

# 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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## 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 Umane (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