board's  
 3 receipt and processing of the information described in subdivisions  
 4 six-a and six-b of this section shall be reviewed upon receipt and proc-  
 5 essing of such information. Any applicant that is found to be eligible,  
 6 shall be approved and the voter shall be registered and so notified.

7 § 11. The election law is amended by adding a new section 3-102-a to  
 8 read as follows:

9 § 3-102-a. State board of elections; duties under the voting rights  
 10 notification and registration act. 1. The state board of elections  
 11 shall develop and implement a program to educate attorneys; judges;  
 12 election officials; corrections officials, including parole and  
 13 probation officers; and members of the public about the requirements of  
 14 the voting rights notification and registration act, ensuring that:

15 (a) judges are informed of their obligation to notify criminal defend-  
 16 ants of the potential loss and restoration of their voting rights, in  
 17 accordance with subdivision eight of section 220.50 and section 380.51  
 18 of the criminal procedure law;

19 (b) the department of correctional services and, subject to their  
 20 agreement, federal correctional institutions in New York, are prepared  
 21 to assist people to register to vote in anticipation of their discharge  
 22 from incarceration, including by forwarding their completed voter regis-  
 23 tration forms to the local election boards;

24 (c) the department of correctional services and, subject to their  
 25 agreement, federal correctional institutions in New York, and the divi-  
 26 sion of parole, are prepared to transmit to the state board of elections  
 27 the information specified in subdivision two of section seventy-five of  
 28 the correction law and subdivision two of section two hundred fifty-  
 29 nine-jj of the executive law;

30 (d) local correctional facilities are prepared to assist people to  
 31 register to vote including by forwarding their completed voter registra-  
 32 tion forms, absentee ballot applications and completed absentee ballots  
 33 to the local election boards;

34 (e) probation and parole officers are informed of the changes in the  
 35 law and are prepared to notify probationers and parolees of their voting  
 36 rights;

37 (f) the language on voter registration forms makes clear that people  
 38 are disqualified from voting only while they are serving sentences of  
 39 incarceration or parole on felony convictions and that they regain the  
 40 right to register to vote upon completion of their maximum sentence;

41 (g) all local boards of elections are prepared to restore names to the  
 42 computerized statewide voter registration list in accordance with  
 43 section 5-614 of the election law; and

44 (h) accurate and complete information about the voting rights of  
 45 people who have been charged with or convicted of crimes is made avail-  
 46 able through a single publication to government officials and the  
 47 public.

48 2. The state board of elections shall amend or promulgate pertinent  
 49 rules and regulations as necessary to implement this section.

50 § 12. This act shall take effect on the ninetieth day after it shall  
 51 have become a law.

**SPONSORS MEMO:**

**NEW YORK STATE SENATE  
 INTRODUCER'S MEMORANDUM IN SUPPORT  
 submitted in accordance with Senate Rule VI. Sec 1**



BILL NUMBER: S1266

SPONSOR: MONTGOMERY

TITLE OF BILL:

An act to amend the election law, the criminal procedure law, the correction law and the executive law, in relation to enacting the "voting rights notification and registration act"

PURPOSE OF BILL:

This bill enacts the "Voting Rights Notification and Registration Act" to remove illegal barriers that prevent convicted felons from registering to vote when they have served their sentence of incarceration and are eligible to do so and to provide such individuals the information needed to register.

SUMMARY OF SPECIFIC PROVISIONS:

Section 1 of the bill contains the short title.

Section 2 of the bill amends the opening paragraph and subdivisions 2, 4, 5, 8, 12, 13 and 14 of section 5-211 of the election law to add county probation departments and the division of probation and correctional alternatives (when providing direct probation supervision services) to the list of local and state agencies that must offer voter registration forms and assistance with such forms to their clients.

Section 3 of the bill amends section 220.50 of criminal procedure law to require that a court, prior to accepting a plea of guilty to a felony for which it will impose a period of incarceration, advise the defendant on the record that a conviction will result in the loss of the right to vote until the defendant has served the maximum sentence of incarceration and parole.

Section 4 of the bill amends section 380.51 of the criminal procedure law to require that a court, prior to imposing a sentence of incarceration for a felony conviction, advise the defendant on the record that a conviction will result in the loss of the right to vote until the defendant has served the maximum sentence of incarceration and parole.

Section 5 of the bill amends section 510 of the correction law to require that, upon intake or orientation, a local correctional facility must inform an inmate in writing of his or her right to register to vote. The facility must also post a prominent notice informing all inmates of such right and that there is assistance available to do so. A local correctional facility would be required to provide the same assistance regarding voting rights as do many other local and state entities. A local correctional facility shall also provide each inmate, at least 30 days before any primary or general election, with written instructions about absentee voting and shall make absentee ballot applications available to all inmates, including those temporarily absent from such facility.

Section 6 of the bill amends section 8-406 of the election law to add inmates of local correctional facilities, who are incarcerated in a facility located in a county or city in which the inmate is eligible to

vote, to the class of persons to whom the local board of election may deliver, rather than mail, absentee ballots.

Section 7 of the bill amends section 8-407 of the election law to add inmates of local correctional facilities to the list of persons who shall vote by absentee ballot procedures detailed in this section. It would also lower the number of absentee ballot requests that must be received from a facility to require the local board of election to send a bi-partisan board of inspectors to the facility with a portable voting booth. Current law triggers such a requirement when 25 absentee ballot requests are made. The bill would change that number to 15.

Section 8 of the bill adds section 75 to the correction law to require the department of correctional services and, subject to their agreement, federal correctional institutions in New York, to inform an inmate, who has reached his or her maximum sentence of imprisonment for a felony conviction, of his or her right to vote upon discharge. The department shall also provide such inmate with a voter registration form, instructions from the board of elections and assistance in registering to vote similar to that provided by many local and state entities. The department and, subject to their agreement, federal correctional institutions in New York, are also required, on or before the fifteenth of each month, to transmit to the state board of elections a list of persons who have become eligible to vote because of their discharge from incarceration with their relevant information.

Section 9 of the bill adds section 259-jj to the executive law to require the division of parole to inform an inmate, who has been discharged from presumptive release, parole or conditional release, or who has reached his or her maximum sentence of imprisonment while under the supervision of the division of parole, of his or her right to vote upon discharge. The division shall also provide such inmate with a voter registration form, instructions from the board of elections and assistance in registering to vote similar to that provided by many local and state entities. The division is also required, on or before the fifteenth of each month, to transmit to the state board of elections a list of persons who have become eligible to vote because of their discharge from presumptive release, parole or conditional release, or the expiration of their maximum sentence of imprisonment while under the supervision of the division of parole with their relevant information.

Section 10 of the bill amends section 5-614 of the election law to require the state board of elections to transmit information from the department of corrections and the division of parole, regarding those persons who are eligible to vote, to the local boards of elections at least once a month and within 5 days of receipt of such information. Local boards shall, within 10 days of receipt of such information, use it to remove any remaining barriers to registration, including electronic codes or other indications of non-eligible status. Local boards shall also review any registration forms that were rejected after the effective date of this act and before the receipt of the information provided by the department of corrections or division of parole to ensure that all persons eligible to vote have been registered and notified of such registration.

Section 11 of the bill adds section 3-102-a to the election law to require the state board of elections to take several steps to ensure that attorneys, judges, election officials, corrections officials, including parole and probation officers, and members of the public are

aware of the requirements of this act.

Section 12 of the bill contains the effective date.

**JUSTIFICATION:**

Many former inmates do not know that their right to vote has been restored once they serve their prison term and are discharged from parole. This bill is necessary in order to ensure that all eligible voters in New York State are informed of the proper status of their constitutionally protected right to vote. The purpose of this bill is to create a mechanism whereby the misinformation surrounding the voting rights of convicted felons will be addressed. It seeks to provide information to those convicted felons that are eligible to vote which is both accurate and helpful. This legislation will remove illegal barriers that hinder or prevent such eligible voters from registering to vote. This bill will help former inmates reintegrate more fully into society by empowering them with the right to vote.

**LEGISLATIVE HISTORY:**

2006: S.8489 - Died in Committee

2005: S.2017 - Died in Committee

**FISCAL IMPLICATIONS:**

To be determined.

**EFFECTIVE DATE:**

Ninety days after it shall have become law.

**STATUS:**

**S4035** ADDABBO No Same as  
Election Law

TITLE....Requires the state board of elections to maintain on its official website electronic voter registration forms which contain the county board of elections' address

04/07/09 REFERRED TO ELECTIONS

**SUMMARY:**

ADDABBO

Amd S5-210, EIL

Requires the state board of elections to maintain on its official website electronic voter registration forms which contain the county board of elections' address.

**BILL TEXT:**

## STATE OF NEW YORK

4035

2009-2010 Regular Sessions

### IN SENATE

April 7, 2009

Introduced by Sen. ADDABBO -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

AN ACT to amend the election law, in relation to county board of election addresses on voter registration forms available on the internet

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 5-210 of the election law is amended by adding two  
2 new subdivisions 5-a and 5-b to read as follows:

3 5-a. The state board of elections shall maintain on its official  
4 website electronic voter registration forms for use by and distribution  
5 to the general public, which meet the requirements of subdivision five  
6 of this section and allow the following:

7 (a) download of blank voter registration forms; and  
8 (b) completion of the voter registration form electronically, on which  
9 the return address of the registrant and the mailing address for the  
10 registrant's county board of elections shall be automatically filled in  
11 for the registrant before it is downloaded for signature and mailing.

12 5-b. The state board of elections shall maintain on its official  
13 website a county board of elections finder, which permits the public to  
14 enter an address within New York state and be provided with the name and  
15 address of the county board of elections for that address.

16 § 2. This act shall take effect on the sixtieth day after it shall  
17 have become a law; provided, however, that effective immediately, the

18 addition, amendment and/or repeal of any rule or regulation necessary  
19 for the implementation of this act on its effective date is authorized  
20 to be made and completed on or before such date.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD10987-03-9

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**SPONSORS MEMO:**

**NEW YORK STATE SENATE  
INTRODUCER'S MEMORANDUM IN SUPPORT  
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S4035

SPONSOR: ADDABBO

TITLE OF BILL:

An act to amend the election law, in relation to county board of election addresses on voter registration forms available on the internet

PURPOSE:

This bill is designed to enable the public to complete a voter registration form on the state board of election website, and have it automatically addressed to the appropriate county board of elections. It also enables the public and groups involved in voter registration to go to the state board website, provide an address and determine the county and board of elections address.

SUMMARY OF PROVISIONS:

Section 1: Amends election law section 5-210 to add new subdivisions 5-a and 5-b to require the state board of elections to make it possible for a person to go to its official website to download a blank voter registration form or to complete the form on line and have the return address of the registrant and the mailing address for the registrant's board of elections automatically filled in before it is downloaded and printed. It also requires that the public be able to go to the website, enter an address in New York State and be provided with the name and address of the appropriate county board of elections.

Section 2: Provides that the Act takes effect sixty days after it becomes law, but authorizes the immediate change of any rule or regulation necessary to implement the act on its effective date.

EXISTING LAW:

There is currently no applicable law, and the state board of elections official website only allows the public to download blank forms or to complete the form on line, including addressing it to the county board of elections and inserting the registrant's return address.

JUSTIFICATION:

Voters who are new to an area, and even some of those who have resided

there for a considerable time, may not know what county they actually reside in. This may be because they reside at or near a county line, they are not aware of political or geographic subdivisions, or because, as in the City of New York, they are living in a borough that has a different county name, such as Kings County being known as Brooklyn and Richmond County being known as Staten Island. Having a look up feature for addresses and counties is also an invaluable feature for groups registering such voters. Providing that type of information is something that databases are particularly capable of doing.

LEGISLATIVE HISTORY:

None.

FISCAL IMPLICATIONS:

None or minimal.

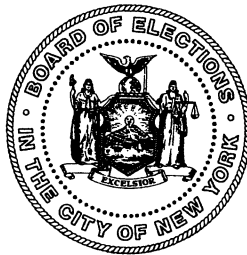
LOCAL FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

This bill is effective sixty days after it becomes law, but it authorizes the immediate change of any rule or regulation necessary to implement the act on its effective date.

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FREDERIC M. UMANE  
PRESIDENT

JULIE DENT  
SECRETARY

JOSE MIGUEL ARAUJO  
JUAN CARLOS "J.C." POLANCO  
JAMES J. SAMPEL  
NANCY MOTTOLA-SCHACHER  
NAOMI C. SILIE  
J.P. SIPP  
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COMMISSIONERS

## BOARD OF ELECTIONS

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EXECUTIVE DIRECTOR

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April 20, 2009

TO: The Commissioners of Elections

FROM: Steven H. Richman, General Counsel

COPIES: Marcus Cederqvist, George Gonzalez, Pamela Perkins, John Owens, John Ward, Elliot Borack, Steven Denkberg and Charles Webb

RE: Temporary Additional Staff for the Office of the General Counsel during the 2009 Primary and General Elections

For the eight years, following extensive staff consultations as well as consideration, review and approval by the Commissioners, the Board contracted for two temporary legal support positions to assist the Office of the General Counsel in the performance of the multiple functions this office and the Board are required to perform during the busy primary and general election season. We used this method to enable the Board to be competitive with other city agencies, let alone private firms.

I believe that the Board would again be best served by retaining the services of an outside legal staffing agency to provide the temporary legal staffing we need for the 2009 Primary (including potential run-off) and General Elections (July – November 2008).

Please note that based on last eight years experience, I firmly believe that recent law school graduates provide more assistance than paralegals.

As you may recall from your own contacts with them over the last few years, it is clear that young yet competent, qualified and dedicated attorneys were able to contribute to our ability to successfully complete our assigned mission in some of our most difficult years (including September and October 2001).

Also, please note that several New York area law schools have once again agreed to provide the Board with probably two law students (at no cost to the Board) for part of the summer.

While a law student will be of assistance, their level of knowledge and competence is not the same as recent law school graduates. However, the presence of a law school student should enable us to reduce the number of hours the temporary attorneys will have to work each week (and thus reduce our costs).

I have review this matter with senior staff and with their approval,

**I respectfully request your authorization**

to begin the process of contacting several temporary legal staffing agencies and asked them to submit proposals. We will then evaluate them and make a determination as to the lowest, most responsible bidder and recommend the same to you for approval.

Based on our experience last year, I anticipate that we would use these temporary staff members for an average of 50 hours a week (total rate between \$1,800 and 2,000 a week per person, total estimated cost of approximately \$100,000 for the entire process, based on last year's expenditures).

As to the process, please note that we have to solicit and choose an agency, have that agency select individuals for our review, make our selections and have them here on July 1<sup>st</sup>, allowing us a seven (7) day period to give them an orientation and training session with respect to their duties here at the Board, before the first day to file petitions.

I will keep you advised of our actions in this matter.

Thank you for your cooperation and understanding in this matter.





FREDERIC M. UMANE  
PRESIDENT

JULIE DENT  
SECRETARY

JOSE MIGUEL ARAUJO  
JUAN CARLOS "J.C." POLANCO  
JAMES J. SAMPEL  
NANCY MOTTOLA-SCHACHER  
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COMMISSIONERS

## BOARD OF ELECTIONS

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GEORGE GONZALEZ  
DEPUTY EXECUTIVE DIRECTOR

PAMELA GREEN PERKINS  
ADMINISTRATIVE MANAGER

JOHN J. WARD  
FINANCE OFFICER

**DATE:** April 21, 2009

**TO:** Commissioners

**FROM:** John J. Ward  
Finance Officer

**RE:** Comparative Expenditures

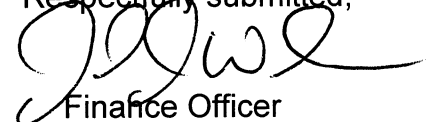
FY09	P.S. Projection through 4/14/09 Payroll:	\$16,244,500
FY09	P.S. Actual through 4/14/09 Payroll:	<u>\$21,528,562</u>
	Difference	(\$ 5,284,062)

Overtime pays two weeks ending 4/03/09

### OVERTIME USAGE

General Office	29,244
Brooklyn	21,383
Queens	19,279
Bronx	12,038
New York	9,947
Staten Island	<u>224</u>
Total	\$92,115

Respectfully submitted,

  
Finance Officer

FY09-FY10 OTPS PROJECTION  
4-21-09

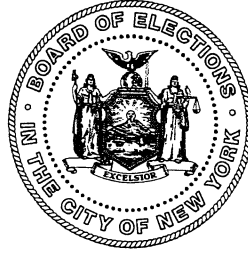
FY10

OTPS ALLOCATION	\$69,365,767		\$54,305,722
OTPS ALLOCATION Minus HAVA Funding	\$53,895,767		\$54,005,722
Minus Rent Money and Intra-City	<u>\$17,231,848</u>		<u>\$20,335,315</u>
Adj. Total	<u>\$36,663,919</u>		<u>\$33,670,407</u>
Day to Day Spending	<u>\$5,000,000</u>		<u>\$5,000,000</u>
Adj. Total	<u>\$31,663,919</u>		<u>\$28,670,407</u>
Event Codes (Actual+Mgr Est.)			
117 Postage	\$2,500,000		
412 Rental tables and chairs	\$350,000		
417 Advertising	\$400,000		
600 Contractual	\$650,000		
615 Printing	\$12,000,000		
633 Trucks-Cabs	\$4,000,000		
414 Poll sites	\$300,000		
686 Pollworker	<u>\$15,000,000</u>		
Event code Total	<u>\$35,200,000</u>	<u>\$35,200,000</u>	<u>-\$35,200,000</u>
Adj. Total	-\$3,536,081		-\$6,529,593
Other Factors			
PS Deficit	\$6,800,000		
3 Specials Feb. 24th	\$1,000,000		
Doitt Deficit	\$366,000		
Bronx Special April 21st	<u>\$2,200,000</u>		
	\$10,366,000	<u>-\$10,366,000</u>	PS <u>-\$6,500,000</u>
Balance	-\$13,902,081		-\$13,029,593
Deficit	-\$13,902,081		
		HAVA	<u>-\$15,170,000</u>
		Deficit	\$28,199,593
		PEG	-\$2,874,000
		adj Deficit	\$31,073,593
		Run Off	-\$13,000,000
		adj Deficit	-\$44,073,593

Assumptions:  
All Rent and Intra-City money is spent.  
No other cuts.  
New Machine implementation has begun.

Most numbers rounded

COMMISSIONERS



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DEPUTY EXECUTIVE DIRECTOR  
  
PAMELA GREEN PERKINS  
ADMINISTRATIVE MANAGER

April 16, 2009

Hon. James A. Walsh  
Hon. Douglas A. Kellner  
Hon. Evelyn J. Aquila  
Hon. Gregory P. Peterson  
Commissioners of Elections  
New York State Board of Elections  
40 Steuben Street  
Albany, NY 12207-2108

Re: HAVA "Pilot Program"

Dear State Commissioners of Elections:

This letter serves as a response to the letter of the State Board of Elections ("State Board") dated April 8, 2009 in which the State Board inquired whether local county boards of elections including the Board of Elections for the City of New York ("City Board") would be willing to participate in a "Pilot Program" related to the use of electronic voting machines in 2009. The City Board notes that this request, which you asked us to respond to in less than ten days, comes with less than five months remaining until the City Board will be running primary elections for all City-wide, borough-wide and City Council offices in New York City. For the reasons stated below, the City Board can not agree to participate in a HAVA-related pilot program.

While the City Board fully understands both the frustrations of the Court and the Department of Justice ("DOJ") and the problems the State Board has had with its independent testing agent, the City Board, which is of course blameless for delays in certification, does not have sufficient time this year to establish and operate a pilot program that can protect the franchise of every City voter. One of the City Board's major concerns is testing. Any pilot program would require the City Board to test machines and train technical staff to work them, which takes considerable time and effort (including working with vendors on any technical glitches). Indeed, testing would be all the more crucial given that the machines for use will not

have been tested or certified by any other party. The time to do such testing adequately simply does not exist.

In addition, the City Board would have to educate voters who would be voting on these new machines on how to use the machines; after all, most City voters have never voted on any technology *other* than lever machines. Even a limited, targeted education program to pilot program voters would have to be undertaken with great care and could not be rushed. And in a city as vast as New York City, a targeted education campaign for those expected to vote on the new machines will be difficult and exceedingly expensive to design. The City Board fails to see how such an education program could be completed satisfactorily before the primaries.

Moreover, the City Board would need time to prepare for operating the new technology on Election Day, which involves training poll workers on the new machines, almost all of whom have never worked poll-sites with anything but lever machines. The City Board simply can not agree to have voters voting on optical scan machines until the City Board has had adequate time to prepare its staff to operate such machines and answer any question voters may have. Without such preparation, major grievances on the part of both voters and candidates will inevitably arise, and it will be the City Board, not the State Board, that will bear the entirety of criticism even though it has had no part in causing HAVA-related delays.

In short, given the exceedingly tight time frame under which the City Board would be working (and in light of the fact that it will, of course, be preparing for elections generally at its nearly 1,360 poll-sites at the same time), any participation by the City Board in a pilot program would be infeasible and imprudent.

The City Board must also stress that even if other county boards are expressing willingness with respect to a pilot program, the City Board faces unique challenges that make it particularly ill-suited to participation. For example, the City Board is required to conduct run-off elections for City-wide primary elections *two weeks* after the primaries if candidates do not tally a certain percentage of votes, an eminently possible scenario this year. If the pilot program requires some sort of manual hand-count after the primary, the City Board has grave concerns that it will not have sufficient time to tabulate votes in time for the run-off. In addition, the City has purchased ES&S machines for use as ballot-marking devices, so any pilot program would entail the acquisition, receipt, testing and operation of brand new optical scan machines, not to mention the potential waste buying machines that may not be used once full HAVA compliance occurs. Other counties that have purchased Sequoia machines with optical scan components will not face this problem.

New York City is also a covered jurisdiction which means it must handle added Voting Rights Act requirements including language assistance in certain precincts. This adds one further layer of complication. Indeed, there may even be issues as to whether the pilot program could only take effect after receiving preclearance from the Department of Justice, further delaying implementation. All of these factors unique to the City make it eminently clear that the City is the worst possible candidate for participation in any pilot program.

The State Board and DOJ should be assured that the City Board has no intention of obstruction; to the contrary, it wants *nothing* more than to advance HAVA compliance, but it is powerless to increase the pace of compliance, and the Commissioners believe that City voters should not be punished on account of delays in certification. With all of this said, it is the understanding of the City Board that certain counties have already indicated a willingness to

operate one optical scan machine in 2009. To the extent DOJ insists that the City Board take a similar step (*i.e.*, that each New York State jurisdiction must operate at least one optical scan machine), the City Board would reluctantly consider operating one optical scan machine in each of the City's five boroughs at a poll-site that contains only one election district. Even such a step would be taken only with great reservations.

Sincerely,



Frederic M. Umare  
President



Julie Dent  
Secretary

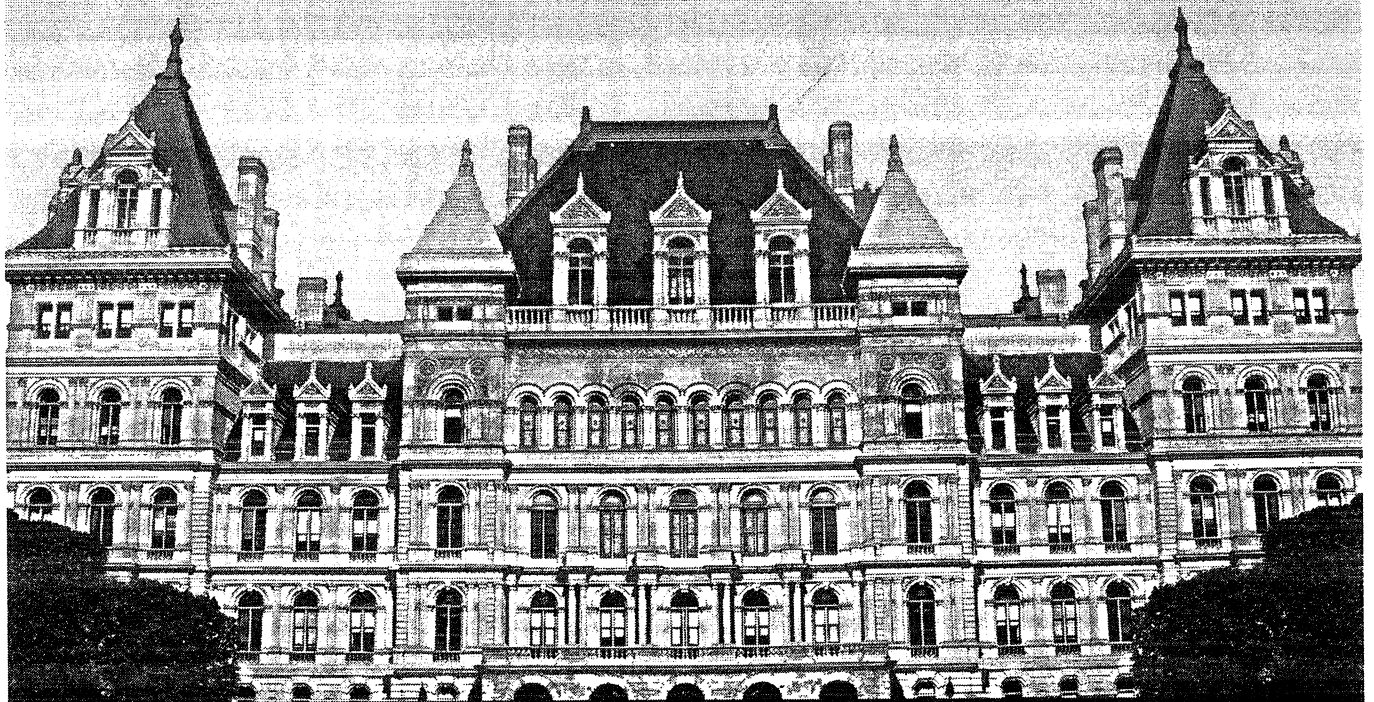
cc: Stanley Zalen, Co-Executive Director, New York State Board of Elections  
Todd Valentine, Co-Executive Director, New York State Board of Elections

Commissioners of Elections, Board of Elections in the City of New York  
Marcus Cederqvist, Executive Director  
George González, Deputy Executive Director  
Pamela Perkins, Administrative Manager  
Steven H. Richman, General Counsel

*Cow m h - RPT*

# 2008 ANNUAL REPORT NEW YORK STATE ASSEMBLY

## COMMITTEE ON ELECTION LAW



Sheldon Silver, Speaker

Ann-Margaret Carrozza, Chairperson

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 2008 Annual Report of the Assembly Standing Committee on Election Law.

In 2008, the Election Law Committee had an active and successful session. New York has once again extended legislation regarding military ballots and certain provisions relating to the election ballot and the canvassing of write-in votes. The law will now provide for late filing of election documents in case of a natural disaster and provide an option to register and enroll in the New York State Donate Life Registry on statewide application forms for voter registration.

In addition, the Committee reported and the Assembly passed legislation which would establish public financing of statewide and state legislative races, improve the administration of elections and promote more efficient reporting of campaign finance information to the State Board of Elections. The Committee and the Assembly also sought to increase the public's participation in elections by advancing bills that address the special needs of various voter constituencies.

As always, the most important goal of this Committee is to instill in voters the confidence that our electoral system is structurally honest and fair to all the people of this State. Through this Committee's oversight of existing institutions, the implementation of the Help America Vote Act and initiatives designed to bring about reforms, the State has made great strides toward this goal. I anticipate the 2009 Session will again include a vigorous debate concerning many election law issues and look forward to the challenges that such a debate will bring and to your continued support throughout the year.

Sincerely,

Ann-Margaret Carrozza  
Chairperson  
Election Law Committee

**2008 ANNUAL REPORT  
of the  
New York State Assembly  
Standing Committee on Election Law**

**Ann-Margaret Carrozza  
Chairperson**

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**MAJORITY**

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Joseph Lentol  
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Gregory Ball  
Fred Thiele

**STAFF**

Seth H. Agata, Principal Legislative Coordinator

Kathleen O'Keefe, Team Counsel

Laurie Barone, Analyst

Joann D. Butler, Team Executive Secretary



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## I. INTRODUCTION AND SUMMARY

### **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.

### **Executive Summary**

During the calendar year 2008, the Committee continued to assess whether legislation is needed to assist local boards of elections in implementing the Help America Vote Act (HAVA), both with respect to the anticipated purchase of new HAVA compliant voting systems and the ongoing effort to promote greater accessibility for individuals with disabilities to allow them to vote privately and independently. To do so, the Committee monitored federal legislation, the administration of elections by local boards of elections, regulations promulgated by the State Board of Elections, developments in the federal lawsuit brought by the Department of Justice against New York and input from the public, both formal and informal.

The Committee was, once again, concerned with the fiscal impact that HAVA has had on localities' budgets and the State Board of Elections' budget. To prudently allocate the federal funds received, and the interest that has accrued on such funds, the Committee recommended, and the Governor and Senate agreed, that most of the earned interest would be appropriated as Aid to Localities. However, in contrast to years past, the Committee recommended that a small portion of the interest be appropriated to the State Board of Elections for a core curriculum for voter education and poll worker training that could be used by every board of elections throughout the state. The 2008-2009 state fiscal year budget reflected this recommendation.

With respect to policy issues, the Committee reported and the Assembly passed legislation which would establish public financing of statewide and state legislative races to encourage candidate participation and diversity. Candidates would volunteer to participate and agree to abide by certain rules in order to receive public funds. This legislation is designed to be phased in over several election cycles.

The Committee and the Assembly also sought to increase public participation in elections by advancing bills that address specific needs of various voter constituencies. For example, legislation was passed that requires poll sites to be accessible to disabled voters and located on public transportation routes. In addition, legislation that would expand the use of special ballots for victims of domestic violence and require that registration records of domestic violence victims be kept confidential in certain cases was also passed. The Committee and the Assembly advanced other legislation that would assist non-English speaking voters and voters who have regained their right to vote after a conviction of a felony to exercise that right.

The committee also supported legislation that would significantly reform absentee voting requirements by: (i) streamlining the information that must be provided by a voter to obtain an absentee ballot; and (ii) authorizing absentee ballots for voters who are unable to appear at their poll site because of duties related to the care of one or more individuals who are ill or physically disabled.

Finally, the Committee has responded to the concerns of local boards of elections that administer and monitor the electoral process. For instance, the New York State Election Commissioners Association has asked that the law be amended to allow poll workers to work half of the election day hours to encourage more people to volunteer. A bill passed the Assembly to do so, providing at least one poll worker per poll site is present the entire time. The Assembly also passed a bill that would allow a voter the option of providing an email address to facilitate the flow of information from the board of elections to the voter.

In 2009, the Committee will continue to monitor the State's implementation of the Help America Vote Act and to promote initiatives designed to encourage greater voter participation and the efficient administration of elections.

## II. HIGHLIGHTS OF THE 2008 LEGISLATIVE SESSION

### **Extends certain provisions relating to the election ballot, canvassing write-in votes. (A.10087, Wright; Chapter 187)**

This law extends for one additional year the provisions for empowering local boards of elections, when necessary for reasons of ballot configuration and efficient election administration, to provide write-in vote opportunities in elections for party positions only when a valid petition for an opportunity to ballot is filed. Write-in vote opportunities must always be provided with respect to each contested nomination for public office.

### **Military voting. (A.10088, Carrozza; Chapter 188)**

This law extends the time to receive military ballots to 7 days after a primary election and 13 days following the general election and presidential primary election. Extending the time to receive military ballots will better ensure that military personnel are not disenfranchised because of the distance and time it takes to send mail to and from the far corners of the world.

### **Relates to registration in the New York State donate life registry for organ and tissue donations on application forms for voter enrollment. (A.10301, Conte; Chapter 362)**

This legislation provides an option to register and enroll in the New York State Donate Life Registry on statewide application forms for voter registration.

### **Provides for late filing of election documents in case of a natural disaster. (A.112, Pheffer; Chapter 394)**

This law gives the state and county boards of election the authority to extend filing deadlines in the event of natural disasters.

### III. 2008 COMMITTEE INITIATIVES WHICH PASSED THE ASSEMBLY BUT WERE NOT CONSIDERED BY THE SENATE

#### **Polling places to be accessible to physically disabled voters, (A.244, Cahill)**

Many polling sites across the state are ill equipped to provide basic access to people with disabilities. Often times, such barriers as steep steps and narrow doorways impede the only available routes to these buildings. Furthermore, many polling sites are located in basements, which can only be reached by stairway. A lack of adequate handicapped parking spaces has been a deterrent as well.

By mandating that all polling sites comply with these accessibility guidelines, if enacted, this bill would help ensure that all people with disabilities can be accommodated in a fair and equitable fashion at all polling sites.

#### **The “ voting rights notification and registration act”, (A.554, Wright)**

This bill would enact the “Voting Rights Notification and Registration Act” to remove illegal barriers that prevent convicted felons from registering to vote when they have completed their sentences and are, thus, eligible to vote. It would provide such individuals the information needed to register or reregister.

#### **Provides that designating petitions and independent nominating petitions may not contain candidates for the same public office from different political subdivisions, (A.642, Wright)**

The Appellate Division, Second Department decision in Popkin v Umare (22 AD3d 613) held that petitions which contain the names of different candidates for the same public office in different political subdivisions are valid. This decision could be interpreted to allow numerous Legislative candidates to appear on the same petition, thereby requiring the signatures of many voters residing in dozens of political subdivisions, and making the processing and review of such petitions unwieldy or impossible. It could also create a trap for unwary candidates who may be required by the Election Law to file their petitions in different boards of elections. This legislation, if enacted, would prohibit the inclusion of different candidates for the same public office or party position in different political subdivisions on the same petition.

#### **Employment of election inspectors, (A.644, Wright)**

This bill, if enacted, would permit the local boards of elections to utilize election inspectors for half-day shifts, provided at least one inspector is present the entire time that the polls are open.

#### **Court proceedings involving disputed election results, (A.1540, Bradley)**

Currently, courts are only allowed to call new elections in primary races; they cannot order a new general or special election, no matter how erroneous the certified election results may be. This bill, if enacted, would amend the Election Law to permit a court to order a new election

when there is clear and convincing evidence that the aggrieved candidate would have been the winner.

**Absentee ballot voting for primary care givers, (A.2268, Englebright)**

It is unfortunate that some people who desire to vote are unable to do so because caring for a loved one prevents them from personally appearing and voting. This bill, if enacted, will allow these people to apply for an absentee ballot so that they can care for their loved ones and still be able to exercise their right to vote.

**Absentee ballot voting requirements, (A.3052, Paulin)**

This bill, if enacted, would codify case law to provide that when a qualified voter expects in good faith to be absent from his/her county or city on election day and casts an absentee ballot but is, nonetheless, unexpectedly present on election day, such presence will not invalidate the absentee ballot cast.

**Providing Russian language voting materials, (A.3225a, Colton)**

If enacted, this legislation would mandate that when a board of elections in a city of over one million provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it must provide them in Russian as well as English.

**Including email addresses in voter registration data, (A.5452, Galef)**

Many people now rely on their e-mail as much as their postal mail to stay connected to the world. If enacted, this bill would provide an optional entry for e-mail addresses on voter registration forms so that boards of elections can reach voters via e-mail with all pertinent election information.

**Absentee ballots and the requirement of certain information, (A.5453a, Galef)**

This bill, if enacted, would simplify the absentee ballot process by eliminating the requirement for certain information that must currently be provided on an absentee ballot application.

**Polling places being situated on a public transportation route, (A.7103, Titus)**

This bill, if enacted, would increase voter participation for those individuals without their own transportation, particularly for individuals who do not have transportation to vote or need parking currently not available at existing polling sites, by requiring that poll sites be located on public transportation routes. The populations that would most benefit from this requirement include people with physical disabilities, senior citizens and low-income individuals.

**Making ballots available in Braille and large-print, (A.7196, Koon)**

This bill would, if enacted, enable blind and visually impaired persons to request Braille or large-print absentee ballots to be sent to their home, or such persons can request that accessible ballots be available at their polling places. Currently, blind or visually impaired people must have someone assist them when filling out absentee ballots because they are simply not produced in accessible formats. This eliminates the opportunity for blind or visually impaired people to vote independently and it forces such individuals to trust that the person assisting them will vote according to their wishes.

**Special ballots for victims of domestic violence, (A.7463, Gabryszak)**

Chapter 702 of 1996 permits victims of domestic violence who have fled the family residence because of danger to themselves or members of their families to cast their votes at the Board of Elections by paper ballot, rather than being required to appear at the polling place, where their abusers might be able to stalk them. However, Chapter 702 did not contain definitions of “domestic violence” or “family members”. This new legislation, if enacted, would clarify that domestic violence includes such things as “harassment” and “menacing” as well as actual physical abuse.

**Authorizing registration records of victims of domestic violence to be kept confidential in certain cases, (A.8538, Carrozza)**

Under current state law, local boards of election must provide the address of any registered voter, as long as the request is in writing and the applicable law is cited. Often, victims of domestic violence that have moved and wish to keep their new address out of the hands of their abuser simply do not register to vote because of the availability of their registration information to others. This legislation, if enacted, would keep these records separate and apart from other registration records, thus, affording domestic violence victims the security they deserve.

**Electronic filing of campaign statements. (A.10890, Carrozza)**

This bill, if enacted, would provide that statements filed electronically with the State Board of Elections would satisfy requirements of filing with a county or city board of elections.

**Enacts the “2010 Campaign Finance Act”. (A.11507a, Silver)**

This bill, if enacted, provides optional public financing of campaigns for statewide offices, state legislative offices and constitutional convention delegates.

**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>
<b>BILLS REPORTED WITH OR WITHOUT AMENDMENT</b>			
TO FLOOR; NOT RETURNING TO COMMITTEE	14	0	14
TO FLOOR; RECOMMITTED AND DIED	0	0	0
TO WAYS AND MEANS	5	0	5
TO CODES	2	0	2
TO RULES	8	0	8
TO JUDICIARY	0	0	0
TOTAL	29	0	29
<b>BILLS HAVING COMMITTEE REFERENCE CHANGED</b>			
TO _____ COMMITTEE	0	0	0
TO _____ COMMITTEE	0	0	0
TO _____ COMMITTEE	0	0	0
TO _____ COMMITTEE	0	0	0
TOTAL	0	0	0
<b>SENATE BILLS SUBSTITUTED OR RECALLED</b>			
SUBSTITUTED		2	2
RECALLED		0	0
TOTAL		2	2
<b>BILLS DEFEATED IN COMMITTEE</b>	0	0	0
<b>BILLS NEVER REPORTED, HELD IN COMMITTEE</b>	36	0	36
<b>BILLS NEVER REPORTED, DIED IN COMMITTEE</b>	152	5	157
<b>BILLS HAVING ENACTING CLAUSES STRICKEN</b>	1	0	1
<b>MOTIONS TO DISCHARGE LOST</b>	0	0	0
<b>TOTAL BILLS IN COMMITTEE</b>	218	7	225
<b>TOTAL NUMBER OF COMMITTEE MEETINGS HELD</b>	4		



**APPENDIX B**

**2008 CHAPTERS**

<b><u>BILL NUMBER</u></b>	<b><u>SPONSOR</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>CHAPTER NUMBER</u></b>
A.10087	Wright	Extends certain provisions relating to the election ballot, canvassing write-in votes	187
A.10088	Carrozza	Extends provisions of law to military voting	188
A.10301	Conte	Registration in New York State Donate Life Registry for organ and tissue donations on application forms for voter enrollment	362
A.112a	Pheffer	Provides for late filing of election documents in case of a natural disaster	394

**APPENDIX C**

**2008 BILL VETO**

<b>BILL NUMBER</b>	<b>SPONSOR</b>	<b>DESCRIPTION</b>	<b>VETO NUMBER</b>
A.9911	Jaffee	Requiring county boards of elections to submit ballots to state board of elections for approval when statewide candidates or other matters appear.	70

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F.Y.I.

## Election helped Suffolk employees rake in OT pay

BY RICK BRAND

rick.brand@newsday.com

11:31 PM EDT, April 14, 2009

The flood of new voters in last year's presidential balloting put a half dozen Suffolk elections workers in the county's top 10 overtime earners - including the highest, who made \$76,434 in overtime, more than doubling his annual pay to \$151,954.

That biggest overtime earner was elections form processor Keith Tuthill, whose annual salary is \$74,424. Second was correction officer Glen Rahner, who made \$75,653 in overtime, above his \$70,768 annual salary plus \$9,446 in other pay, totaling \$155,913.

The annual report compiled by the legislature's office of budget review, found the average overtime at the board of elections, where the 120 jobs are divided evenly between the major political parties, averaged \$44,793 last year per worker. Overall, county employees earned \$68.05 million in overtime, a \$3.1 million increase over 2007.

Election officials attribute the high level of overtime to the deluge of work from the presidential election, a special election and an extra primary election, as well as the acquisition and testing of 240 new ballot marking machines and associated training. A year earlier, the elections board averaged only \$11,327 per employee in overtime.

"It was a highly unusual year, to say the least," said Cathy Richter Geier, Republican elections commissioner. She added that Tuthill, a Republican who runs the elections building in Yaphank, is often at work at 6 a.m. and is on call when there are problems. Among those on the top 10 overtime list, four are Democrats, two are Republicans, including former Southold Republican chairman Robert Neville.

Anita Katz, Democratic commissioner, also said the presidential election brought in a record 60,000 new registrants, as well as 154,000 registration changes. The board also had 160,000 requests for absentee ballots and 235,000 affidavit ballots that had to be processed.

While the election board had a total of \$2.8 million in overtime costs, the report also showed the sheriff's office had 58 percent of the top 300 overtime earners, and received \$18.1 million, or 27 percent of the overtime paid to all active employees. Sheriff Vincent DeMarco said he has not seen the report and declined to comment.

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The police department incurred the most overtime at \$31 million, with detective union members averaging \$18,528 apiece, superior officers \$11,069 and PBA members \$9,553.

The report also shows former Suffolk County Community College president Shirley Robinson Pippins, who stepped down earlier this year, remained the highest paid county employee in 2008 with \$238,957 in earnings. She was followed by the police chief of department Robert Moore at \$212,577.

In order to get \$76,000 in overtime, a person making \$74,000 a year would have to work approximately 1,200-1,400 hours a year.

While Suffolk law requires the county executive get the highest salary in the county except for college president, Steve Levy came in 56th at \$181,000 because the law does not cover overtime pay or increases for longevity on the job. Levy did not return calls Tuesday for comment on the overtime earnings.

Budget review officials also said the biggest payout for termination pay for unused sick and vacation time last year went to Thomas Brandon, a former deputy police inspector, who left with \$255,491.

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The New York Times

## City Room

Blogging From the Five Boroughs

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APRIL 2, 2009, 9:46 AM

### Lawyers, Votes and Money in House Fight

By DAVID M. HALBFINGER

Democratic and Republican legal teams are gearing up for a protracted post-election fight over New York's 20th Congressional District, a nail-biter in which thousands of absentee ballots will decide who succeeds Senator Kirsten E. Gillibrand.

Leading the charge for Scott Murphy, the Democratic upstart who held a razor-thin lead at the close of voting on Tuesday, is Henry Berger, whose clients include Gov. David A. Paterson. His opposite number is John Ciampoli, a counsel to the State Senate Republican Campaign Committee who and a part-time staff lawyer for the State Senate Republican minority. The first court date is Monday.

Both parties took steps Wednesday to begin fund-raising for what insiders estimated could be a six-to-eight-week process and that could cost as much as \$500,000 on either side. Under federal rules, the campaigns can accept donations of up to \$2,400 per person to recount funds, but the state party committees can set up parallel funds that may accept gifts of up to \$10,000 per donor.

Mr. Berger and Mr. Ciampoli went head to head in Andrea Stewart-Cousins's 2004 challenge of State Senator Nicholas A. Spano of Westchester. Mr. Berger won a lawsuit, but Mr. Spano won that election by just 18 votes. (He lost in a rematch two years later.)

They also were on opposite sides in the 2000 recount victory of State Senator Roy M. Goodman, a Republican, over Liz Krueger, who captured his seat when Mr. Goodman retired two years later.

Mr. Murphy's legal team also includes former State Senator Martin E. Connor, of Manhattan and Brooklyn, and Thomas J. Garry, the son of a Brooklyn Democratic judge and the election lawyer for Nassau County Executive Thomas Suozzi.

Besides Mr. Ciampoli, the lawyers for Mr. Murphy's opponent, Assemblyman James N. Tedisco, a Republican, include Jim Walsh, a Schenectady lawyer who has worked for Assembly Republicans in the past, and Michael Cuevas, a close friend of Mr. Tedisco's who is also on his Assembly staff.

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Election board: New machines 'impossible' by primary



Missed deadlines are an ingrained tradition by now in the state's history with the Help America Vote Act. Now, the state Board of Elections is asking a federal judge for yet more time to replace its lever voting machines with modern electronic equipment.

In a letter dated last Wednesday to U.S. District Judge Gary Sharpe, the board's lawyers said a new testing time line from the company SysTest "indicates it will be impossible to meet the 2009 September primary...roll out date."

Said Special Counsel Kim Galvin and Deputy Special Counsel Paul Collins: "Several scenarios have negatively impacted our ability to complete certification testing in late summer. As our weekly status reports reflect, SysTest underestimated the complexity of fully and accurately testing to the federal standards. The recent suspension of its accreditation...

(Illustration from ballotpedia.org)

..., imposed by the Election Assistance Commission was related to a deficiency in testing documentation and included a requirement that training of SysTest staff be conducted, confirmed, and better documented has contributed to the expansion of the timeline. Those deficiencies have been corrected and SysTest's accreditation was recently restored..."

Part of the officials' pitch: 2009 is not a federal election year.

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Posted by Dan Janison on March 30, 2009 11:22 AM | Permalink | Comments (2)

Comments (2)

Posted by Howard S. | March 30, 2009 22:56

There's a better reason why it's impossible, that even the State Board of Elections won't talk about:

In 2006, no less than the National Institute of Standards and Technology (NIST) stated that "[E]xperience in testing software and systems has shown that testing to high degrees of security and reliability is from a practical perspective not possible."

They were talking about electronic vote-counting systems!

So be thankful that New York still runs its election without extensive use of computers. That's the right thing to do now and for the foreseeable future. The lever machines work fine, and what problems they do have will be dwarfed by those that are almost guaranteed to occur if we switch to computers, including electronic paper ballot scanners.

New York is HAVA-compliant because we have one accessible voting device for voters with special needs at every polling place in the state. Those machines mark Accessible Hand Counted Paper Ballots (A-HCPBs) so voters with disabilities, and others who wish to use them, can vote privately and independently. We should keep it that way, or

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expand that number where necessary. But replacing the lever machines for all voters should be non-starter.

The night of the fight, you may feel a slight sting. That's pride f\*cking with you. F\*ck pride. Pride only hurts, it never helps.  
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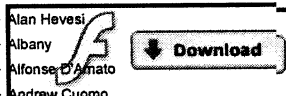
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