

*New York State Assembly*  
**2011 ANNUAL REPORT**

*committee on*  
**ELECTION  
LAW**

*Joan L. Millman*  
*Chairperson*



*Sheldon Silver*  
*Speaker*

December 15, 2011

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 2011 Annual Report of the Assembly Standing Committee on Election Law. 2011 was an active and productive session that resulted in 9 new laws or amended provisions of the Election Law.

During the 2011 session, the Committee reported significant legislation that was later enacted into law to change the time frame for special elections to ensure that military voters have adequate time to receive their ballots and have their votes counted. Also, legislation was enacted to set the presidential primary election for April 24, 2012, provide for the election of delegates and alternate delegates to the national party conventions, and ensure the State's compliance with the federal MOVE Act for the presidential primary election, which requires that ballots be transmitted to overseas and military voters at least 45 days before such election.

The 2011 session also saw the Committee report and subsequent enactment of legislation to make technical corrections with regards to: political subdivisions and election districts, the number and use of voting machines for village elections, the preservation of unused ballots, requirements to lock voting machines, and the retention of absentee ballots by county boards of elections.

Other legislative initiatives which the Committee reported and the Assembly passed include prohibiting certain candidates for public office from serving as poll watchers, requiring absentee ballot applications for village elections to conform to state board of election absentee ballot requirements, providing that absentee ballots for all elections shall be made available in Braille upon the request of a blind or visually impaired voter, determining acceptable delivery service for absentee ballots, and

legislation providing for public financing for campaigns for the office of state comptroller.

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

The goal of this Committee is to instill in voters the confidence that our electoral system is structurally honest and fair to all New Yorkers. Through this Committee's oversight of existing institutions and its advocacy of initiatives designed to bring about reforms, New York has made great strides towards this goal. The 2012 session will, no doubt, again see intense debate concerning the issues of campaign finance reform and initiatives concerning the new voting machines. The transition to full Help America Vote Act (HAVA) compliance has been costly both in the purchase of new voting systems and in the human resources necessary to train poll workers and educate the public about the new voting systems. The Committee held a hearing on Dec. 1, 2011 that examined these issues in light of the resources allocated in the enacted SFY 2011-12 State Budget for the continued HAVA implementation, and heard testimony regarding future legislation that may be needed to promote the efficient administration of elections.

Sincerely,

Joan L. Millman  
Chairperson  
Election Law Committee

**2011 ANNUAL REPORT  
of the  
New York State Assembly  
Standing Committee on Election Law**

**Joan Millman  
Chairperson**

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## I. INTRODUCTION

### **Committee Jurisdiction**

The jurisdiction of the Assembly Standing Committee on Election Law (hereinafter known as ‘the Committee’) includes all legislation that affects elections on the national, state and local levels, including ballot access, voter registration and enrollment, voter education and outreach, campaign financing and related administrative procedures of the State Board of Elections and local boards of elections.

### **Executive Summary**

The 2011 activities of the Committee can be broadly separated into two categories: expanding the opportunities for military and overseas voters to participate in the political process; and making necessary statutory amendments in light of the HAVA amendments of the last seven years.

The Assembly’s commitment to military voters and New Yorkers living abroad coupled with the federal mandates of the Military and Overseas Voter Empowerment (MOVE) Act led to the introduction, passage, and enactment of several pieces of legislation aimed at ensuring the fullest possible participation of members of America’s armed forces serving outside of New York. In addition to legislative activity, the Committee has been engaged in conversations with both the Senate and the Executive to set a new primary date for New York to further expand access and ensure participation by military and overseas voters.

New York State has spent the last seven years implementing the mandates of HAVA. This effort has led to dramatic changes in the way New Yorkers cast their votes, the way those votes are counted and recounted, and the ways in which the State Board and local boards of election prepare and administer elections to name but a few. The Election Law is written in a very linear fashion. Each process in the administration of elections in New York is predicated upon completion of precedent steps. The 2010 elections, the first after full HAVA compliance highlighted areas of the law that required revision in light of the insertion of the HAVA language. The committee sought to revise these affected sections and further update and modernize the Election Law.

On December 1, 2011, the committee held a hearing in the City of New York to hear testimony relating to the SFY 2011-12 budget as well as the status of HAVA implementation. At that hearing the Committee heard from several government agencies, advocacy groups, and one member of the public.

The State Board of Elections testified about how their agency is responding to the 10% cut they received in the SFY 2011-12 budget as well as the move of their physical operations to a new location. In addition, the State Board of Elections spoke about the need to revise the Election Law regarding delay or rescheduling of elections due to

natural disasters, a point highlighted during flooding caused from Tropical Storm Irene and Lee earlier this year.

The Board of Election in the City of New York not only addressed their budgetary concerns but also discussed at great length their election operations procedures. Much of the testimony centered on the method by which they tally the election results at the end of election day.

Several advocacy groups spoke about election administration and ballot modernization reforms and the relative merits of each.

Written testimony was submitted and the Committee will undoubtedly have meetings with interested parties throughout the 2012 session to find common ground and further pursue policies that reflect the Assembly and the Committee's longstanding goals of empowering more New Yorkers to vote while expanding access to those voters with disabilities.

## II. HIGHLIGHTS OF THE 2011 LEGISLATIVE SESSION

**Allows for the use of voting machines for village elections.**  
**(A.3093-b, M. Schimel; Chapter 3 of 2011)**

This law allows villages which administer their own elections independent of local boards of election to use voting machines in the administration of said elections until December 31, 2012.

**Extends the time frames within which a special election is held to ensure voting access by military voters.**  
**(A.5698, J. Millman; Chapter 4, 2011)**

This law amends certain provisions of the Public Officers Law and the Election Law to provide county boards of elections additional time prior to special elections in order to allow military ballots to be timely mailed to voters overseas.

**Makes technical corrections with regards to political subdivisions and election districts.**  
**(A.263, A. Paulin; Chapter 125)**

This law requires that poll-workers are provided with maps, street finders, or other descriptions of polling places and election districts within the political subdivision in which the polling place is located, rather than of those within the entire county.

**Renumbers subdivision 7 of section 3-400 of the election law.**  
**(A.6973-a, J. Millman; Chapter 133)**

This law amends the election law and the education law, in relation to election inspectors and poll clerks.

**Provides for the election of delegates to a national party convention or a national party conference in 2012, and the “Presidential” and “Fall” primary in such year.**  
**(A.8363, S. Silver; Chapter 147)**

This law amends certain provisions of the Election Law to schedule the presidential primary election for April 24, 2012, provides for the political parties’ statutory options for the election of delegates and alternate delegates to their respective national party conventions.



**Requirements to lock voting machines.**  
**(A.7453-a, J. Millman; Chapter 169)**

This law updates and clarifies the election law regarding the security of removable memory cards or other similar electronic media used by the new HAVA compliant voting systems, which must be safe guarded until such time as the information on the media has been preserved in a statutorily prescribed manner.

**Allows for the use of lever voting machines in certain elections.**  
**(A.7469, M. Schimel; Chapter 170)**

This law will give fire districts and special improvement districts the option to use lever machines through December 31, 2012. This authority is similar to that which was granted to school boards.

**Allows for the destruction of sealed, unused ballots.**  
**(A.6767-a, M. DenDekker; Chapter 282)**

This law relieves the overwhelming financial burden on local and county boards of elections from warehousing costs associated with the storage of excessive unused election ballots by allowing for the destruction of sealed, unused packages of ballots after four months.

**Makes conforming changes regarding the retention of absentee ballots and the canvass of military ballots.**  
**(A.7602-a, J. Millman; Chapter 308)**

This law makes technical conforming changes to match previously adopted statutory language. This law is also designed to provide specific guidance to county boards as to the processing of absentee ballots and envelopes.

**III. 2011 COMMITTEE INITIATIVES WHICH PASSED THE ASSEMBLY  
BUT WERE NOT CONSIDERED BY THE SENATE**

**Prohibits certain candidates for public office from serving as poll watchers.**  
**(A.1547-a, Millman)**

This bill would prohibit a candidate from serving as a poll watcher in an election district in which they appear on the ballot.

**Absentee voting at village elections.**  
**(A.3685, Galef)**

This bill would provide for the requirements in absentee ballot applications for village elections to conform to state board of election absentee ballot requirements.

**Makes absentee ballots available in Braille and large-print.**  
**(A.5337-a, Cusick)**

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

**Number of days that designating petitions may be signed.**  
**(A.7043, Millman)**

This bill would extend from 37 to 44 the number of days that designating petitions may be signed in 2011 in recognition of the Jewish holiday Shavuot.

**Signatures made on designating petitions.**  
**(A.7454, Millman)**

This bill would include the recently created thirteenth judicial district (Richmond County) as part of those districts in NYC which submit a roll of the convention to the secretary or chairman of the party which is empowered to fix the time and place of the convention rather than a certificate submitted to the State Board of Elections.

**Lever voting machines.**  
**(A.8088, Abinanti)**

This bill would ensure the security of lever voting machines used in village elections after such elections.

**Expands options for sending absentee ballots.**  
**(A.8090, Brook-Krasny)**

This bill would allow the expansion of options of services available to send absentee ballots. Rather than limiting carrier use to just the United States Postal Service, this bill would allow people to choose from all approved carriers to ensure their ballots are sent and received within the required timeframe.

**The “Comptroller Campaign Finance Reform Act.”**  
**(A.8367, Silver)**

This bill would allow candidates, either nominated for, or elected to the office of State Comptroller, the option of receiving publicly funded matching campaign contributions in return for agreeing to 1) caps on spending, 2) limits on contributions, 3) participating in public debates, and 4) allowing the monitoring and the auditing of campaign expenditures by an independent organization.

**APPENDIX A**

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

**2011 SUMMARY SHEET**

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

<u>FINAL ACTION</u>	<u>ASSEMBLY BILLS</u>	<u>SENATE BILLS</u>	<u>TOTAL BILLS</u>
<b>BILLS REPORTED WITH OR WITHOUT AMENDMENT</b>			
TO FLOOR; NOT RETURNING TO COMMITTEE	11	0	11
TO FLOOR; RECOMMITTED AND DIED	0	0	0
TO WAYS AND MEANS	1	0	1
TO CODES	2	0	2
TO RULES	8	0	8
TO JUDICIARY	0	0	0
TOTAL	22	0	22
<b>BILLS HAVING COMMITTEE REFERENCE CHANGED</b>			
TO <u>Insurance</u> COMMITTEE	1	0	1
TO <u>Governmental Operations</u> COMMITTEE	1	0	1
TO _____ COMMITTEE	0	0	0
TO _____ COMMITTEE	0	0	0
TOTAL	2	0	2
<b>SENATE BILLS SUBSTITUTED OR RECALLED</b>			
SUBSTITUTED		1	1
RECALLED		0	0
TOTAL		1	1
BILLS DEFEATED IN COMMITTEE	0	0	0
BILLS NEVER REPORTED, HELD IN COMMITTEE	170	6	176
BILLS NEVER REPORTED, DIED IN COMMITTEE	0	0	0
BILLS HAVING ENACTING CLAUSES STRICKEN	14	0	14
MOTIONS TO DISCHARGE LOST	0	0	0
TOTAL BILLS IN COMMITTEE	208	7	215
TOTAL NUMBER OF COMMITTEE MEETINGS HELD	8		

**APPENDIX B  
2011 CHAPTERS**

<b><u>BILL NUMBER</u></b>	<b><u>SPONSOR</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>CHAPTER NUMBER</u></b>
A.3093-B	Schimel	Relates to the number and use of voting machines in village elections.	3
A.5698	Millman	Provides county boards of elections additional time prior to special elections in order to allow military ballots to be timely mailed.	4
A.263	Paulin	Relates to making technical corrections with regards to political subdivisions and election districts.	125
A.6973-A	Millman	Relates to election inspectors and poll clerks.	133
A.8363	Silver	Relates to the conducting of the presidential primary, to provide for the election of delegates to a national party convention or a national party conference in 2012, and the "Presidential" and "Fall" primary in such year.	147
A.7453-A	Millman	Relates to the requirement to lock voting machines.	169
A.7469	Schimel	Relates to the types of voting machines used in certain elections.	170
A.6767-A	DenDekker	Relates to the preservation of unused ballots.	282
A.7602-A	Millman	Provides that absentee ballots shall be retained by the board of elections and canvassed as provided by law.	308