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STATE OF NEW YORK  
1992  
ELECTION LAW

(AMENDED THROUGH AUGUST, 1992)

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ARTICLE II OF STATE CONSTITUTION  
RULES AND REGULATIONS



STATE BOARD OF ELECTIONS  
SWAN ST. BLDG.-CORE 1  
EMPIRE STATE PLAZA  
ALBANY, N.Y. 12223

# 1992

S M T W T F S

## JANUARY

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August 26, 1992

Publication date

**S T A T E O F N E W Y O R K**  
**1992**  
**ELECTION LAW**

(AMENDED THROUGH AUGUST, 1992)

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**ARTICLE II OF STATE CONSTITUTION**  
**RULES AND REGULATIONS**

Return to Resource Center  
International Foundation  
for Electoral Systems  
✓ 1620 I St. NW, Suite 611  
Washington, D.C. 20006

**STATE BOARD OF ELECTIONS**  
**SWAN ST. BLDG.-CORE 1**  
**EMPIRE STATE PLAZA**  
**ALBANY, N.Y. 12223**

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- 17-164. Political contributions by owners of polling places prohibited.
- 17-166. Penalty.
- 17-168. Crimes against the elective franchise not otherwise provided for.
- 17-170. Destroying or delaying election returns.

**THE ELECTION LAW**  
**LAWS OF NEW YORK, 1976**  
**CHAPTER 233**

AN ACT in relation to the election law, recodifying the provisions thereof, by repealing chapter seventeen of the consolidated laws and reenacting a new chapter seventeen thereof and repealing subdivision six of section forty-two of the public officers law and amending such law in relation to filling vacancies.

Became a law June 1, 1976, with the approval of the Governor. Passed by a majority vote, three-fifths being present.

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

**CHAPTER SEVENTEEN OF THE CONSOLIDATED LAWS**

**ELECTION LAW**

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**ARTICLE 1**

**GENERAL PROVISIONS**

- |         |   |
|---------|---|
| Section | 1-100. Short title.                     |
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\* So in original.



Section 1-100. **Short title.** This chapter shall be known as the "Election Law".

§ 1-102. **Applicability of chapter.** This chapter shall govern the conduct of all elections at which voters of the state of New York may cast a ballot for the purpose of electing an individual to any party position or nominating or electing an individual to any federal, state, county, city, town or village office, or deciding any ballot question submitted to all the voters of the state or deciding any ballot question submitted to the voters of any county, city, town or village at the time of a general election. Where a specific provision of law exists in any other law which is inconsistent with the provisions of this chapter, such provision shall apply unless a provision of this chapter specifies that such provision of this chapter shall apply notwithstanding any other provision of law.

§ 1-104. **Definitions.** The terms used in this chapter shall have the significance herein defined unless another meaning is clearly apparent in language or context. 1. The term "political unit" means the state or any political subdivision thereof or therein.

2. The term "unit of representation" means any political unit from which members of any committee or delegates to a party convention shall be elected as provided in this chapter.

3. The term "party" means any political organization which at the last preceding election for governor polled at least fifty thousand votes for its candidate for governor.

4. The term "party position" means membership on a party committee or the position of delegate or alternate to a party convention.

5. The term "party officer" means one who holds any party position or any party office whether by election, appointment or otherwise.

6. The term "committee" means any committee chosen, in accordance with the provisions of this chapter, to represent the members of a party in any political unit.

7. The term "designation" means any method in accordance with the provisions of this chapter by which candidates for party nomination for public office or for election to party position may be named for the purpose of any primary election.

8. The term "official ballot" refers to the paper ballot on which the voter casts his vote, or the face of a voting machine as prepared for the voter to cast his vote at any election held in accordance with the provisions of this chapter.

9. The terms "primary" or "primary election" mean only the mandated election at which enrolled members of a party may vote for the purpose of nominating party candidates and electing party officers.

10. The terms "uncontested office" and "uncontested position", used in connection with a primary election of a party, mean an office or position for which the number of candidates designated does not exceed the number to be nominated or elected thereto by the party, and for which no valid petition of enrolled members of the party requesting an opportunity to write in the name of an undesignated candidate has been filed.

11. The term "nomination" means the selection in accordance with the provisions of this chapter of a candidate for an office authorized to be filled at an election.

12. The term "independent body" means any organization or group of voters which nominates a candidate or candidates for office to be voted for at an election, and which is not a party as herein provided.

13. The term "independent nomination" means nomination by an independent body.

14. Words of masculine gender include the feminine except where the provisions clearly applies to only one sex.

15. The term "veteran's hospital" means any sanitarium, hospital, soldiers' and sailors' home, United States Veterans' Administration Hospital, or other home or institution, which is used, operated and conducted exclusively for the care, maintenance and treatment of persons serving in or honorably discharged from the military or naval service or coast guard of the United States or the state of New York.

16. The term "county legislative body" shall mean the elected governing body of a county, and in the city of New York, the city council.

17. The term "ballot proposal" means any constitutional amendment, proposition, referendum or other question submitted to the voters at any election.

18. The word "ballot" when referring to voting machines means that portion of the cardboard or paper or other material within the ballot frame containing the name of the candidate and the emblem of the party organization by which he was nominated, of the form of submission of a proposed constitutional amendment, proposition referendum or question as provided in this chapter, with the word "yes" for voting for any question or the word "no" for voting against any question except that where the question or proposition is submitted only to the voters of a territory wholly within a county or city, such form shall be determined by the county board of elections. Such statement and the title shall be printed in the largest type which is practicable to use in the space provided.

19. The term "ballot label" means the printed strips of cardboard or paper used on the voting machine containing the names of the candidates nominated, and the questions submitted.

20. The term "write-in ballot" means a vote cast for a person whose name does not appear on the ballot labels.

21. The term "protective counter" means a separate counter built into the voting machine that cannot be reset, and which records the total number of movements of the operating lever.

22. The term "residence" shall be deemed to mean that place where a person maintains a fixed, permanent and principal home and to which he, wherever temporarily located, always intends to return.

23. The term "voting machine custodian" shall mean a city, town or board of elections employee charged with the duty of repairing and maintaining voting machines.

24. The term "major political parties" means the two parties which polled for their respective candidates for the office of governor the highest and next highest number of votes at the last preceding election for such office.

25. The term "election officer" shall mean any person who, pursuant to the provisions of this chapter, performs any official duty or function in the electoral process.

26. The term "board of elections" shall mean the board of elections of any county in the state of New York and the board of elections of the city of New York and with respect to villages located in more than one county, shall mean the board of elections of that county containing more than fifty percent of the population of the village as shown by the last federal decennial or special census.

27. The term "personal application" means a signed writing which may be delivered by mailing or in person.

28. The term "caucus" shall mean an open meeting held in a political subdivision to nominate the candidates of a political party for public office to be elected in such subdivision at which all the enrolled voters of such party residing in such subdivision are eligible to vote.

29. The term "ballot label programming" means any computerized instructions which control the placement or the printing of candidates' names and ballot proposals on voting machines of a type approved after September first, nineteen hundred eighty-six.

30. The term "ballot label programming data" means the names and ballot positions of candidates and ballot proposals stored on any computerized device through the use of ballot label programming.

31. The term "resident vote tabulation programming" means the permanent computerized instructions which are built into any approved voting machine or equipment and which control the recordation, aggregation, tabulation, storage and printing of votes by any such machine or equipment.

32. "General village election" means the annual or biennial election for village officers.

33. "Special village election" means any election of village officers, other than the general village election.

34. "Village primary" means any election held by a political party for the purpose of nominating candidates for elective village offices.

35. The term "election" shall include a "general village election" or "special village election" except where a specific provision of this chapter may not be consistently applied to the village election procedure.

**§ 1-106. Filing of papers; when received.** 1. All papers required to be filed pursuant to the provisions of this chapter shall, unless otherwise provided, be filed between the hours of nine A.M. and five P.M. If the last day for filing shall fall on a Saturday, Sunday or legal holiday, the next business day shall become the last day for filing. All papers sent by mail in an envelope post-marked prior to midnight of the last day of filing shall be deemed timely filed and accepted for filing when received, except that all certificates and petitions of designations and nominations, certificates of acceptance or declination of such designations and nominations, certificates of substitution for such designations or nominations and objections and specifications of objections to such certificates and petitions required to be filed with the board of elections of the city of New York must be actually received by such city board of elections on or before the last day to file any such petition, certificate or objection and such office shall be open for the receipt of such petitions, certificates and objections until midnight on the last day to file any such petition, certificate or objection. Failure of the post office or any other person or entity to deliver any such petition, certificate or objection to such city board of elections on or before such last day shall be a fatal defect.

2. The failure to file any petition or certificate relating to the designation or nomination of a candidate for party position or public office or to the acceptance or declination of such designation or nomination within the time prescribed by the provisions of this chapter shall be a fatal defect.

## ARTICLE 2

## PARTY ORGANIZATION

- Section 2-100. Party committees; provision for.  
 2-102. State committee; creation.  
 2-104. County committee; creation.  
 2-106. State and county committees; election of members.  
 2-108. State and county committees; new party.  
 2-110. Committees other than state and county; creation.  
 2-112. Committees; organization.  
 2-114. Committees; rules of.  
 2-116. Committees; removal of member.  
 2-118. Committees; vacancies, how filled *and effect of change of boundaries.*  
 2-120. Party positions; to be filled at primary election, time for filing statement as to.  
 2-122. National party conventions; delegates, election.  
 2-124. Party names and emblems; provision for.  
 2-126. Party funds; restrictions on expenditures.

§ 2-100. **Party committees; provision for.** Party committees shall consist of a state committee, county committees, and such other committees as the rules of the party may allow.

§ 2-102. **State committee; creation.** 1. The members of the state committee of each party shall be elected from such units of representation as the state committee shall by rule provide. The number of members representing each unit may vary, but each member shall be entitled to an equal vote within his unit. Each member of the state committee shall be entitled to cast one vote unless the rules of the party shall provide otherwise.

2. Each member shall be, at the time of his election and continuously thereafter, an enrolled member of the party and a resident of the unit from which he is elected except as hereinafter provided.

3. To be eligible as a member of the state committee at the first election next ensuing after a readjustment or alteration of the units of representation becomes effective, a candidate must only have been a resident of the county in which the unit, or any part thereof, is contained for the twelve months immediately preceding the election.

4. The state committee may provide by rule for equal representation of the sexes on said committee. When any such rule provides for equal representation of the sexes, the designating petitions and primary ballots shall list candidates for such party positions separately by sexes.

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[Matter in *italics* is new.]

5. The state committee may provide for the holding of a state convention and the election of delegates and alternate delegates thereto in any year and may empower such convention to adopt party platforms and policies and to transact such other business as it may prescribe.

§ 2-104. **County committee; creation.** 1. The county committee of each party shall be constituted by the election in each election district within such county of at least two members and of such additional members, not in excess of two, as the rules of the county committee of the party within the county or the statement filed pursuant hereto may provide for such district, proportional to the party vote in the district for governor at the last preceding gubernatorial election, or in case the boundaries of such district have been changed or a new district has been created since the last preceding gubernatorial election, proportional to the party vote cast for member of assembly or in the event there was no election for member of assembly, then proportional to the number of enrolled voters of such party in such district on the list of enrolled voters last published by the board of elections. In a county in which no additional members are provided for by the rules of the county committee or the statement filed pursuant hereto the voting power of each member shall be in proportion to such party vote or, if the election district which such member represents was created or changed since the last election for member of assembly, proportional to such party enrollment. In a county in which additional members are so provided for, on the basis of the party vote or enrollment in election districts within such county, each member shall have one vote. Each member of a county committee shall be an enrolled voter of the party residing in the county and the assembly district from which or in the assembly district containing the election district in which such member is elected except that a member of a county committee who, as a result of an alteration of assembly district lines, no longer resides within such assembly district may continue to serve for the balance of the term to which he was elected.

2. If, pursuant to section one of article thirteen of the constitution, such committee or a state convention of the party shall provide by rule for equal representation of the sexes on such committee, the rules of such committee relative to additional members, either from election districts or at large, shall be formulated and applied in such manner that the whole membership shall consist of an even number, equally divided between the sexes. When any such rule provides for equal representation of the sexes, the designating petitions and primary ballots shall list candidates for such party positions separately by sexes.

3. Notwithstanding the provisions of subdivision one of this section, a county committee of a party shall be legally constituted if twenty-five per centum of the committeemen required to be

elected in such county, as provided in subdivision one of this section, have been elected.

**§ 2-106. State and county committees; election of members.** 1. Members of the state and county committees shall be elected at the primary election as herein provided.

2. Members of the state committee shall be elected biennially.

3. Members of county committee shall be elected biennially, except that to effect a transition from either odd to even or even to odd number year elections, a county committee may provide by an amendment to its rules filed with the board of elections at least four months before the date of the primary election at which the two year term of such committee is expiring, that the committee elected at such election shall be elected for a single, interim one-year term for members of such committee. No committee may effect such a change in the year of election more than once every ten years.

4. Members shall hold office until the next election at which members of the committee are elected.

**§ 2-108. State and county committees; new party.** The state committee and county committees of a new political party, which meet prior to the first primary for which members of such party shall have become enrolled, shall be formed as provided by the rules of such party.

**§ 2-110. Committees other than state and county; creation.** 1. All committees other than state and county committees shall be formed in the manner provided for by the rules of the party.

2. In the city of New York there shall be the party positions of assembly district leaders or, if the rules of the county committee shall so provide, one assembly district leader and one associate assembly district leader. Outside the city of New York there shall be such positions when the rules of the county committee shall so provide. Such leaders shall be elected at primary elections as herein provided, within every county in such city for each assembly district, or for each part of an assembly district within such county as may be designated in the rules in the rules of the county committee, and in every county of the state outside of such city where the rules so provide, for such assembly district or part thereof within such county as may be designated in such rules for the purpose. Such assembly district leaders or such assembly district leader and associate assembly district leader shall be of opposite sexes if the rules of the county committee shall so provide, and shall be enrolled voters of the party residing within the assembly district and, if the rules of the county committee shall so provide, within the part of the assembly district for which they

are to be elected, and shall be elected at the same primary election and for the same term as members of the county committee. When any such rule provides for equal representation of sexes, the designating petitions and primary ballots shall list candidates for such party positions separately by sexes. Each shall perform such duties, powers and functions as the rules of the county committee may prescribe. Vacancies in such positions shall be filled by the members of the county committee within the assembly district or part thereof, as the case may be, until the first primary election following the creation of such vacancy or vacancies for which the period for circulating designating petitions ends at least seven days after the creation of such vacancy or vacancies, at which time the successor or successors shall be directly elected as herein provided. Assembly district leaders and associate assembly district leaders shall automatically be members and shall have the right to participate and vote in meetings of the county committee or any subcommittee thereof. The county committee may provide by its rules that the members of the state committee, elected in accordance with the provisions of this chapter, shall possess the duties, powers and functions of an assembly district leader or an associate assembly district leader. In such event the provisions of this section shall not apply to the members of the state committee but upon his election as a member of the state committee, such person shall be deemed to have also been elected as an assembly district leader or an associate assembly district leader.

3. To be eligible for election as assembly district leader or associate assembly district leader at the first election next ensuing after a readjustment or alteration of the units of representation becomes effective, a candidate must only have been a resident of the county in which the unit, or any part thereof, is contained for the twelve months immediately preceding the election.

§ 2-112. **Committees; organization.** 1. Every state committee shall within fifteen days after its election, every county committee shall within twenty days after its election, and all other committees shall within the time specified by party rules, meet and organize by electing a chairman, a secretary, a treasurer and such other officers as they may by their rules provide. Within three days after their meetings all state and county committees shall file in the office of the state board of elections a certificate stating the names and post office addresses of such officers. County committees and any other committee contained therein shall file a copy of such statement with their county board of election.

2. Such officers shall be enrolled members of the party, but need not be members of such committees.

§ 2-114. **Committees; rules of.** 1. Each committee may prepare rules for governing the party within its political unit. Within ten days after the adoption of any rule or amendment thereto a



certified copy thereof shall be filed by the state committee in the office of the state board of elections, and by the county committee in the office of the state board of elections, and in the office of the board of elections of the county. If a section or portion of such rules relate to the nomination of candidates for village office, such section or portion of such rules shall be filed in the office of the village clerk of all villages in which elections are conducted by the village and in which the party makes any nominations for village office. No rule or amendment thereof shall be effective until the filing thereof in the office of the state board of elections. Such rules shall continue to be the rules for the committee until they are amended or new rules adopted.

2. Rules may be amended or new rules adopted from time to time by a majority vote of the members of the committee present at a meeting at which there is a quorum, provided a copy of the proposed amendment shall be sent with the notice of the meeting at which such amendment is to be proposed, such notice to be mailed not less than five days before such meeting to the post office address of each member of the committee.

§ 2-116. **Committee; removal of member.** A member or officer of a party committee may be removed by such committee for disloyalty to the party or corruption in office after notice is given and a hearing upon written charges has been had. The hearing shall be held by the committee, or a subcommittee thereof appointed for that purpose, which subcommittee shall report its findings to the full committee.

§ 2-118. **Committees; vacancies, how filled, and effect of change of boundaries** 1. In the case of the death, declination, enrollment in another party, removal from the unit or removal from office of a member of a committee, or the failure to nominate or elect a member, the vacancy created thereby shall be filled by the remaining members of the committee by the selection of an enrolled voter of the party qualified for election from the unit of representation in which such vacancy shall have occurred. When a state committee fills a vacancy pursuant to this subdivision, the chairman or secretary of such committee shall, within ten days after such vacancy is filled, file a certificate with the state board of elections setting forth the name, address, and unit of representation of the person so selected.

2. If the boundaries of any unit of representation be changed after the election of members of [the] *a state committee or assembly district leaders or associate assembly district leaders*, the terms of members, or *assembly district leaders or associate assembly district leaders* elected in such units of representation and the units of representation which such members, *assembly district leaders or associate assembly district leaders* represent shall continue until the next regularly scheduled election for such party positions and

*until* their successors are elected [or appointed. The state committee may provide by rule for the manner in which such successors shall be chosen or appointed.]

3. The county committee, upon its organization after the election of its members, or at any time thereafter, may determine that a vacancy or vacancies in such committee exists by reason of an increase in the number of election districts within the county occasioned by a change of the boundaries of one or more election districts, taking effect after such election, and may determine the districts that the elected members shall represent until the next election at which members of such committee are elected. A vacancy so determined to exist shall be filled as provided in subdivision one.

[Sect. heading and para. 2 amended by chap. 79, Laws of 1992.]

**§ 2-120. Party positions; to be filled at primary election, time for filing statement as to.** 1. The chairman of the county committee of each party or such person as may be designated by the rules of the county committee shall file with the board of elections not later than *two weeks before* the first day [to sign] *on which* designating petitions for a primary election *may be signed* a statement of the party positions to be filled by such party at such primary election, and the number of persons to be elected to each position; *provided, however, that failure to file such statement shall not be construed as a prerequisite to filing designating petitions for such position.*

2. If the party positions to be filled are elected from a district which includes parts of two or more counties, the chairman of the state committee of each party or such person as may be designated by the rules of the state committee shall file such statement with the state board of elections and the board of elections for each county within such district.

3. In each county within the city of New York, and in each county outside of such city where the rules of the county committee of a party provide for the election of assembly district leaders, or one assembly district leader and one associate assembly district leader from parts of an assembly district, the statement filed by such committee shall also set forth the election districts contained within each such part of such assembly district.

[Para. 1 amended by chap. 79, Laws of 1992. Takes effect January 1, 1993.]

**§ 2-122. National party conventions; delegates, election.** Delegates and alternates to a national convention of a party shall be elected from congressional districts, or partly from the state at large and partly from congressional districts, as the rules of the state committee may provide. Such<sup>n</sup> delegates and alternates

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[Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.]

from the state at large shall be elected by the state committee or by a state convention of the party, as the rules of the state committee shall prescribe. If the rules of a national party provide for equal representation of the sexes among delegates elected from districts, such district delegates shall be elected separately by sex. District delegates and alternates to national party conventions and delegates, and alternates, if any, to such a state convention shall be elected at a primary. All delegates and alternates to a national party convention shall be enrolled members of such party. When any such rules provides for equal representation of the sexes, the designating petitions and primary ballots shall list candidates for such party positions separately by sex.

**§ 2-124. Party names and emblems; provision for.** 1. The state committee of a party shall select a name and emblem to distinguish the candidates of the party for public office in all districts of the state, and shall file in the office of the state board of elections, a certificate executed by its chairman and secretary, setting forth the name and showing the emblem so selected.

2. The name of a party shall be in the English language and shall not include the words "American", "United States", "National", "New York State", "Empire State", or any abbreviation thereof, nor the name or part of the name, or an abbreviation of the name, of an existing party. The emblem chosen may be a star, an animal, an anchor, or any other proper symbol, but may not be the same as or similar to any emblem, insignia, symbol or flag used by any political or governmental body, agency or entity nor any religious emblem, insignia, symbol or flag, nor the portrait of any person, nor the representation of a coin or of the currency of the United States. The name and emblem chosen shall not be similar to or likely to create confusion with the name or emblem of any other existing party or independent body.

3. If the name of any party shall contain more than fifteen letters, the state committee shall similarly select and certify an abbreviated form thereof, containing not more than fifteen letters, to be used upon the ballot whenever the necessities of space so require.

4. Emblems and names which have been continuously used by any party or independent body for the nomination of candidates for governor may continue to be used by such party or independent body.

**§ 2-126. Party funds; restrictions on expenditures.** No contributions of money, or the equivalent thereof, made, directly or indirectly, to any party, or to any party committee or to any person representing or acting on behalf of a party or party committee, or any moneys in the treasury of any party, or party committee, shall be expended in aid of the designation or nomi-

nation of any person to be voted for at a primary election either as a candidate for nomination for public office, or for any party position.

[§ 2-128. **Repealed** by chap. 110, Laws of 1979.]

## ARTICLE 3

## ELECTION OFFICIALS

- Title I. Statewide provisions.  
 II. Board of elections.  
 III. Election personnel.  
 IV. Election inspectors and poll clerks.  
 V. Alternate provisions.

## TITLE I

## STATEWIDE PROVISIONS

- Section 3-100. New York state board of elections; membership; organization.  
 3-102. State board of elections; general powers and duties.  
 3-103. Standards for computerized record keeping.  
 3-104. State board of elections; enforcement powers.  
 3-106. Fair campaign code.  
 3-107. Powers and duties of the state board of elections respecting elections and crimes against the elective franchise.  
 3-108. Disaster; additional day for voting.  
 3-110. Time allowed employees to vote.

§ 3-100. **New York state board of elections; membership; organization.** 1. There is hereby created within the executive department a New York state board of elections, hereafter referred to as the "state board of elections", composed of four commissioners appointed by the governor: two commissioners, one each from among not fewer than two persons recommended by the chairman of the state committee of each of the major political parties; and two other commissioners, one upon the joint recommendation of the legislative leaders, of one major political party, in each house of the legislature and one upon the joint recommendation of the legislative leaders, of the other major political party, in each house of the legislature. The commissioners shall be appointed for terms of two years each and in the same manner as their respective predecessors. A commissioner appointed to the board to fill a vacancy caused other than by expiration of a term, shall serve for the balance of the unexpired term. The provisions of section five of the public officers law shall not apply to any member appointed on recommendation of legislative leaders.

2. Of the two commissioners of the board appointed upon the recommendation of the legislative leaders one shall be designated by the governor as the chairman and one as the vice-chairman, respectively. Thereafter, upon the expiration of the term of the commissioner designated as chairman, the designation of the vice-chairman, as such, shall also terminate and the chairman and

vice-chairman, respectively, shall be the member appointed to the board upon the recommendation of the legislative leaders of a different major political party than that of those who recommended his predecessor.

3. The commissioners of the state board of elections shall have no other public employment. The commissioners shall receive an annual salary of twenty-five thousand dollars, within the amounts made available therefor by appropriation. The board shall, for the purposes of sections seventy-three and seventy-four of the public officers law, be a "state agency", and such commissioners shall be "officers" of the state board of elections for the purposes of such sections. Within the amounts made available by appropriation therefor, the state board of elections shall appoint an executive director, counsel and such other staff members as are necessary in the exercise of its functions, and may fix their compensation.

4. For the purposes of meetings, three commissioners shall constitute a quorum. The affirmative vote of three commissioners shall be required for any official action of the state board of elections.

5. The principal office of the state board of elections shall be in the county of Albany.

**§ 3-102. State board of elections; general powers and duties.** In addition to the enforcement powers and any other powers and duties specified by law, the state board of elections shall have the power and duty to:

1. issue instructions and promulgate rules and regulations relating to the administration of the election process, election campaign practices and campaign financing practices consistent with the provisions of law;

2. visit boards of elections, examine their procedures and records and direct that any such procedures be modified in any manner consistent with the provisions of this chapter;

3. conduct any investigation necessary to carry out the provisions of this chapter;

4. conduct private or public hearings;

5. administer oaths or affirmations, subpoena witnesses, compel their attendance, examine them under oath or affirmation and require the production of any books, records, documents or other evidence it may deem relevant or material;

6. confer immunity in accordance with the provisions of section 50.20 of the criminal procedure law, in any investigation relating to any crime or offense with respect to which, by express provisions of statute, a competent authority is authorized to confer immunity; provided, however, that such immunity shall be conferred only after the attorney general and appropriate district attorney are afforded the opportunity to be heard respecting any objections

which either may have to the conferring thereof; and provided, further, that if either the attorney general or any such appropriate district attorney shall object to the conferring of immunity, immunity may be conferred only by unanimous vote of all four commissioners of the state board;

7. institute, or direct a board of elections to institute such judicial proceedings as may be necessary to enforce compliance with any provision of article fourteen of this chapter or any regulation promulgated thereunder including, but not limited to, application, on notice served upon the respondent in the manner directed by the court at least six hours prior to the time of return thereon, to a justice of the supreme court within the judicial district in which an alleged violation of any such provision or regulation occurred or is threatened, for an order prohibiting the continued or threatened violation thereof or for such other or further relief as the court may deem just and proper;

8. prepare uniform forms for the statements required by article fourteen of this chapter and uniform forms for use by local election officials in the conduct of registration and voting; design, prepare and make available to county boards of election and to such other institutions and groups as such board in its discretion shall determine uniform application forms for registration and enrollment, transfer of registration and/or enrollment and special enrollment upon application filed by mail pursuant to the provisions of section 5-210 of this chapter;

9. study and examine the administration of elections within the state including campaign financing, campaign financing reporting, and campaign practices;

10. establish rules allowing the admission of news media representatives to the area of the polling place where the canvass of ballots cast can be directly observed;

11. recommend such legislation or administrative measures as it finds appropriate to promote fair, honest and efficiently administered elections, including, but not limited to, legislation to adjust the contribution limitations set forth in article fourteen of this chapter;

12. monitor the adequacy and effectiveness of the election laws and report thereon at least annually to the governor and the legislature;

13. take all appropriate steps to encourage the broadest possible voter participation in elections *including the administration of a program of registration form distribution by participating state agencies as prescribed by section 5-211 of this chapter*;

13-a. receive from the secretary of the senate and the clerk of the assembly a list of the mailing addresses of senators and members of the assembly. When members of the public, government

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[Matter in *italics* is new.]

officials, or agencies request the mailing addresses of senators and members of the assembly, the mailing addresses submitted to the board by the secretary of the senate and the clerk of the assembly shall be provided;

14. perform such other acts as may be necessary to carry out the purposes of this chapter.

[Subd. 13 amended by chap. 79, Laws of 1992.]

**§ 3-103. Standards for computerized records keeping.** The state board of elections shall promulgate rules and regulations setting minimum standards for computerized record keeping systems maintained by county boards of elections. Such standards shall include, but not be limited to system access and security, the format and content of the data to be recorded and stored on such systems, and the minimum technical specifications for computer programming. Such standards shall be for the purpose of facilitating compatibility between the systems used by the several boards of elections.

**§ 3-104. State board of elections; enforcement powers.** 1. The state board of elections shall have jurisdiction of, and be responsible for, the execution and enforcement of the provisions of article fourteen of this chapter and other statutes governing campaigns, elections and related procedures.

2. Whenever the state board of elections or other board of elections shall determine, on its own initiative or upon complaint, or otherwise, that there is substantial reason to believe a violation of this chapter or any code or regulation promulgated thereunder has occurred, it shall expeditiously make an investigation which shall also include investigation of reports and statements made or failed to be made by the complainant and any political committee supporting his candidacy if the complainant is a candidate or, if the complaint was made by an officer or member of a political committee, of reports and statements made or failed to be made by such political committee and any candidates supported by it. The state board of elections, in lieu of making such an investigation, may direct the appropriate board of elections to make an investigation. The state board of elections may request, and shall receive, the assistance of the state police in any investigation it shall conduct.

3. If, after an investigation, the state or other board of elections finds reasonable cause to believe that a violation warranting criminal prosecution has taken place, it shall forthwith refer the matter to the district attorney of the appropriate county and shall make available to such district attorney all relevant papers, documents, testimony and findings relevant to its investigation.

4. The state or other board of elections may, where appropriate, commence a judicial proceeding with respect to the filing or failure



to file any statement of receipts, expenditures, or contributions, under the provisions of this chapter, and the state board of elections may direct the appropriate other board of elections to commence such proceeding.

5. The state board of elections may promulgate rules and regulations consistent with law to effectuate the provisions of this section.

**§ 3-106. Fair campaign code.** 1. In addition to the powers and duties elsewhere enumerated in this article, the state board of elections, after public hearings, shall adopt a "fair campaign code" setting forth ethical standards of conduct for persons, political parties and committees engaged in election campaigns including, but not limited to, specific prohibitions against practices of political espionage and other political practices involving subversion of the political parties and process.

2. Such code shall be published at least twice during the three months preceding a general election in one newspaper of general circulation in each county and, in the city of New York, in two newspapers of general circulation in the city of New York. Copies of such code shall also be sent to each candidate, political party, political committee and boards of elections upon request.

3. The state board of elections, on its own initiative, or upon complaint or otherwise, may investigate any alleged violation of the fair campaign code and, in appropriate cases, may apply for an order, as provided in this article.

4. In addition to any other civil or criminal penalty which may be provided for by law, the state board may impose a civil penalty, not to exceed one thousand dollars, upon any person found by the board, after a hearing, to have violated any of the provisions of such code.

5. Any such finding by the board may only be had after a hearing conducted by it upon reasonable written notice, as the board may determine, to such person and affording such person a reasonable opportunity to be heard and present and examine witnesses thereat.

**§ 3-107. Powers and duties of the state board of elections respecting elections and crimes against the elective franchise.** Authority is hereby conferred upon the state board of elections to appoint a special investigator to take charge of the investigation of cases arising under the election law, and to appoint such additional special investigators and employees as it may deem necessary, and fix their compensation, within the limits of appropriation available therefor, and assign them to any election district or districts for the purpose of enforcing the provisions of the election law. Moneys appropriated for carrying out the provisions of this section shall be paid out of the state treasury on

the audit and warrant of the comptroller upon the certificate of the state board.

Such special investigators shall, when directed by the state board of elections, investigate qualifications of persons to register or vote and violations of the election law. Any such special investigator may:

1. Visit and inspect any house, dwelling, building, inn, lodging-house, boarding-house, rooming-house, or hotel and interrogate any inmate, house-dweller, keeper, caretaker, owner, proprietor or landlord thereof or therein, as to any person or persons residing or claiming to reside therein or thereat.

2. Inspect and copy any books, records, papers or documents relating to or affecting the election or the registration of voters, or require the board or officer in charge thereof to furnish a copy of any such record, paper or document without charge.

3. Require any lodging-house, boarding-house or rooming-house keeper, landlord or proprietor to exhibit his register of the lodgers therein at any time to such special investigator.

4. Procure warrants of arrest and cause to be taken into custody the person or persons named in such process.

5. Go within the guard-rail at any polling place at any election.

Any such special investigator also shall have all of the powers of a peace officer as set forth in section 2.20 of the criminal procedure law, for the purpose of enforcing the provisions of this chapter.

Any person who neglects or refuses to furnish any information required by the election law or authorized herein, or to exhibit records, papers or documents herein authorized to be inspected or which are required to be exhibited, shall be guilty of a misdemeanor.

The state board or any of its special investigators shall have power to issue subpoenas or subpoenas duces tecum, administer oaths and examine witnesses under oath, for the purpose of investigating any matter within the jurisdiction herein prescribed for the purpose of aiding the state board in enforcing the provisions of the election law. Such subpoenas shall be issued in the name of the state board of elections. Such subpoenas may be served by any special investigator or by any police officer or peace officer who is acting pursuant to his special duties.

Any person who shall omit, neglect or refuse to obey a subpoena attested in the name of the state board of elections or who shall refuse to testify under or in pursuance thereof shall be guilty of a misdemeanor.

Any such special investigator may call upon any member of the police, sheriff, deputy sheriff, constable or other public officer, or any person, to assist him in carrying out the provisions of this section. Any such officer or person who shall fail to render the assistance so demanded or who shall wilfully hinder or delay such

special investigator in the exercise of any power or the performance of any duty shall be guilty of a misdemeanor.

§ 3-108. **Disaster; additional day for voting.** 1. A county board of elections, or the state board of elections with respect to an election conducted in a district in the jurisdiction of more than one county board of elections, may determine that, as the direct consequence of a fire, earthquake, tornado, explosion, power failure, act of sabotage, enemy attack or other disaster, less than twenty-five per centum of the registered voters of any city, town or village, or if the city of New York, or any county therein, actually voted in any general election. Such a determination by a county board of elections shall be subject to approval by the state board of elections. If the state board of elections makes such a determination, it shall notify the board of elections having jurisdiction in that county that an additional day of election shall be held, which notice shall show; the nature of the disaster; the county, city, town or village affected thereby; the number of persons duly registered to vote therein at such general election; and the number of persons who voted therein at such general election.

2. The county board of elections shall thereafter set a date for an additional day for voting in the county, city, town or village affected by the statement, which shall not be more than twenty days after the original date of the general election and shall determine the hours during which the polls shall remain open on such additional day for voting; provided, however, that in any event the polls shall remain open for not less than eleven hours. The county board of elections shall publish notice thereof not less than twice in each week preceding the date for the additional day for voting, in newspapers as designated in this chapter, and shall notify all registered voters by mail. Such notice shall also direct attention to any change of polling places and shall contain such other and additional information as in the judgment of the board of elections shall be necessary and proper.

3. Official ballots shall be provided at public expense at each polling place for such additional day of election. In any election district in which voting machines were used upon the original day of voting, they shall be used for the additional day for voting. The original seal on such machines shall not be removed nor shall the machines be unlocked until the opening of the polls on the additional day for voting and the board of elections shall provide an additional seal to be used as soon as the polls are closed on such day.

4. Only those persons duly registered to vote upon the original date of the general election who did not vote on such date shall be entitled to vote on the additional day for voting. Voting on the additional day provided for in this section shall be accomplished solely by physically appearing at the polling place and nothing

contained in this section shall be construed to extend the time set by law for casting or canvassing a military, absentee or special presidential ballot; provided, however, that nothing contained herein shall be deemed to invalidate any absentee, military or special presidential ballot duly received on the original date of the general election.

§ 3-110. **Time allowed employees to vote.** 1. If a registered voter does not have sufficient time outside of his working hours, within which to vote at any election, he may, without loss of pay for up to two hours, take off so much working time as will, when added to his voting time outside his working hours, enable him to vote.

2. If an employee has four consecutive hours either between the opening of the polls and the beginning of his working shift, or between the end of his working shift and the closing of the polls, he shall be deemed to have sufficient time outside his working hours within which to vote. If he has less than four consecutive hours he may take off so much working time as will when added to his voting time outside his working hours enable him to vote, but not more than two hours of which shall be without loss of pay, provided that he shall be allowed time off for voting only at the beginning or end of his working shift, as the employer may designate, unless otherwise mutually agreed.

3. If the employee requires working time off to vote he shall notify his employer not more than ten nor less than two working days before the day of the election that he requires time off to vote in accordance with the provisions of this section.

4. Not less than ten working days before every election, every employer shall post conspicuously in the place of work where it can be seen as employees come or go to their place of work, a notice setting for the provisions of this section. Such notice shall be kept posted until the close of the polls on election day.

## TITLE II

### BOARD OF ELECTIONS

- Section 3-200. Boards of elections; creation, qualifications of commissioners, removal.
- 3-202. Election commissioners; term of office.
- 3-204. Election commissioners; appointment.
- 3-208. Election commissioners; salaries.
- 3-210. Election commissioners; certificate of appointment, filing of.
- 3-212. Boards of elections; organization, proceedings, reports and records.
- 3-214. Board of elections; general office and branches, hours.

- 3-216. Boards of elections; assistance to, records to be furnished it.
- 3-218. Subpoenas; power to issue by boards of elections.
- 3-220. Records and photostats; preservation and sale.
- 3-222. Preservation of ballots and records of voting machines.
- 3-224. Voting machines; use of by other than the board of elections.

**§ 3-200. Boards of elections; creation, qualifications of commissioners, removal.** 1. There shall be a board of elections in each county of the state and in the city of New York for the five counties thereof.

2. Each board shall consist of two election commissioners, except that the county legislative body of a county having a population of more than one hundred and twenty thousand may, by local law, increase the number of commissioners to four, to be appointed as provided in this title. Each of the major political parties shall be eligible to recommend appointment of an equal number of commissioners.

3. In the city of New York the board shall consist of ten commissioners of election who shall be registered voters in the county for which they are appointed and they shall be appointed by the city council of the city of New York. Not more than two commissioners shall be registered voters of the same county.

4. No person shall be appointed as election commissioner or continue to hold office who is not a registered voter in the county and not an enrolled member of the party recommending his appointment, or who holds any other public office, except that of commissioner of deeds, notary public, village officer, city or town justice, or trustee or officer of a school district outside of a city.

6. An election commissioner shall not be a candidate for any elective office which he would not be entitled to hold under the provisions of this article, unless he has ceased by resignation or otherwise, to be commissioner prior to his nomination or designation therefor. Otherwise such nomination or designation shall be null and void.

7. An election commissioner may be removed from office by the governor for cause in the same manner as a sheriff. Any vacancy so resulting shall be filled in a manner prescribed by this article for filling vacancies.

[Subd. 5 REPEALED by chap. 296, Laws of 1984.]

**§ 3-202. Election commissioners; term of office.** 1. The term of office of an election commissioner shall be two years beginning January first of each odd numbered year except that in the city of New York and the county of Schenectady the term shall be four years beginning on January first of each alternate

odd numbered year. The county legislative body of any other county may determine that the commissioners of elections thereafter appointed shall serve for a term of four years. Such determination may be rescinded by a subsequent action of the county legislative body which shall take effect at the expiration of the terms of the commissioners then in office.

2. The local legislative body may, at any time, determine that the terms of office for commissioners shall be staggered and may make subsequent appointments so as to provide for staggered terms of office thereafter.

**§ 3-204. Election commissioners; appointment.** 1. At least thirty days before the first day of January of any year in which a commissioner of elections is to be appointed, the chairman or secretary of the appropriate party county committee shall file a certificate of party recommendation with the clerk of the appropriate local legislative body.

2. Party recommendations for election commissioner shall be made by a majority vote of the county committee.

3. The certificate filed shall be in such form and contain such information as shall be prescribed by the state board of elections.

4. Commissioners of election shall be appointed by the county legislative body, or in the city of New York, by the city council. Provided, however, that if a legislative body shall fail to appoint any person recommended by a party for appointment as a commissioner pursuant to this section, within thirty days after the filing of a certificate of recommendation with such legislative body, then the members of such legislative body who are members of the political party which filed such certificate may appoint such person. If none of the persons named in any of the certificates filed by a party are so appointed within sixty days after the filing of any such certificate, then such party may file another certificate within thirty days after the expiration of any such sixty day period recommending a different person for such appointment. If a party fails to file a certificate within the time prescribed by this section, the members of the legislative body who are members of such party may appoint any eligible person to such office.

5. If at any time a vacancy occurs in the office of any election commissioner other than by expiration of term of office, such vacancy shall be filled as herein provided for the regular appointment of a commissioner except that a person who fills a vacancy shall hold such office during the remainder of the term of the commissioner in whose place he shall serve.

**§ 3-208. Election commissioners; salaries.** Each election commissioner in the same county shall receive an equal salary. The salary shall be an annual salary to be fixed by the county legislative body except that each commissioner of elections in the

city of New York shall receive the sum of one hundred dollars for each day's attendance at meetings of the board or any of its committees, not to exceed ten thousand dollars a year.

§ 3-210. **Election commissioners; certificate of appointment, filing of.** The certificate of appointment of an election commissioner shall be filed in the office of the clerk of the county where the commissioner resides and the clerk shall immediately notify the state board of elections of the appointment.

§ 3-212. **Boards of elections; organization, proceedings, reports and records.** 1. The election commissioners, at their first meeting after the first day of January of each year, shall organize as a board, electing one of their number as president, and one as secretary, and if there is a deadlock, the members shall draw lots for such places. The president and secretary shall not belong to the same party.

2. All actions of the board shall require a majority vote of the commissioners prescribed by law for such board.

3. The records of the board, and all papers and books filed in its office are public records. Minutes of all meetings shall show how each commissioner voted upon any resolution or motion. The board shall keep a record of its proceedings, of the number of voters registered and enrolled with each party for that year in each political subdivision or part thereof, data relating to the expenses connected with registration, enrollments and elections within the county or city and such other information relating to elections as this chapter or the state board of elections may prescribe.

4. (a) Each board of elections shall make an annual report of its affairs and proceedings to its local legislative body once every twelve months and no later than the last day of January in any year. A copy of said annual report shall be filed with the state board of elections.

(b) Said annual report, as required by paragraph (a) of this subdivision, shall include a detailed description of existing programs designed to enhance voter registration. Such report shall include a voter registration action plan which details the various activities and programs of each board, including a description of those steps which shall be taken in the future to *increase registration opportunities, especially for those identifiable groups of persons historically underrepresented on the rolls of registered voters; and coordinate voter education programs with school districts, colleges and universities within the board's jurisdiction including voter registration of qualified applicants and instructional or ex-*

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tracurricular activities promoting participation in the electoral process.

(1) Each voter registration action plan shall provide for the designation by the board of a registration activities coordinator. Such designee shall be responsible for initiating contact with each school district, *college and university* within the area served by the board to request that such school district, *college and university* designate an administrative liaison who, together with the registration activities coordinator, shall plan, prepare and implement voter education and registration programs to enhance electoral participation. The state board of elections shall promulgate rules and regulations providing guidelines for county board of election assistance to school districts, *colleges and universities* in the establishment of electoral participation programs.

(2) Each voter registration action plan shall set forth existing activities and planned programs designed to insure compliance with the requirements of subdivision two of section 5-210 of this chapter regarding the distribution of registration application forms.

(3) The state board of elections shall review the voter registration action plan submitted by each board of elections and assist in the development and implementation of local registration outreach services and activities.

5. The board of elections of the city of New York, upon the affirmative vote of six commissioners, may adopt rules authorizing a number of commissioners less than the total membership of the board to act on behalf of the board on matters required to be performed by boards of election pursuant to the provisions of this chapter, provided that such number shall be comprised of commissioners representing equally the two political parties entitled to representation on the board.

[Subd. 4 amended by chap. 79, Laws of 1992.]

§ 3-214. **Board of elections; general office and branches, hours.** 1. The board of elections in the city of New York shall maintain an office in the borough of Manhattan, which shall be the headquarters of such board, and an office in each borough of the city. Elsewhere, in each county, the county legislative body shall provide the board of elections for such county with proper and suitable offices.

2. Any board of elections may establish as many fixed branch offices as it deems necessary.

3. Each office shall be open at least every business day during usual business hours, except that each central board office shall be open for the receipt of papers at least between the hours of nine A.M. and five P.M. on the last day on which a paper may be filed with it and on such other days and hours as may be

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required herein. In each of the two calendar weeks before each general election, each office shall remain open on at least two business days until at least seven P.M. and on Saturdays from not later than nine A.M. until at least noon. In the city of New York, each office shall also remain open on the Sunday before the general election from not later than ten A.M. until at least one P.M.

**§ 3-216. Boards of elections; assistance to, records to be furnished it.** 1. Any law enforcement agency whenever called upon by a board of elections, shall assist in the investigation of registrations and render all other practicable assistance in the enforcement of this chapter. The officer in charge shall detail to the service of the board of elections, upon its written request, such members or employees of the agency as may be necessary.

2. Every public officer shall be required to furnish to the board of elections, without charge, such copies of the official records in his custody, certified by him, as the board may require and as are appropriate and necessary for the performance of its duties.

**§ 3-218. Subpoenas; power to issue by boards of elections.** 1. The board of elections and any of the commissioners thereof may require any person to appear and attend before the board or a commissioner at an office of the board and be examined by the board or a commissioner as to any matter in relation to which the board is charged with a duty under this chapter, or in relation to violations of the elective franchise, and subpoenas may issue therefor.

2. When an oath is required or permitted by this chapter, any commissioner, or an employee of the board designated in writing by it, may administer such oath.

**§ 3-220. Records and photostats; preservation and sale.** 1. All registration records, certificates, lists, and inventories referred to in, or required by, this chapter shall be public records and open to public inspection under the immediate supervision of the board of elections or its employees and subject to such reasonable regulations as such board may impose. No such records shall be handled at any time by any person other than a member of a registration board or board of inspectors of elections or board of elections except as provided by rules imposed by the board of elections.

2. The central file registration records shall be kept in locked filing cabinets in the office of the board of elections or, in the appropriate branch offices of the board of elections. Such records shall be taken from such file and handled only where necessary to make entries thereon or take other action in connection therewith as required by this article. The board of elections may cause

to be made, photostatic copy or copies of the registration poll records of registered voters in any election district and shall cause such photostatic copies to be placed in one or more ledgers in the same manner and in the same order as the original registration poll records appear in the ledger or ledgers containing the registration poll records for such election district. Such photostatic records shall be open to public inspection, in lieu of the original registration records.

3. Registration records which have been mutilated or voided or which, following the refusal of a board taking registrations to permit an applicant to register, have been marked "Refused" shall be retained by the board of elections for at least one year. Upon destruction of any such records the board shall keep a file of the serial numbers of the records so destroyed. Reports of deaths shall be retained by the board of elections for four years. In January of each year, the board of elections may remove from its files and may destroy the check cards of persons whose registrations were cancelled more than four years previously.

4. Subsequent to the expiration of ten years after the receipt thereof or, in the case of registration records, subsequent to the expiration of two years after cancellation of the registration to which they relate, the board of elections, in lieu of preserving any of the records as hereinbefore provided, may preserve photostatic, microphotographic or photographic film copies thereof, and may destroy the original records and is authorized to do so in accordance with the provisions of article thirteen of the state finance law. *If the board of elections maintains a computer readable registration record for each registered voter, which includes a copy of the entire registration poll record or application for registration of each such voter, the original poll record or application for registration may, with the permission of the state board of elections, be so destroyed subsequent to the expiration of two years after such copy is entered in the computer readable record. If such copies in the computer readable record do not include the backs of those registration poll records which have been used at one or more elections, then all such poll records which have been used at one or more elections may, with the permission of the state board of elections, be so destroyed subsequent to the expiration of two years after such copy is entered in the computer readable record, or subsequent to the expiration of four years after the last election at which such poll record was used, whichever is later.*

5. Any such photostatic, microphotographic or photographic film copy made pursuant to this section or any such computer readable record shall be deemed to be an original record for all purposes and, when satisfactorily identified, may be introduced in evidence in any judicial or administrative proceeding. An enlargement, fac-

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simile or certified copy thereof shall, for all purposes, be deemed to be an enlargement, facsimile or certified copy of the original record and may likewise be introduced in evidence if the film copy or the computer readable record is in existence and available for inspection under direction of the court or administrative agency. The introduction in evidence of a film copy or a copy of a computer readable record, or an enlargement, facsimile or certified copy thereof, shall not preclude introduction of the original record.

6. All petitions, certificates, objections or papers filed or deposited with a board or officer before an election or primary and relating to designations or nominations, and all registers, books, statements, returns or papers so filed or deposited after registration, enrollment, election or primary at which they were used or to which they relate, not including, however, the voted, unused, protested, void or wholly blank ballots, shall be preserved by such board or officer for at least one year after the receipt thereof and until the determination of any action or proceeding touching the same or in which they are ordered to be preserved pending the action or proceeding and at the expiration of such time they may be either destroyed or sold. Lists of registered voters with computer generated facsimile signatures used in lieu of registration poll records at any election shall be preserved until the end of the fourth calendar year after the year of such election. In all jurisdictions, the original statements of results made by the state board of canvassers or a county or city board of canvassers and any original record specifying the name of a person declared to have been elected to a public office shall not be destroyed or sold but shall be preserved, as part of the records of such board or officer, until otherwise provided by law.

6-a. During the period prescribed by subdivision six of this section, no petition shall be removed from the office of the board of elections for copying or any other purpose except while in the custody, or under the supervision of a member or employee of such board or pursuant to court order.

7. Upon the sale of any property authorized by this section to be destroyed or sold, the proceeds shall be paid over as follows: If sold by the board of elections, the proceeds shall be paid into the county treasury, or, in the city of New York, into the city treasury. If sold by the clerk of a city, town or village, the proceeds shall be paid to its fiscal officer for its benefit. Proceeds of the sale of any such property in the office of the state board of elections shall be paid over as provided by law with respect to other state moneys in the hands of a state officer.

[Subds. 4 and 5 amended by chap. 389, Laws of 1992.]

**§ 3-222. Preservation of ballots and records of voting machines.** 1. Except as hereinafter provided, voting machines

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shall remain locked against voting for a period of thirty days or until fifteen days before the next election, if such machines are needed for use at such next election. Provided however that a machine may be unlocked if a discrepancy discovered in the recanvass of voting machines required by this chapter makes it necessary to examine the machine to determine if it has malfunctioned and provided further that a machine may be opened and all the data and figures therein examined upon the order of any court or judge of competent jurisdiction or may be opened by direction of a committee of the senate or assembly to investigate and report upon contested elections of members of the legislature voted for by the use of such machine and such data and such figures examined by such committee in the presence of the officer having the custody of such machine.

2. Write-in ballots shall be preserved for six months after such election and the packages thereof may be opened and the contents examined only upon order of a court or judge of competent jurisdiction, or by direction of such committee of the senate and assembly if the ballots relate to the election under investigation by such committee, and at the expiration of such time, such ballots may be disposed of at the discretion of the officer or board having charge of them.

3. Except as hereinafter provided, packages of protested, void and wholly blank ballots, packages of unused ballots and all absentee and military, special federal, special presidential and emergency ballots and ballot envelopes, if any, opened or unopened, shall be preserved for six months after the election. Except as hereinafter provided, boxes containing voted paper ballots shall be preserved inviolate for four months after the election, or until one month before the next election occurring within five months after a preceding election if such boxes are needed for use at such next election and if the officer or board in charge of such voted paper ballots is required by law to furnish ballot boxes therefor. Provided, however, that such ballot boxes and such packages may be opened, and their contents and the absentee and military, special federal, special presidential and emergency ballots and ballot envelopes may be examined, upon the order of any court or justice of competent jurisdiction. Boxes and envelopes containing absentee, military and emergency ballots voted at a general or special election, for the office of member of the senate or assembly, packages of void, protested and wholly blank ballots, unopened absentee and military ballot envelopes and the packages of unused ballots, in connection with such election, also may be opened, and their contents and such envelopes also may be examined, by direction of a committee of the senate or assembly to investigate and report on contested elections of members of the legislature. Unless otherwise ordered or directed by such a court, justice or committee, such boxes shall be opened and their contents and such packages and the envelopes containing voted ballots and ballot envelopes

shall be destroyed, at the expiration of the period during which they are required by the provisions of this section to be preserved, except that instead of being destroyed, they may be sold and the proceeds paid over in the manner provided with respect to the sale of books, records and papers pertaining to an election.

4. The results of the annual test of each voting machine of a type approved after September first, nineteen hundred eighty-six, which is required by this chapter, shall be preserved until the results of the next annual test of each such machine are available for examination.

5. All records and documents pertaining to ballot label programming and ballot label programming data for any election for any voting machine of a type approved after September first, nineteen hundred eighty-six and all records pertaining to the testing of any such programming and programming data or the testing of any such machine in connection with any such election shall be preserved for thirty days after such election.

§ 3-224. **Voting machines; use of by other than the board of elections.** The board of elections or the local legislative body of a city or town, may permit towns, villages, school districts, fire, water, sanitation, police and other special districts within the county to use voting machines and other equipment owned by it and used for the conduct of elections or for educational and instructional purposes, upon such rental and other terms and conditions as shall be fixed by it. Such board or body may similarly permit the use of such machines by associations and organizations for the conduct of elections where it judges the use of such machines for elections conducted by such associations and organizations will be in the public interest.

### TITLE III

#### ELECTION PERSONNEL

Section 3-300. Board employees; appointment.

3-302. Voting maching technicians and custodians; appointment, duties.

Section 3-300. **Board employees; appointment.** Every board of elections shall appoint, and at its pleasure remove, clerks, voting machine technicians, custodians and other employees, fix their number, prescribe their duties, fix their titles and rank and establish their salaries within the amounts appropriated therefor by the local legislative body and shall secure in the appointment of employees of the board of elections equal representation of the major political parties. Every commissioner in each board of elections except for commissioners of the board of elections of the city of New York, may appoint and at pleasure remove a deputy, establish his title and prescribe his duties. In the city of New

York, the board of elections shall appoint an executive director and a deputy executive director whose duties it shall be to supervise the operations of the board of elections under the supervision of such board.

**§ 3-302. Voting machine technicians and custodians; appointment, duties.** 1. The board of elections shall appoint as many voting machine technicians and voting machine custodians as shall be necessary for the proper preparation and repair of voting machines. Voting machine technicians may be full time employees of the board of elections and may also serve as voting machine custodians as hereinafter provided.

2. The voting machine technicians shall, under the direction of the board of elections supervise the preparation of the voting machines. They shall inspect voting machines to insure that they are in proper repair and working order and shall notify the board of elections and the appropriate town or city clerk of the repairs found to be needed on any machine. They shall have the authority to recommend the rejection of a machine to the board of elections as not in suitable mechanical condition for use in an election. They shall perform all other duties as required by the board of elections.

3. The board of elections shall, before the fifteenth day of January of each year, appoint as many custodians of voting machines as may be necessary for the proper preparation of the machines. The custodian shall, under the direction of the board of elections, have charge of and represent the board of elections during the preparation of the voting machines and serve at the pleasure of the board of elections.

4. The board of elections shall as often as necessary provide a course of training and education on the preparation, use, maintenance and repair of the voting machine. Attendance at such course shall be required of all voting machine technicians who have not previously completed such a course satisfactorily.

5. Any person who fails to satisfactorily complete such a course shall not be permitted to serve as a voting machine technician.

6. Voting machine custodians shall be paid for their services an amount fixed by the board of elections, which amount shall, however, be approved by the governing body of the municipality requiring their services and shall be payable by the respective municipality requiring their services.

7. Salaries of voting machine technicians shall be fixed by the board of elections as provided herein and provided further that the salaries for each technician may vary dependent on the number of machines to be serviced, other duties assigned and such other factors as the board may consider relevant.

## TITLE IV

## ELECTION INSPECTORS AND POLL CLERKS

- Section 3-400. Election inspectors and poll clerks; provision for.  
 3-401. Election coordinators; provision for.  
 3-402. Election inspectors and poll clerks; authority.  
 3-404. Election inspectors and poll clerks; designation.  
 3-406. Election inspectors and poll clerks; additional.  
 3-408. Election inspectors and clerks; additional clerks to count absentee ballots.  
 3-410. Election inspectors and poll clerks; certification.  
 3-412. Election inspectors and poll clerks; training.  
 3-414. Election inspectors and poll clerks; oath of office, certificate of appointment.  
 3-416. Election inspectors, poll clerks and election coordinators; removal.  
 3-418. Election inspectors and poll clerks; emergency provisions for filling vacancies or absences.  
 3-420. Election inspectors, poll clerks and election coordinators; compensation.

§ 3-400. **Election inspectors and poll clerks; provision for.** 1. There shall be for each election district of the state four election inspectors.

2. At every general election in each election district where two voting machines are used, there shall be two clerks in addition to the four inspectors of election, except that in an election district located in a town, where one voting machine is used, the town board may direct the board of elections to appoint not more than two clerks in such district if in the discretion of such board the service of such clerk or clerks is reasonably necessary for the proper conduct of the election. In each election district where paper ballots, in addition to one voting machine, are used at a general election, there shall be two clerks in addition to the four inspectors of election. In each election district where paper ballots, in addition to more than one voting machine are used at a general election there shall be four clerks in addition to the four inspectors. The duties of such clerks shall be such as shall be prescribed by the board of elections and they shall serve at the general election only. When deemed necessary in any election or primary, the board of election may require additional poll clerks to be designated in any election district.

3. Appointments to the offices of election inspector or poll clerk in each election district, shall be equally divided between the major political parties.

4. Before entering on their duties, the election inspectors of each election district outside the city of New York shall appoint one of their number chairman, to serve as such during his term

of office. If a majority shall not agree upon such an appointment, they shall draw lots for that position.

5. In the city of New York in each odd numbered election district a chairman shall be designated who shall be an inspector named by the political party which polled the highest number of votes for governor at the last preceding election for such officer and in each even numbered election district a chairman shall be designated who shall be an inspector named by the political party which polled the second highest number of votes for governor at the last preceding election for such officer.

6. No person shall be certified or act as an election inspector or poll clerk who is not a registered voter and a resident of the county in which he serves, or within the city of New York, of such city, who holds any elective public office, or who is a candidate for any public office to be voted for by the voters of the district in which he is to serve, or who is not able to speak and read the English language and write it legibly.

**§ 3-401. Election coordinators; provision for.** 1. The board of elections of each county and in the city of New York, the board of elections of the city of New York, may, in its discretion, appoint persons to perform election day duties including directing voters to their proper polling place, assist election inspectors and poll clerks in the performance of their duties, and such other duties as may be assigned to them by the board of elections. Such persons shall be designated as election coordinators.

2. All election coordinators shall be trained in the manner prescribed by this article for election inspectors and poll clerks. Election coordinators shall be appointed by the board of elections. The appointment of election coordinators shall be equally divided between the two major political parties.

3. The board of elections of each county appointing election coordinators and in the city of New York, the board of elections of the city of New York, may, in its discretion, prescribe training in addition to that required by this article.

4. Any county board of elections appointing election coordinators and in the city of New York, the board of elections of the city of New York, shall prepare a report detailing assignments and duties to be delegated to election coordinators. Said report shall be filed with the state board of elections no later than one month prior to the election at which election coordinators are to be assigned.

**§ 3-402. Election inspectors and poll clerks; authority.** 1. Election inspectors, in performing their duties, shall act as a board and a majority vote thereof shall be required to decide all questions. If, however, any inspector or inspectors shall be temporarily absent for a portion of the meeting, the inspectors



present shall have and may exercise any power or perform any duty conferred or imposed upon a board of inspectors, provided that they are not all members of the same political party.

2. Wherever an oath is provided for at any meeting of the board of inspectors, any inspector may administer it.

3. The board of inspectors, and each member thereof, shall preserve good order within and around the polling place or place of registration, and shall keep access thereto unobstructed. The board of inspectors, or any member thereof, by order in writing may direct the arrest of any person who refuses to obey the lawful commands of the inspectors or who is guilty of disorderly conduct disturbing their proceedings or violating or attempting to violate any of the provisions of this chapter. Any peace officer, acting pursuant to his special duties, or police officer shall, when requested by the board or a member thereof, execute such order forthwith.

4. All election inspectors shall perform their duties as required by the election law, and in accordance with the directions and instructions given them by the board of elections.

**§ 3-404. Election inspectors and poll clerks; designation.** 1. The board of elections of each county shall on or before the fifteenth day of July of each year select and appoint election inspectors and poll clerks for each election district therein and such number of election coordinators as it determines to be necessary, and may thereafter select and designate election inspectors, poll clerks and election coordinators to fill any vacancy for an unexpired term. The term of such designation shall be for a term ending on the fourteenth day of July of the following year. If the election districts for a general or special village election conducted by the board of elections are coterminous with the election districts established for general elections, such election inspectors and poll clerks shall also serve at such village elections. If the election districts for such a village election are not so coterminous, the board of elections shall select the inspectors and poll clerks to serve in each such village election district from among the inspectors and poll clerks appointed, pursuant to the provisions of this section, for any election district wholly or partly in such village.

2. Each political party entitled to representation on any board of elections may, not later than the first day of May in each year, file with the appropriate board of elections, an original list of persons recommended to serve. Supplemental lists may be filed at the same time and at any time before the designation is made and certified or when a vacancy exists. All designations shall be made first from those named in the original list filed if those designated are found qualified.

3. Such lists shall be authenticated and filed by the chairman, or, under his direction by the secretary, of the county committee

of the party, except that in cities other than the city of New York, if there is a general city committee of such party, such list shall be filed by the chairman or secretary of such city committee.

4. Appointment of election inspectors, poll clerks and election coordinators shall be made by boards of elections.

5. If a political party shall fail to submit a list or the list shall be exhausted, the board of elections shall request from the appropriate political party an original or supplemental list. If after ten days no list is filed by that party, the board of elections may appoint qualified persons, enrolled members of the political party in default, to act as election inspectors, poll clerks or election coordinators.

6. If election districts are altered or new districts created, the board of elections shall have the power to transfer election inspectors and poll clerks in such districts; and if vacancies exist as a result of such action, those vacancies shall be filled in the manner provided by this section.

7. Election officers shall be appointed from the lists submitted, by those members of the board who represent the political party which submitted such lists. If such list is not furnished, the members of the board who represent the political party in default, shall designate the persons to be appointed as election officers.

**§ 3-406. Election inspectors and poll clerks; additional.** 1. Each board of elections shall establish a list of persons duly qualified to serve as election inspectors, which list shall be known as the "Additional Inspector List", in such number of persons as the board shall determine. Such a list shall be equally divided between the major political parties. Appointments under this section shall be made in the manner provided for the appointment of regular election inspectors and for a like term.

2. Any person serving as an additional inspector of elections may, at the direction of the board of elections, be assigned to any election district or transferred from one election district to another after he has entered upon the performance of his duties on a day of registration or election.

3. Any person designated to the addition inspectors list shall meet the requirement for regular election inspectors and may be removed in the same manner as any election inspector.

4. If the board of elections shall determine that a vacancy exists upon any board of inspectors or that any election inspector or poll clerk is absent, and that no qualified voter has been appointed pursuant to this chapter to act in place of such election inspector or poll clerk, or to relieve any qualified voter who has been so appointed, it shall forthwith direct a person appointed pursuant to this section to act in place of the absent election inspector or poll clerk or qualified voter so appointed until such absent election inspector or his appointed successor shall appear; provided, how-

ever, that the additional election inspector so appointed shall be a designee of the same political party as the election inspector in whose place he shall act. The board of elections shall provide suitable identification for every additional election inspector to present to the chairman of the board before entering upon the duties of such office.

5. Additional inspectors shall be paid by the county in which they serve in an amount fixed by the board of elections.

**§ 3-408. Election inspectors and clerks; additional clerks to count absentee ballots.** Two additional clerks, to be appointed in the same manner as the inspectors of election, may be appointed in any election district where absentee and military ballots have been mailed to twenty-five or more of its registrants. Such clerks shall be present at least one hour before the polls close and at the close of the polls shall canvass the absentee and military ballots. The clerks shall be divided between the major political parties. Such clerks shall be paid, by the town or city containing the election district for which they are appointed to serve, in an amount fixed by the town or city legislative body.

**§ 3-410. Election inspectors and poll clerks; certification.** 1. Before a person designated as an election officer may enter upon his duties, he must be certified by the board of elections as provided herein.

2. If an election officer fails to meet the requirements for certification, the office shall be treated as vacant.

**§ 3-412. Election inspectors and poll clerks; training.** 1. Each board of elections shall, at least once every year, conduct a school for the instruction of election inspectors, poll clerks and election coordinators who have not served previously or who have not attended this school within the past three years. They shall be given written notice stating the time and place at which such school or schools shall be held.

2. Election inspectors, poll clerks and election coordinators shall be instructed concerning the election law, the taking of registrations, the use of voting machines, and their duties in connection therewith as soon as possible after their designation.

3. Election inspectors, poll clerks and election coordinators as required herein shall, after their original designation, and at least once every three years thereafter, complete a course of instruction, and, before certification, pass an examination thereon. The state board of elections shall supply each board of elections with instructional material to be used in the preparation for such examinations and shall give each such board of elections uniform directions for the conduct of such examinations, which it shall be the duty of the board to follow. Every such board may utilize

additional materials selected by it in the course of instruction. No person taking such examination shall be permitted to know the questions or answers in advance or be given access to the answers during the examination. If such inspectors or clerks pass such examination, or if they are not required to attend the course of instruction, the board of elections shall certify the designated election inspector or poll clerk.

4. The county board of elections shall within two weeks notify those who have passed the examination or who are excused from examination, that they are certified to serve.

5. Each board of elections shall reproduce a booklet of instructions for inspectors prepared by the state board of elections. A copy of such booklet shall be given to each inspector at the time such inspector attends the course of instruction. At least one copy of such booklet shall be included with the supplies sent to each election district for each election and day of local registration.

**§ 3-414. Election inspectors and poll clerks; oath of office, certificate of appointment.** 1. Every person designated and certified as an election inspector shall, within ten days after notice of certification, take and subscribe the constitutional and statutory oath of office, which shall be administered by a commissioner of elections, or by any employee of the board of elections who shall be designated in writing to administer such oaths, or by the clerk of the city or town in which the election district for which such person is certified is located. Oaths of office shall be filed in the office of the board of elections.

2. Every person so sworn shall receive a certificate of appointment in such form as may be approved by the board under which he serves, and such form shall specify the capacity and the election district or districts, in which he is to serve and the date of the expiration of the term of office.

**§ 3-416. Election inspectors, poll clerks and election coordinators; removal.** 1. Any election officer appointed pursuant to the provisions of this chapter, may be removed for cause by the board making the appointment. Unless such removal is for improper conduct, while such officer is actually on duty on the day of registration or election, it shall occur only after notice in writing to the officer to be removed. Such notice shall set forth clearly the reasons for his removal. Neglect to attend to the duties of the office shall be cause for the removal of any such officer.

2. It shall be the duty of the board making the appointment of an election officer, to remove forthwith such officer without preferring any charges and without notice to such officer, upon the written request of the official of the political party who certified the name of such election officer, or his successor. All such vacancies so created shall be filled in the same manner as the original

appointment was made. Any election officer who shall at any time be appointed to fill a vacancy, shall have that fact stated in his certificate of appointment and shall hold office only during the unexpired term of his predecessor.

3. Any election inspector, poll clerk or election coordinator who is removed from office for cause shall forfeit the compensation earned up to the time of such removal.

4. An election inspector, poll clerk or election coordinator who is removed for cause shall be ineligible to again serve in such capacity; provided, however, that the board of elections may rehear the charges against such person at any time and it may determine that such person shall again be eligible for appointment if otherwise qualified.

**§ 3-418. Election inspectors and poll clerks; emergency provisions for filling vacancies or absences.** 1. If, at the time of a meeting of inspectors, there shall be a vacancy, or if any inspector shall be absent, the inspector present who is the designee of the same party as the absent inspector shall appoint a qualified voter of the same city or town to act in place of the absent inspector. If, however, any inspectors shall be temporarily absent for a portion of the meeting, the inspectors present, provided that they are not all members of the same political party, shall have and may exercise any power or perform any duty conferred or imposed upon a board of inspectors.

2. If at the time of any such meeting two inspectors who are members of the same party shall be absent, or their places shall be vacant, the poll clerk or poll clerks present, if any, of the same party shall act as inspectors and shall appoint qualified voters of the same city or town who are members of the same party as the absent inspectors, to act in place of such clerks.

3. If at the time of any such meeting two inspectors and the poll clerk or clerks, if any, who are members of the same party shall be absent, or their places shall be vacant, the inspector or inspectors present, or in their absence the poll clerk or clerks present, if any, shall appoint qualified voters of the same city or town, who are members of the same party as such absent inspectors, to act as such inspectors and clerks, until the inspectors or clerks duly appointed by the original appointing authority, shall appear.

4. If at the time of any such meeting, there shall be a vacancy in the office of poll clerk, or if a poll clerk shall be absent, the inspectors who are designees of the same party, or in their absence, any poll clerk of the same party who is present, shall appoint a qualified voter of the same city or town who is a member of the same party, to act in place of the absent poll clerk.

5. Every person so appointed or named shall take the oath of office, which shall be administered by any person authorized to administer oaths or by one of the inspectors.

**§ 3-420. Election inspectors, poll clerks and election coordinators; compensation.** 1. Election inspectors, poll clerks, election coordinators and qualified voters appointed to act in place of an absent inspector, clerk or coordinator shall be paid for their services on the days of registration and election, by the town or city containing the election district in which they serve, in an amount fixed by the town or city legislative body, subject to such limitations as shall be prescribed or authorized by statute, except that in the city of New York the amount of such compensation shall be fixed by the mayor. Such inspectors, poll clerks, election coordinators and qualified voters at a general or special village election conducted by the board of elections shall be paid by such village in an amount fixed by the village board of trustees subject to any such limitations.

2. An election inspector or poll clerk who attends a required training session shall be paid not less than five dollars for each meeting plus transportation expenses not to exceed the mileage allowance approved by the respective municipality for their permanent employees, payable by the respective municipality in which they serve.

3. The chairman of the board of inspectors of each election district shall, within twenty-four hours of any election or day of local registration, furnish to the board appointing such officers, if required by such board to do so, a certificate stating the days and hours of actual service of each member of such board, the names of the persons, if any, who served as clerks on an election day, the hours of their service, and the days on which the store, building or room hired for registration and election purposes was actually used for such purposes.

4. If a person recommended and examined for appointment as election officer in a city, or examined therefor without recommendation in the absence of a party list, be found disqualified and be not appointed, as therein provided, and such person shall serve in the same calendar year as inspector at a registration or election or as clerk at an election, under a vacancy appointment, he shall receive no compensation for such services.

## TITLE V

### ALTERNATE PROVISIONS

- Section 3-500. Monroe county; board of elections, special provisions.
- 3-502. Nassau county; board of elections, special provisions.
- 3-504. Suffolk county; board of elections, special provisions.
- 3-506. Boards of elections; additional powers.

**§ 3-500. Monroe county; board of elections, special provisions.** - 1. All the provisions of this article, when not inconsistent with this section, shall apply to the county of Monroe.

2. The board of elections of such county shall have and exercise the powers and duties under this chapter, not inconsistent with this section, of all other officers, boards or bodies in the county of Monroe who are charged with the conduct of elections and matters preliminary or relating thereto, except village elections conducted by the village and school, fire, ambulance and other special district elections. Such board of elections shall direct the purchase or lease of voting machines, of a kind authorized by law, which shall be selected by such board. All voting machines and all appliances and equipment relating to or used in the conduct of elections shall be in the care, custody and control of the board of elections. Such board may cause all necessary repairs and alterations to be made and employ such help as may be necessary in making such repairs and in moving, setting up and caring for all election materials, equipment and appliances, including voting machines, in its custody. All supplies, equipment or election appliances to be used or furnished by such board shall be purchased by the county purchasing agent. All expenses of such board of elections shall be certified, audited and paid as are other claims against the county, and all expenses connected with elections and matters preliminary or relating thereto, except compensation of inspectors and clerks of election and the rental of town polling places and except expenses or parts thereof to be apportioned pursuant to this chapter to a city or town and borne by it shall be a county charge. However, any city, town or village in such county, by its common council, town board or village trustees, may assume the payment of the cost of purchasing voting machines.

3. The board of elections, upon creating, altering, or dividing any election district, shall file in the office of the board and of the proper city or town clerk, a certificate showing the boundaries of each district affected.

4. The board of elections shall publish or post, as the case may be, all notices, lists and other materials relating to elections to which this section applies, and which are required by law to be published or posted in the county, or a political subdivision therein, except publications made by the state board of elections and village clerks.

5. Lists of persons recommended to serve as inspectors of election and poll clerks in cities shall be filed by the chairman of the county committees of the political parties entitled to representation on the board of elections.

**§ 3-502. Nassau county; board of elections, special provisions.** 1. All the provisions of this article, when not inconsistent with this section, shall apply to the county of Nassau.

2. At least thirty days before the first day of January of any year in which a commissioner of elections is to be appointed, or within thirty days after a vacancy occurs in the office of commissioner of elections, the chairman of the appropriate party county committee shall file with the clerk of the county legislative body a certificate naming the person whom he is recommending for appointment as such commissioner of elections. The certificate shall be in the form and contain the information prescribed by the state board of elections.

3. The board of elections of such county shall have and exercise the powers and duties under this chapter, not inconsistent with this section, of all other officers, boards or bodies in the county of Nassau charged with the conduct of elections and matters relating thereto, except village elections conducted by the village and school, fire, ambulance and other special district elections. Such board of elections shall direct the purchase or lease of voting machines of a kind authorized by law and all appliances and equipment relating to or used in the conduct of elections which shall be selected by such board. All voting machines and all appliances and equipment relating to or used in the conduct of elections shall be in the care, custody and control of the board of elections. Such board may cause all necessary repairs and alterations to be made and employ such help as may be necessary in making such repairs and in moving, setting up and caring for all election materials, equipment and appliances, including voting machines. All supplies, equipment or election appliances to be used or furnished by such board shall be purchased by such board unless otherwise provided by ordinance of the local legislative body. All expenses of such board of elections shall be certified, audited and paid as are other claims against the county, and all expenses connected with elections and matters preliminary or relating thereto, including compensation of inspectors and clerks of election, shall be a county charge.

4. The board of elections upon creating, altering or dividing any election district, shall file in the office of the board and of the proper city or town clerk, a certificate showing the boundaries of each district affected.

5. All petitions and certificates of nomination or designation, or of declination thereof, for an election to which this section applies, and all statements of receipts and expenditures relating to such an election, required to be filed with any officer of Nassau county, or political subdivision therein shall be filed with the board of elections.

6. The board of elections shall publish or post, as the case may be, all notices, lists and other materials, relating to elections to which this section applies, and that are required by law to be published or posted in the county, or a political subdivision therein,



except publications to be made by the state board of elections or village clerks.

7. Lists of persons recommended to serve as inspectors of election and poll clerks in cities shall be filed by the chairman of the county committees of the political parties entitled to representation on the board of elections.

8. Inspectors of election shall be appointed for a term of two years, except that an inspector appointed to fill a vacancy, shall hold office only for the unexpired term of his predecessor.

**§ 3-504. Suffolk county; board of elections, special provisions.** 1. All the provisions of this article, when not inconsistent with this section, shall apply to the county of Suffolk.

2. At least thirty days before the first day of January of any year in which a commissioner of elections is to be appointed or within thirty days after a vacancy occurs in the office of commissioner of elections, the chairman of the appropriate party county committee shall file with the clerk of the county legislative body a certificate naming the person whom he is recommending for appointment as such commissioner of elections. The certificate shall be in the form and contain the information prescribed by the state board of elections.

3. The board of elections of such county shall have and exercise the powers and duties under this chapter, not inconsistent with this section, of all other officers, boards or bodies in the county of Suffolk, charged with the conduct of elections and matters preliminary or relating thereto, except village elections conducted by the village and school, fire and other special district elections. Such board of elections shall direct the purchase or lease of voting machines of a kind authorized by law, which shall be selected by such board. All voting machines and all appliances and equipment relating to or used in the conduct of elections shall be in the care, custody and control of the board of elections. Such board may cause all necessary repairs and alterations to be made and employ such help as may be necessary to implement the provisions of the election law and in making such repairs and in moving, setting up and caring for all election materials, equipment and appliances, including voting machines. All supplies, equipment or election appliances to be used or furnished by such board shall be purchased by such board. All expenses of such board of elections shall be certified, audited and paid as are other claims against the county, and all expenses connected with elections and matters preliminary or relating thereto, including compensation of inspectors, clerks of election and all other employees shall be a county charge.

4. The board of elections upon creating, altering or dividing any election district, shall file in the office of the board and of the proper town clerk a certificate showing the boundaries of each district affected.

5. All petitions and certificates of nomination or designation, or of declination thereof, for an election to which this section applies, and all statements of receipts and expenditures required to be filed with any officer of Suffolk county, or political subdivision therein shall be filed with the board of elections.

6. The board of elections shall publish or post, as the case may be, all notices, lists and other materials, relating to elections to which this section applies, and which are required by law to be published or posted in the county, or a political subdivision therein, except publications required to be made by the state board of elections and village clerks.

7. Inspectors of election shall be appointed in odd-numbered years for a term of two years, except that an inspector appointed to fill a vacancy, shall hold office for the unexpired term of his predecessor.

§ 3-506. **Boards of elections; additional powers.** 1. All of the provisions of this article, when not inconsistent with this section, shall apply to a county adopting the provisions of this section by a majority vote of the county legislative body.

2. The board of elections of such a county shall have and exercise the powers and duties under this chapter, not inconsistent with this section, of all other officers, boards or bodies in the county charged with the conduct of elections and matters preliminary or relating thereto, except the power to draw election districts and designate polling places unless that power is delegated to such board under other provisions of this chapter and except for village elections conducted by the village and school, fire and other special district elections.

3. Such board of elections shall direct the purchase or lease of voting machines, of a kind authorized by law, and all appliances and equipment relating to or used in the conduct of elections which shall be selected by such board. All voting machines and appliances and equipment relating to or used in the conduct of elections shall be in the care, custody and control of the board of elections. Such board may cause all necessary repairs and alterations to be made and employ such help as may be necessary in making such repairs and in moving, setting up and caring for all election materials, equipment and appliances, including voting machines. All supplies, equipment or election appliances to be used or furnished by such board shall be purchased by such board unless otherwise provided by local law of the county legislative body. All expenses of such board of elections shall be certified, audited and paid as are other claims against the county, and all expenses connected with elections and matters preliminary or relating thereto, including compensation of inspectors and clerks of election, shall be a county charge.

4. Whenever the board of elections shall determine that there is no building within an election district available and suitable for the meetings for the registration of voters or for any election, or that for reasons of efficiency or economy it is desirable to consolidate such meetings of one or more districts in one place, they may designate a building for such purpose in an adjoining district in the same village, city or town and there may be as many distinctly separate meetings or polling places lawfully located in the same building as public convenience may require. Wherever possible, public schools, fire houses, municipal buildings or other buildings exempt from taxation shall be designated for such meetings and polling places. Such a determination shall be made only after notice to the chairmen of the county committees of all political parties and reasonable opportunity for them to be heard.

5. All petitions and certificates of nomination or designation, or of declination thereof, for an election to which this section applies, and all statements of receipts and expenditures required to be filed with any other county officer, or political subdivision therein shall be filed with the board of elections.

6. The board of elections shall publish or post, as the case may be, all notices, lists and other materials relating to elections to which this section applies, and which are required by law to be published or posted in the county, or a political subdivision therein, except those required to be done by the state board of elections or the village clerk.

[Title VI REPEALED by chap. 290, Laws of 1991.]

ARTICLE 4

PROCEEDINGS PRELIMINARY TO  
REGISTRATION, ENROLLMENT AND ELECTIONS

- Section 4-100. Election districts; creation and alteration.  
4-102. Maps; congressional, senatorial, assembly and election districts.  
4-104. Registration and polling places, designation of.  
4-106. Certification of offices to be filled at general or special elections; state board of elections, county, city, village and town clerks.  
4-108. Certification of proposed constitutional amendments and questions.  
4-110. Certification of primary election candidates; state board of elections.  
4-112. Certification of nomination; state board of elections.  
4-114. Determination of candidates and questions; county board of elections.  
4-116. Constitutional amendments and questions; publication of by state board of elections and secretary of state.  
4-118. Notice of primary election; publication of by board of elections.  
4-119. Publication of list of places for registration.  
4-120. Notices of general and special elections; publication of.  
4-122. Lists of nomination; publication of by board of elections.  
4-124. City of New York; publications within made necessary by this law.  
4-126. Delivery of election laws to clerks, boards and election officers.  
4-128. Supplies; furnished by board of elections or city, town or village clerk.  
4-130. Supplies for registration; manner and time of delivery.  
4-132. Polling places; equipment for.  
4-134. Preparation and delivery of ballots, supplies and equipment for use at elections.  
4-136. Election expenses; payment of.  
4-138. Expenses of boards of elections outside New York City; apportionment of.

§ 4-100. **Election districts; creation and alteration.** 1. The State of New York shall be divided into election districts which shall be the basic political subdivision for purposes of registration and voting as provided in this chapter.

2. The creation, consolidation, division or alteration of election districts shall be done by the legislative body of the city or town within which the election district is contained except in the cities of Buffalo and New York and the counties of Monroe, Nassau, and Suffolk. In the cities of Buffalo and New York, and the counties of Monroe, Nassau and Suffolk, and for any other town or city, upon the request of its legislative body, the creation, consolidation, division or alteration of election districts shall be done by the board of elections.

3. a. Each election district shall be in compact form and may not be partly within and partly without a ward, town, city, a village which has five thousand or more inhabitants and is wholly within one town, or a county legislative, assembly, senatorial or congressional district. Except as provided in paragraph b of this subdivision, election district boundaries, other than those boundaries which are coterminous with the boundaries of those political subdivisions mentioned in this paragraph, must be streets, rivers, railroad lines or other permanent characteristics of the landscape which are clearly visible to any person without the need to use any technical or mechanical device. An election district shall contain not more than nine hundred fifty registrants or, with the approval of the county board of elections, not more than eleven hundred fifty registrants, but any election district may be divided for the convenience of the voters.

b. An election district in a city or town may divide a block, provided that the board of elections prepares an alphabetical list of all the streets in such city or town with the election district for each such street. If any such street is divided between two or more election districts, then such list must contain the lowest and highest street numbers in each such district and if the odd and even numbers on a street are in different districts, such list must contain separate listings for such odd and even numbers and if there are both odd and even numbers in such different election districts, such list must contain separate listings for such numbers. Copies of such lists shall be filed and kept open to public inspection in the offices of such board. One copy of each such list shall be delivered, upon request, to the state board of elections and to a person or officer designated jointly by the speaker of the assembly and the temporary president of the senate. Surplus copies shall be sold at cost.

4. Any election district must be realigned when the total number of registrants at the time of the preceding general election exceeds the maximum number permitted by this section by at least fifty registered voters.

5. Any creation, consolidation, division or alteration of election districts in any year shall be made on January fifteenth, and shall take effect immediately, except that any such creation, consolidation, division or alteration shall not apply to any village or

special election held on or before March thirty-first of the year in which it takes effect and, except further, that when required by the creation or alteration of a political subdivision, other than an election district, in which candidates are to be voted for at the next election, such creation, consolidation, division or alteration shall be made and shall take effect immediately upon creation or alteration of such political subdivision. No such creation, consolidation, division or alteration shall be made between January twentieth of a year ending in seven and December first of a year ending in zero unless required by the creation or alteration of a political subdivision.

6. In the event that the legislative body of a city or town fails to create, consolidate, divide or alter election districts by January sixteenth, when it is required to do so, pursuant to the provisions of this section, the board of elections of the county wherein such city or town is located shall do so.

**§ 4-102. Maps; congressional, senatorial, assembly and election districts.** 1. The state board of elections, at the expense of the state, shall publish maps showing the county or counties contained in each of the congressional districts, senatorial districts and assembly districts of the state.

2. Where a portion of a county is contained in any congressional, senatorial or assembly district, the state board shall publish a map showing the portion of such county contained in each such respective district. Such map or maps shall show the extreme boundaries of the portion of the county so contained, as described by the street boundary and shall have printed thereon the names of the streets or public ways bounding the district; provided however, that where the extreme boundary consists of the boundary line of any city, town or village, it shall be sufficient to so indicate, without showing or naming individual streets or public ways.

3. The state board shall also publish three individual maps of each borough of the city of New York, which shall show all of the congressional districts or parts thereof, all of the senatorial districts or parts thereof, and all of the assembly districts or parts thereof contained in such borough. Each such map shall show the extreme boundaries of the districts to which it refers, as described in the street boundary and shall have printed thereon the names of the streets or public ways bounding the district.

4. All such maps shall be to scale. Pertinent copies of such maps shall be filed and kept open to public inspection as follows: one in the office of the town or city clerk, except in the city of New York; one in the office of every board of elections, and each branch office, if any. Surplus copies if any, may be sold at cost and the proceeds remitted to the state board of elections. Whenever the boundaries of any congressional, senatorial, or assembly district are altered, the state board of elections shall publish revised copies

of those maps affected by such boundary alteration and make the distribution required in this subdivision.

5. a. A map or separate maps of uniform scale of election districts within a town or ward, or, in the city of New York and the county of Nassau, within an assembly district wholly within such city or county or within that portion of any assembly district within such city or county, shall be made by the board or body creating or altering the district so that the map or maps on file at any time will show the existing election districts in such town, ward, assembly district, or the appropriate portion of such assembly district.

b. In a city, street corner numbers of the block or blocks defining the extreme boundaries of each election district shall be printed on the map or maps, within or outside the block line or lines, so as to show plainly the highest and lowest street numbers within the election district of every street bounding the district.

c. Copies of such maps or descriptions shall be filed and kept open to public inspection as follows: one in the office of the town or city clerk, except in the city of New York; one in the office and each branch office, if any, of the board of elections.

d. One copy of each map shall be delivered, upon request, to the state board of elections and to a person or officer designated jointly by the speaker of the assembly and the temporary president of the senate. Each time an election district boundary is changed a copy of the new map shall be sent to each such board, person or officer who has requested such maps. Surplus copies of maps of election districts in a city or town may be sold at cost and the proceeds paid to the county, city or town which incurred the expense of preparing the maps.

6. In a town, after the creation or alteration of any election district therein, the board of elections shall furnish to the inspectors of election in each election district, on the first day of registration or election occurring after such change, a map or description showing such election district.

**§ 4-104. Registration and polling places; designation of.** 1. Every city or town legislative body except the city council of the city of New York, shall submit to the board of elections, a list of the polling places in each election district in which the meetings for the registration of voters, and for any election may be held. The board of trustees of each village in which general and special village elections conducted by the board of elections are held at a time other than the time of a general election shall submit such a list of polling places for such village elections to the board of elections. A polling place may be located in a building owned by a religious organization or used by it as a place of worship. If such a building is designated as a polling place, it shall not be required to be open for voter registration on any Saturday

if this is contrary to the religious beliefs of the religious organization. In such a situation, the city or town legislative body shall submit an alternate location to be used for voter registration. Such list must be submitted by May first, of each year, and shall be effective to designate such meeting places for one year thereafter. Such a list required to be submitted by a village board of trustees must be submitted at least four months before each general village election and shall be effective until four months before the subsequent general village election. No place in which a business licensed to sell alcoholic beverages for on premises consumption is conducted on any day of local registration or of voting shall be so designated. If, within the discretion of the board of elections a particular polling place so designated is found to be unsuitable or unsafe or should circumstances arise that make a designated polling place unsuitable or unsafe, then the board of elections is empowered to select an alternative meeting place. In the city of New York, the board of elections shall designate such polling places and alternate registration places if the polling place cannot be used for voter registration on Saturdays.

1-a. Each polling place shall have at least one entrance that provides access, by ramp or otherwise, to physically disabled voters, provided, however, that this requirement may be waived in writing by the county board of elections upon a petition to the board by the legislative body of the city or town designating such polling places showing good and sufficient cause. In the city of New York and in counties in which polling places are designated by the board of elections, the board shall specify in writing why it has determined that it is unable to comply with the provisions of this subdivision. Such petition, waiver, and written determination, as provided for in this subdivision, shall be filed in the office of the board and be available for public inspection.

Such a waiver may be granted and filed or such a written determination may be filed only where the board of elections determines, with regard to each specific polling place for which a waiver is sought or a written determination is to be filed, (1) that an alternative accessible polling place is not reasonably available and that specific efforts were undertaken in cooperation with persons with disabilities who have contacted the legislative body of the city or town which requested such waiver or the board of elections which filed such written determination to locate such an alternative accessible polling place and such efforts are listed in the petition or written determination, (2) that compliance with the polling place accessibility requirements of this subdivision would require that unreasonable expenses be incurred and paid, pursuant to section 4-136 of this article and that specific information regarding expenses for compliance is listed in the petition or written determination, and (3) that substantial efforts will be undertaken in cooperation with persons with disabilities who have contacted the legislative body of the city or town which requested



such waiver or the board of elections which filed such written determination during the period for which the waiver is effective to achieve compliance with the polling place accessibility requirements of this subdivision and that the specific substantial efforts to be undertaken to achieve compliance are listed in the petition or written determination. For purposes of this subdivision, the term "persons with disabilities" shall mean persons with disabilities who shall be entitled to vote in the election district for which a waiver is sought and service centers for independent living established pursuant to article twenty-three-A of the education law and other entities which represent the interests of persons with disabilities. A request for a waiver shall be filed at the same time that the list of polling places is submitted to or established by the board of elections. The board of elections shall forthwith prepare a list of all election districts for which a waiver is sought or a written determination filed. Such list together with all such petitions for waiver and written determinations shall be public records at the office of the board of elections. Not later than May seventh of each year, the board of elections shall mail a copy of said list by first class mail to every person who has made a written request for such list within the two preceding calendar years. The board of elections shall either grant or deny the waiver no later than June first of the year in which the request is made. The state board of elections shall promulgate regulations necessary to ensure proper execution of the provisions of this subdivision.

2. If the board of elections, after designating a polling place, and after sending written notice of such polling place to each registered voter, designates an alternative polling place, it must, at least five days before the next election or day for registration, send by mail a written notice to each registered voter notifying him of the changed location of such polling place. If such notice is not possible the board of elections must provide for an alternative form of notice to be given to voters at the location of the previous polling place.

3. A building exempt from taxation shall be used whenever possible as a polling place if it is situated in the same or a contiguous election district, and may contain as many distinctly separate polling places as public convenience may require. The expense, if any, incidental to its use, shall be paid like the expense of other places of registration and voting. If a board or body empowered to designate polling places chooses a public school building for such purpose, the board or agency which controls such building must make available a room or rooms in such building which are suitable for registration and voting and which are as close as possible to a convenient entrance to such building and must make available any such room or rooms which the board or body designating such building determines are accessible to physically disabled voters as provided in subdivision one-a. Notwithstanding the provisions of any general, special or local law, if a

board or body empowered to designate polling places chooses a publicly owned or leased building, other than a public school building, for such purposes the board or body which controls such building must make available a room or rooms in such building which are suitable for registration and voting and which are as close as possible to a convenient entrance to such building, and must make available any such room or rooms which the board or body designating such building determines are accessible to physically disabled voters unless, not later than thirty days after notice of its designation as a polling place, the board or body controlling such building, files a written request for a cancellation of such designation with the board or body empowered to designate polling places on such form as shall be provided by the board or body making such designation. The board or body empowered to so designate shall, within twenty days after such request is filed, determine whether the use of such building as a polling place would unreasonably interfere with the usual activities conducted in such building and upon such determination, may cancel such designation.

3-a. In cities with populations of more than one hundred thousand, any person or entity which controls a building for which a tax exemption, tax abatement, subsidy, grant or loan for construction, renovation, rehabilitation or operation has been provided by any agency of the state or any political subdivision thereof on or after the effective date of this subdivision shall agree to make available for registration and voting purposes the room or rooms in such building which the board or body empowered to designate polling places determines are suitable for registration and voting, are accessible to physically disabled voters and are as close as possible to a convenient entrance to such building. Notwithstanding any other provision of law, any agency of the state or any political subdivision thereof may deny a tax exemption, tax abatement, subsidy, grant or loan for construction, renovation, rehabilitation or operation to a building in any such city which is otherwise eligible for such exemption, abatement, subsidy, grant or loan if the person or entity which controls such building refuses to agree to make available for registration and voting purposes the room or rooms in such building which the board or body empowered to designate polling places determines are suitable for registration and voting, are accessible to physically disabled voters and are as close as possible to a convenient entrance to such building. The provisions of this subdivision shall not apply to buildings used solely for residential purposes which contain less than twenty-five dwelling units.

3-b. Any person or entity conducting any program, activity or service for which a loan, grant, contract, subsidy or reimbursement has been provided by any agency of the state or a political subdivision thereof on or after the effective date of this subdivision shall make available for registration and voting purposes the room

or rooms under the control of such person or entity in a building in any such city in which such program, activity or service is conducted which the board or body empowered to designate polling places determines are suitable for registration and voting, are accessible to physically disabled voters and are as close as possible to a convenient entrance to such building. Any such person, organization or entity shall agree to facilitate the use of such room or rooms, to the maximum extent possible, by making efforts to obtain the permission and cooperation of any person or entity which controls the building in which such room or rooms are located. Notwithstanding any other provision of law, any agency of the state or any political subdivision thereof may deny a loan, grant, contract, subsidy or reimbursement to any such person or entity otherwise eligible for such loan, grant, contract, subsidy or reimbursement unless such person or entity agrees to make available for registration and voting purposes the room or rooms in such building which the board or body empowered to designate polling places determines are suitable for registration and voting, are accessible to physically disabled voters as provided in subdivision one-a of this section and are as close as possible to a convenient entrance to such building and agrees to facilitate the use of such room or rooms, to the maximum extent possible, by making efforts to obtain the permission and cooperation of any person or entity which controls the building in which such room or rooms are located.

3-c. Notwithstanding the provisions of subdivisions three-a and three-b of this section, no person, board, agency, body or entity shall be required to make available for registration or voting by persons other than the residents of such building, any room or rooms in a building, other than a publicly owned building, which contains correctional, health, mental hygiene, day care, drug or addiction treatment, or emergency services or other services for the public safety, or in a building used for religious services.

3-d. Notwithstanding any inconsistent provision of section 3-506 or section 4-134 of this chapter, and in the absence of a specific written agreement to the contrary, if the board or body empowered to designate polling places has authorized the use of a portable ramp, or ramp and platform, at a polling site for purposes of compliance with subdivision one-a of this section, the person or entity in control of a building or portion thereof in which such polling site is designated shall install, remove, store, and safeguard each such ramp, or ramp and platform, at such times and dates as may be required by the board or body empowered to designate polling places.

4. Where an election district is so situated or the only facilities available therein are such that public convenience would be served by establishing a polling place outside such district, the board or

body empowered by this chapter to establish election districts may designate a polling place in a contiguous district.

5. Whenever the number of voters eligible to vote in an election in any election district is less than one hundred, the polling place designated for such district may be the polling place of any other district which could properly be designated as the polling place of the first mentioned district pursuant to the provisions of this chapter, except that the polling place designated for any such district may be the polling place of any other district in such city or town provided that the distance from such first mentioned district to the polling place for such other district is not unreasonable pursuant to rules or regulations prescribed by the state board of elections and provided that the total number of persons eligible to vote in such other district in such election, including the persons eligible to vote in such first mentioned districts, is not more than five hundred. The inspectors of election and poll clerks, if any, of such other election district shall also act in all respects as the election officers for such first mentioned districts and no other inspectors shall be appointed to serve in or for such first mentioned districts. A separate poll ledger or computer generated registration list, separate voting machine or ballots and separate canvass of results shall be provided for such first mentioned districts, except that if the candidates, and ballot proposals to be voted on by the voters of such districts are the same, the election districts shall be combined and shall constitute a single election district for that election. If the polling place for any election district is moved for any election, pursuant to the provisions of this subdivision, the board of elections shall, not later than ten nor more than fifteen days before such election, mail, by first class mail, to each voter eligible to vote in such election district at such election, a notice setting forth the location of the polling place for such election and specifying that such location is for such election only. Whenever the total number of voters eligible to vote in any primary or special election, in any two election districts whose polling places are regularly located in the same building, is less than four hundred, the board of elections may assign the inspectors of election of the election district which contains the greater number of such voters, to act also, in all respects, as the election officer of the other such election district and no other election officers shall be appointed to serve in or for such other election district at such primary or special election. A separate poll ledger or computer generated registration list, separate voting machine or ballots and separate canvass of results shall be provided for each such election district. Except at a primary election in the city of New York, whenever all the candidates to be voted upon at a primary or special election or ballot proposals to be voted on at a special election by the voters of any two or more election districts, whose polling places are regularly located in the same building are identical, the board of elections may

combine such election districts for that election, provided tht the total number of voters eligible to vote in any such combined election district does not exceed eight hundred in a primary election or does not exceed one thousand five hundred in a special election.

6. Each polling place designated, whenever practicable, shall be situated on the main or ground floor of the premises selected. It shall be of sufficient area to admit and comfortably accommodate at least ten voters at one time and to allow for the placement in such meeting place, of booths, furniture and equipment, as provided by law.

7. No polling place shall be located on premises owned or leased by a person holding public office or who is a candidate for public office at a primary or general election.

8. The amount paid to lease a polling place which meets the requirements of subdivision one-a of this section may be greater than the amount paid to lease a polling place which does not meet such requirements.

**§ 4-106. Certification of offices to be filled at general or special elections; state board of elections, county, city, village and town clerks.** 1. The state board of elections shall, at least eight months before each general election, make and transmit to the board of elections of each county, a certificate stating each office, except county, city, village and town offices to be voted for at such election in such county.

2. Each county, city, village and town clerk, at least eight months before each general election, shall make and transmit to the board of elections a certificate stating each county, city, village or town office, respectively to be voted for at each such election. Each village clerk, at least five months before each general village election conducted by the board of elections, shall make, and transmit to such board, a certificate stating each village office to be filled at such election.

3. If any such office is for an unexpired term, the certificate shall so state. The state board of elections shall forthwith, upon the filing of a governor's proclamation ordering a special election, transmit to the board of elections in each county in which the special election is to be held, a notice of such proclamation and a certificate of the offices to be voted for at such special election.

4. Within three days after the occurrence of any vacancy in an office required to be filled at the next general election or general or special village election conducted by the board of elections, the state board of elections or county, city, town or village clerk as is appropriate, shall file with the county board of elections, a certificate indicating the occurrence of the vacancy and the position which is to be filled.

**§ 4-108. Certification of proposed constitutional amendments and questions.** 1.a. Whenever any proposed amendment to the constitution or other question provided by law to be submitted to a statewide vote shall be submitted to the people for their approval, the state board of elections at least three months prior to the general election at which such amendment, proposition or question is to be submitted, shall transmit to each county board of elections a certified copy of the text of each amendment, proposition or question and a statement of the form in which it is to be submitted.

b. Whenever any proposal, proposition or referendum as provided by law is to be submitted to a vote of the people of a county, city, town, village or special district, at an election conducted by the board of elections, the clerk of such political subdivision, at least thirty-six days prior to the election at which such proposal, proposition or referendum is to be submitted, shall transmit to each board of elections a certified copy of the text of such proposal, proposition or referendum and a statement of the form in which it is to be submitted. If a special election is to be held, such transmittal shall also give the date of such election.

c. Such certified copy shall set out all new matter in italics and enclose in brackets, [], all matter to be eliminated from existing law, and at the bottom of each page shall be appended the words:

Explanation: Matter in italics is new, to be added; matter in brackets [] is old law, to be omitted.

d. In addition to the text, such transmittal shall contain an abstract of such proposed amendment, proposition or question, prepared by the state board of elections concisely stating the purpose and effect thereof in a clear and coherent manner using words with common and everyday meanings.

2. The form in which the proposed amendment, proposition or question is to be submitted shall consist of only an abbreviated title indicating generally and briefly, and in a clear and coherent manner using words with common and every-day meanings, the subject matter of the amendment, proposition or question. If more than one such amendment, proposition or question is to be voted upon at such election, each such amendment, proposition or question respectively shall be separately and consecutively numbered.

3. The attorney general shall advise in the preparation of such abstract and such form of submission.

**§ 4-110. Certification of primary election candidates; state board of elections.** The state board of elections not later than thirty-six days before a primary election, shall certify to each county board of elections: The name and residence of each candidate to be voted for within the political subdivision of such board for whom a designation has been filed with the state board; the title of the office or position for which the candidate is

designated; the name of the party upon whose primary ballot his name is to be placed; and the order in which the names of the candidates are to be printed as determined by the state board. Where an office or position is uncontested, such certification shall state such fact.

**§ 4-112. Certification of nominations; state board of elections.** 1. The state board of elections not later than thirty-six days before a general election or thirteen days before a special election, shall certify to each county board of elections the name and residence of each candidate nominated in any valid certificate filed with it or by the returns canvassed by it, the title of the office for which nominated; the name of the party or body specified of which he is a candidate; the emblem chosen to distinguish the candidates of the party or body; and a notation as to whether or not any litigation is pending concerning the candidacy. Upon the completion of any such litigation, the state board of elections shall forthwith notify the appropriate county boards of elections of the results of such litigation.

2. The state board of elections, not later than seven days before the general election, shall certify to each county board of elections the name and residence of each write-in candidate for president and vice president of the United States who has filed a valid certificate of candidacy with it.

3. If a certificate of a nomination to fill a vacancy caused by death or disqualification is filed with the state board of elections, or a court order shall change a nomination, after the state board has made its certifications to the county boards of elections, the state board shall transmit forthwith a statement of such nomination to the appropriate boards of elections.

**§ 4-114. Determination of candidates and questions; county board of elections.** The county board of elections, not later than the thirty-fifth day before the day of a primary or general election, or the twelfth day before a special election, shall determine the candidates duly nominated for public office and the questions that shall appear on the ballot within the jurisdiction of that board of elections.

**§ 4-116. Constitutional amendments and questions; publication of by state board of elections and secretary of state.** 1. The secretary of state shall cause each concurrent resolution of the two houses of the legislature agreeing to a proposed amendment to the constitution that has been referred to the legislature to be chosen at the next general election to be published at least once in each of the three months next preceding such election. Such publication shall include the information that such amendment has been so referred.

2. The state board of elections shall publish once in each of the two weeks preceding any election at which proposed constitutional amendments or other propositions or questions are to be submitted to the voters of the state an abstract of such amendment or question, a brief statement of the law or proceedings authorizing such submission, a statement that such submission will be made and the form in which it is to be submitted.

3. Such publication shall be in two newspapers published in each county. Each such newspaper shall represent a different major political party.

**§ 4-118. Notice of primary election; publication of by board of elections.** 1. Each county board of elections shall publish in the week ending on the Saturday preceding a primary election a notice specifying the day of such primary election, the hours during which it will be held and the public offices for which nominations are to be made and the party positions which are to be filled at such primary elections. Such publication shall be in two newspapers published within the county. If the county contains a city or cities, at least one of such newspapers shall be published in the city, or the largest city, if there be more than one.

2. The board of elections of every county containing a city, other than the board of elections of the city of New York, shall publish on the day of each primary election, in two newspapers within each city in such county, representing the major political parties, a list of the polling places designated within such city, referring to the election districts by their numbers and wards or assembly districts. Such list shall identify those polling places which do not provide access to handicapped voters. If the newspaper is an evening newspaper, such notice shall be published on the day prior to such primary election. If in an election district the primary of a party is uncontested, such notice shall include, in a place where they clearly refer to the proper district and polling place, the words ".....(insert name of party) primary uncontested." If in an election district the primaries of all parties are uncontested, such notice shall include, in lieu of the address of the polling place, the words "Polls not open. All primaries uncontested." Such publication in such newspapers by the board of elections of the city of New York shall be at least one-half page in size and in lieu of the information otherwise required by this subdivision, shall set forth both in English and such other languages as such board deems appropriate the date of the election, the hours the polls are open and the phone number to call for information about location of polling places, their accessibility to the handicapped and any other subjects which such board deems appropriate.

**§ 4-119. Publication of list of places for registration.** 1. The board or body authorized to designate places for



registration in any city, other than the city of New York, shall publish on each day of registration a list of the places for registration designated within such city in two newspapers published in such city. The lists shall refer to the election districts by their numbers and wards or assembly districts. Such lists shall identify those polling places which do not provide access to handicapped voters. The board of elections of the city of New York shall publish in at least two newspapers in such city, a notice, at least one-half page in size, in English and such other languages as such board deems appropriate which shall set forth the dates and hours of registration and the phone number to call for information about location of polling places, their accessibility to the handicapped, applications for absentee ballots and any other subjects which such board deems appropriate. So far as consistent with the provisions of this section, one of such newspapers in each such city or, in each county of the city of New York, shall represent each of the major political parties and shall have a large circulation affording wide publicity. If the newspaper is an evening newspaper the notice shall be published on the last day, other than a Sunday, prior to any such day of registration.

2. The board or body authorized to designate places for registration in any town may publish within one week next preceding the first day of registration in a newspaper or newspapers designated by such board or body, a list of places of registration within such town, a statement of the days and hours of registration and a brief description of the boundaries of each election district in the town. Such lists shall identify those polling places which do not provide access to handicapped voters. The amount to be paid for any of such publications shall be at the rate prescribed by section seventy-a of the public officers law. In no publication, however, shall any type smaller than agate be used. The amount to be paid for all such publications shall be a town charge.

**§ 4-120. Notices of general, village and special elections; publication of.** 1. The board of elections shall publish once in each of the two weeks preceding a general election, or a special or village election conducted by the board of elections, a notice specifying the day of the election, and the public officers to be voted for within such county, or any part thereof at such election. If constitutional amendments, or questions are to be submitted to the voters of the state, the notice shall state that fact and that a copy of each such amendment or question may be obtained at the board of elections, by any voter. Such publication shall be in two newspapers published within the county. If the county contains a city or cities, at least one of such newspapers shall be published in the city, or the largest city, if there be more than one.

In the case of a village election, such publication shall be made in a newspaper of general circulation in such village and shall

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include an abstract of any proposition to be voted upon at such election.

2. The board or body authorized to designate places for voting in any town or in any city, except the city of New York, may publish on the publication day immediately preceding election day, in a newspaper or newspapers designated by such board or body, a notice of the election, and the village clerk shall publish at least ten days prior to any village election conducted by the board of elections in a newspaper of general circulation in such village a list of the polling places, the date and hours of election and, at the discretion of such board or clerk, a brief description of the boundaries of each election district. Such list shall identify those polling places which do not provide access to handicapped voters. The amount to be paid for any of such publications shall be at the rate prescribed by section seventy-a of the public officers law. In no publication, however, shall any type smaller than agate be used. The amount to be paid for all such publications shall be a town, city or village charge.

3. The board of elections of the city of New York shall publish on the eighth day before and the day before each general election, in at least two newspapers in such city, a notice, at least one-half page in size, in English and such other languages as such board deems appropriate, which sets forth the dates and hours of the election and the phone number to call for information about the location of polling places, their accessibility to the handicapped, applications for absentee ballots and any other subjects which such board deems appropriate.

**§ 4-122. Lists of nominations; publication of by board of elections.** 1. The county board of elections shall publish, at least six days before an election, a list containing the name and residence of every candidate for public office to be voted for within its jurisdiction at such election.

2. The candidates for the office of presidential electors shall, in the list in subdivision one of this section, only be described as a specific number of such electors, nominated to support the party candidates, naming them, for the office of president and vice-president.

3. The list described in subdivision one of this section shall be published at least once in not less than two nor more than four newspapers in the county. In a county containing a city, at least one such publication shall be in a daily newspaper published in a city therein, if there be such a newspaper. In the case of a village election held at a time other than the time of a general election, such publication shall be in a newspaper having general circulation in such village. So far as is consistent with this section, one such newspaper shall represent each of the major political parties. Should the board of elections find it impossible to make

such publication six days before election it shall make it at the earliest possible day thereafter before the election.

[Subd. 4 REPEALED by chap. 359, Laws of 1989.]

§ 4-124. **City of New York; publications within made necessary by this law.** In the city of New York any publication made necessary by any section of this law shall be made in two newspapers published in each county or published in the city of New York and having an edition for any of the respective counties of such city.

§ 4-126. **Delivery of election laws to clerks, boards and election officers.** 1. The state board of elections, within ten days after the enactment of any amendment to the election law, shall transmit a copy of such amendment to each board of elections.

2. The state board of elections shall, at least sixty days before each general election, prepare, and cause to be printed, a compilation of the election law properly indexed. A sufficient number of copies thereof shall be transmitted to each board of elections in order to furnish one such copy to each board of elections and to each branch office of such boards and one to each county, town and city clerk. The state board of elections shall also transmit one copy of such compilation to the village clerk of villages in which village elections are conducted by such clerk.

3. The state board of elections shall likewise prepare, cause to be printed, and transmit, a compilation of those parts of the election law and all additional information, deemed necessary to instruct and guide election officers. Such publication shall be supplied by the state board to each board of election, for delivery by the boards of elections to each election district in the county. The state board may likewise cause to be printed and distributed such additional copies of such compilation as may in its judgment be necessary.

§ 4-128. **Supplies; furnished by board of elections or city, town or village clerk.** 1. The board of elections of each county shall provide the requisite number of official and facsimile ballots, two cards of instruction to voters in the form prescribed by the state board of elections, at least one copy of the instruction booklet for inspectors, distance makers, tally sheets and return blanks, pens, black ink, or ball point pens with black ink, pencils having black lead, envelopes for the ballots of voters whose registration poll records are not in the ledger or whose names are not on the computer generated registration list, envelopes for returns, identification buttons, badges or emblems for the inspectors and clerks in the form prescribed by the state board of elections and such other articles of stationery as may be necessary for the proper conduct of elections, except that when a town, city or village holds an election not conducted by the board of elections, the clerk of

such town, city or village, shall provide such official and facsimile ballots and the necessary blanks, supplies and stationery for such election.

2. If the official ballots required to be furnished by any board or officer shall not be delivered to such board or officer at the time required, or if after delivery shall be lost, destroyed or stolen, such board or officer shall cause other ballots to be prepared as nearly in the form of the official ballots as practicable, and delivered to the inspectors of election. Such ballots shall be known as unofficial ballots. Sample ballots of each kind shall be printed on paper of a different color from any of the official ballots and without numbers on the stubs, but in all other respects precisely similar to the official ballots.

[Subd. 1 amended by chap. 91, Laws of 1992.]

**§ 4-130. Supplies for registration; manner and time of delivery.** 1. Before it is sent from the office or branch office of the board of elections, each ledger or binder of blank registration records shall be locked in a distinctively numbered carrying case. Such board shall place the key for such carrying case in a sealed envelope on which shall be written or printed the number of the carrying case. No such case or key shall be delivered to any person who is not designated in this chapter as a person entitled to receive it. Any person to whom any such case or key shall be delivered shall give a receipt therefor to the person delivering it. Such receipt shall recite the official title or capacity of the person receiving it and, in each instance, the distinctive number identifying it. After leaving the board of elections no such case shall be unlocked except at the time and in the manner provided in this chapter.

2. a. Except in the cities of New York, Buffalo, and Rochester, the board of elections shall deliver at its office to each town or city clerk in its county not more than five days before the beginning of local registration, the registration record forms, supplies and equipment required for local registration and such clerks shall deliver the same to the several boards of inspectors within such town or city approximately one-half hour before the hour fixed for beginning such registration.

b. In the cities of New York, Buffalo, and Rochester the board of elections shall deliver such material to the boards of inspectors at least one-half hour before the hour fixed for beginning local registration.

**§ 4-132. Polling places; equipment for.** In the cities of New York and Buffalo, and cities and towns of the counties of Monroe, Nassau and Suffolk, respectively, the board of elections and in any other city or in any other town, the town or city clerk shall provide in each polling place, as required, the following articles:

a. Material to define the voting area.

b. Separate boxes for the purposes of receiving ballots. Such boxes shall have an opening on the top, large enough to allow a single ballot to be passed easily through the opening, but no larger, and shall be supplied with a protective lock or seal.

c. A booth or device in each election district for the use of voters marking ballots. Such booth or device shall be so constructed as to permit the voter to mark his ballot in secrecy and shall be furnished at all times with a pencil having black lead only.

**§ 4-134. Preparation and delivery of ballots, supplies and equipment for use at elections.** 1. The board of elections shall deliver, at its office, to the clerk of each town or city in the county, except the cities of New York, Buffalo and Rochester and to the clerk of each village in the county in which elections are conducted by the board of elections, by the Saturday before the primary, general, village or other election for which they are required: the official and sample ballots; envelopes containing absentee voters' ballots received not later than five o'clock in the afternoon of the Friday before the day of an election, unless such board of elections has determined by resolution adopted at least thirty days before election day not to deliver such absentee ballots to the inspectors of election at the polling place; ledgers prepared for delivery in the manner provided in subdivision two of this section and containing the registration poll records of all persons entitled to vote at such election in such town, city or village or *computer generated registration lists containing the names of all persons entitled to vote at such election in such town, city or village*; challenge reports prepared as directed by this chapter; sufficient applications for registration by mail; sufficient ledger seals and other supplies and equipment required by this article to be provided by the board of elections for each polling place in such town, city or village. The board of elections shall deliver at its office to each town, city or village clerk those ballots from military and absentee voters received after five o'clock in the afternoon of the Friday before and before twelve o'clock noon on the Monday before the primary, general or other election for which they are required, unless such board of elections has determined by resolution adopted at least thirty days before election day, not to deliver such ballots to the inspectors of election at the polling place, and the town, city or village clerk receiving such ballot envelope shall cause the same to be delivered to the inspectors of election of the election district as provided in this section. The town, city or village clerk shall call at the office of such board of elections at such time and receive such ballots, supplies and equipment. In the cities of New York, Buffalo and Rochester the board of elections shall cause such ballots, supplies and equipment to be delivered to the board of inspectors of each election district approximately one-half hour

before the opening of the polls for voting, and shall take receipts therefor.

2. The board of elections shall provide for each election district a ledger or ledgers containing the registration poll records or printed lists with computer generated facsimile signatures, of all persons entitled to vote in such election district at such election. Such ledgers shall be labelled, sealed, locked and transported in locked carrying cases. After leaving the board of elections no such carrying case shall be unlocked except at the time and in the manner provided in this chapter.

3. Any envelope containing absentee voters' ballots on which the blanks have not been properly filled in shall not be delivered to the town or city clerk or the board of inspectors as aforesaid but shall be stamped to indicate the defect and shall be preserved by the board for at least one year after the receipt thereof.

4. Each kind of official ballot shall be arranged in a package in the consecutive order of the numbers printed on the stubs thereof beginning with number one. All official and sample ballots for each election district shall be in separate sealed packages, clearly marked on the outside thereof, with the number and kind of ballots contained therein and indorsed with the designation of the election district for which they were prepared. The other supplies provided for each election district also shall be inclosed in a sealed package, or packages, with a label on the outside, thereof showing the contents of each package.

5. Each town, city and village clerk receiving such packages shall cause all such packages so received and marked for any election district to be delivered unopened and with the seals thereof unbroken to the inspectors of election of such election district at least one-half hour before the opening of the polls of such election therein, and shall take a receipt therefor specifying the number and kind of packages delivered. At the same time each such clerk shall cause to be delivered to such inspectors the equipment described in subdivision two of this section and shall cause a receipt to be taken therefor.

6. Town, city and village clerks required to provide official and sample ballots, registration records, seals, supplies and equipment, as described in this section, for town, city and village elections not conducted by the board of elections, shall in like manner, deliver them to the inspectors or presiding officers of the election at each polling place at which such meetings and elections are held, respectively, in like sealed packages marked on the outside in like manner, and shall take receipts therefor in like manner.

[Subd. 1 amended by chap. 91, Laws of 1992.]

**§ 4-136. Election expenses; payment of.** 1. The expenses of providing polling places, voting booths, supplies therefor, ballot boxes and other furniture for the polling place for any election,

and the compensation of the election officers in each election district, shall be a charge upon the town or city, or, with respect to a village election, upon the village in which such election district is situated.

2. All expenses related to any election other than a special election called by the governor, held at a different time than a primary or general election, shall be a charge upon the town, city, village, or other political subdivision or district involved. If the only contests on the ballot in an election district, at a primary election conducted by the board of elections, are for village office, all the expenses of such primary election in such election district shall be a charge upon such village.

3. All expenses incurred under this chapter by the board of elections of a county outside of the city of New York shall be a charge against the county and in the city of New York the expenses of the board of elections shall be a charge against such city. The expenses incurred by the board of elections of a county outside the city of New York shall be apportioned among the cities and towns therein.

4. In the city of New York all leased or purchased equipment, supplies, ballots, printing and publications, except newspaper notices and advertisements, to be used or furnished by such board, shall be procured for it by the purchasing department or agency of such city as if such board were an agency of such city.

**§ 4-138. Expenses of boards of elections outside New York City; apportionment of.** The board of elections in each county, outside of the city of New York, on or before the fifteenth day of December and not earlier than the first day of October, in each year, shall certify to the clerk of the legislative body of the county, the total amount of the expenses of such board of elections, including salaries for the preceding year, and, if the legislative body of any county shall so direct, shall certify to such clerk the portions of such expenses which under provisions of law are to be borne by any city or cities in said county and the portion thereof which is to be borne by the rest of such county. Whenever any additional expenses either for salaries or supplies in addition to the regular county-wide primary and election expenses are incurred by a board of elections incidental to any election in any city, town or village, such board of elections shall certify to the county legislative body a detailed statement of such expenses.

ARTICLE 5

REGISTRATION AND ENROLLMENT OF VOTERS

- Title
- I. General provisions.
  - II. Registration and enrollment.
  - III. Enrollment.
  - IV. Cancellation of registration.
  - V. Registration records.
  - VI. Filing and custody of registration records.
  - VII. Checks against fraudulent practices.

TITLE I

GENERAL PROVISIONS

- Section 5-100. Registration; required.
- 5-102. Qualifications of voters; age and residence.
- 5-104. Qualifications of voters; residence, gaining or losing.
- 5-106. Qualifications of voters; reasons for exclusion.

§ 5-100. **Registration; required.** A person shall not be entitled to vote in any election held pursuant to this chapter unless he shall be registered, and if required, enrolled pursuant to the provisions of this article unless he shall present a court order directing that he be permitted to vote at such election. Where a specific provision of law relating to the registration of voters exists in any other statute, which is inconsistent with the provisions of this article, such provision shall apply and the provisions of this article not inconsistent therewith shall apply.

§ 5-102. **Qualifications of voters; age and residence.** 1. No person shall be qualified to register for and vote at any election unless he is a citizen of the United States and is or will be, on the day of such election, eighteen years of age or over, and a resident of this state and of the county, city or village for a minimum of thirty days next preceding such election.

2. The provisions herein with respect to a durational residency requirement for purposes of qualifying to vote shall not prohibit United States citizens otherwise qualified, from voting for president and vice president of the United States.

§ 5-104. **Qualifications of voters; residence, gaining or losing.** 1. For the purposes of registering and voting no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this state, or of the United States, or of the high seas; nor while a student of any institution of learning; nor while kept at any welfare institution, asylum or other institution wholly or partly supported



at public expense or by charity; nor while confined in any public prison.

2. In determining a voter's qualification to register and vote, the board to which such application is made shall consider, in addition to the applicant's expressed intent, his conduct and all attendant surrounding circumstances relating thereto. The board taking such registration may consider the applicant's financial independence, business pursuits, employment, income sources, residence for income tax purposes, age, marital status, residence of parents, spouse and children, if any, leaseholds, sites of personal and real property owned by the applicant, motor vehicle and other personal property registration, and other such factors that it may reasonably deem necessary to determine the qualification of an applicant to vote in an election district within its jurisdiction. The decision of a board to which such application is made shall be presumptive evidence of a person's residence for voting purposes.

**§ 5-106. Qualifications of voters; reasons for exclusion.** 1. No person who shall receive, accept, or offer to receive, or pay, offer or promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or any other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or for registering or refraining from registering as a voter, or who shall make any promise to influence the giving or withholding of any such vote or registration, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of an election, shall vote at such election.

2. No person who has been convicted of a felony pursuant to the laws of this state, shall have the right to register for or vote at any election unless he shall have been pardoned or restored to the rights of citizenship by the governor, or his maximum sentence of imprisonment has expired, or he has been discharged from parole. The governor, however, may attach as a condition to any such pardon a provision that any such person shall not have the right of suffrage until it shall have been separately restored to him.

3. No person who has been convicted in a federal court, of a felony, or a crime or offense which would constitute a felony under the laws of this state, shall have the right to register for or vote at any election unless he shall have been pardoned or restored to the rights of citizenship by the president of the United States, or his maximum sentence of imprisonment has expired, or he has been discharged from parole.

4. No person who has been convicted in another state for a crime or offense which would constitute a felony under the laws of this state shall have the right to register for or vote at any election in this state unless he shall have been pardoned or restored

to the rights of citizenship by the governor or other appropriate authority of such other state, or his maximum sentence has expired, or he has been discharged from parole.

5. The provisions of subdivisions two, three and four of this section shall not apply if the person so convicted is not sentenced to either death or imprisonment, or if the execution of a sentence of imprisonment is suspended.

6. No person who has been adjudged incompetent by order of a court of competent judicial authority shall have the right to register for or vote at any election in this state unless thereafter he shall have been adjudged competent pursuant to law.

## TITLE II

### REGISTRATION AND ENROLLMENT

- Section 5-202. Local registration; provision for.  
5-204. Local registration; general provisions for the conduct of.  
5-206. Watchers.  
5-210. Registration and enrollment, transfer of registration and/or enrollment, change of enrollment and special enrollment upon application filed by mail or upon personal appearance at a board of elections.  
5-211. *Agency assisted registration.*  
5-212. Veterans' absentee registration.  
5-214. Registration cards for identification.  
5-216. Registration; assistance to applicant.  
5-218. Registration; challenges.  
5-220. Registration; challenge after registered.  
5-222. Statement of temporary absence.  
5-224. Registration of voters unlawfully denied the right to register.  
5-226. Registration; voter registered in wrong district.  
5-228. Registration; certificates of local registration.  
5-230. Local registration; disposition of records and supplies.

[Section 5-200 REPEALED by chap. 90, Laws of 1991.]

§ 5-202. **Local registration; provision for.** 1. The board of inspectors for every election district shall meet for the purpose of taking the registration of voters not earlier than the sixth Saturday or later than the fourth Saturday before each general election. During such period, in the city of New York and in counties having a population of three hundred thousand or more, the board shall hold two meetings each year, including at least one on a Saturday. During such period, in all other counties, the board shall hold one meeting each year, on a Saturday, except that in years in which a president of the United States is to be

elected, the board shall hold two such meetings, including at least one on a Saturday. If the polling place of an election district is located in a building owned by a religious organization or used by it as a place of worship, the building will not be required to be open for voters registration on any Saturday if this is contrary to the religious beliefs of the religious organization. The dates of such meetings and any additional meetings that the board of elections may, in its discretion, direct to be held shall be determined by the board of elections except that no such meeting shall be held on the religious holidays of Yom Kippur, Rosh Hashana, Simchas Torah, Shmini Atzereth or Succoth. The board of elections shall also determine the hours for conducting all such meetings, provided, however, that there shall be not less than seven consecutive hours for registration on a Saturday and not less than three and one-half consecutive hours on any other meeting day. The days and hours of registration shall be uniform throughout the county and in the city of New York throughout the city, and meetings shall begin not earlier than six o'clock in the morning and continue not later than half-past ten o'clock in the evening and no Saturday meeting shall end before nine o'clock in the evening.

2. Local registration shall always be received by two members of the local board of inspectors, representing respectively the two political parties as provided herein for the appointment of inspectors.

3. The last day of local registration shall be uniform throughout the state and such registration day shall be designated by the state board of elections not later than the first day of June preceding the general election in each year. Such statewide registration day shall be one of the registration days hereinabove provided in this section, provided, however, that in any year in which presidential and vice-presidential electors are to be elected such day shall not be more than thirty days before the general election. If the polling place of an election district is located in a building owned by a religious organization or used by it as a place of worship, the building will not be required to be open for voter registration on a Saturday if this is contrary to the religious beliefs of the religious organization.

4. Each board of elections shall make and file in its office and with the state board of elections a determination as to the dates and hours for local registration not later than the tenth day of July next preceding the general election in each year, and shall publish such dates and hours at least once in the two week period preceding the first day of such registration. Such publication shall be in two newspapers published within the county. If the county contains a city or cities, at least one of such newspapers shall be published in the city, or the largest city, if there be more than one.

5. Notwithstanding any inconsistent provision of this chapter, in any year the board of elections may provide that a single place and a single board of inspectors shall be used for taking the local registration of two or more election districts provided that such board shall find that more than one-half the anticipated registrants in such districts are already registered permanently. In cities, notice of such action shall be published with the list of registration places as provided in this chapter. In towns, the board of elections shall cause notice of such action with the location of the registration place designated for such election district to be posted in five conspicuous public places within each affected election district or to be published in the manner provided by this chapter for the optional publication of places of registration. In all cases where notice is given by publication, the board of elections shall cause notice of such action, with the location of the registration place designated for such election district to be posted, on the days of registration, at the entrance to the regular polling place for each affected election district.

6. Notwithstanding any provision of law to the contrary, any board of elections, and in the city of New York, the board of elections of the city of New York, may, by resolution adopted not later than the first day of July in any year, except a year in which presidential and vice presidential electors are to be elected, provide that no meeting for local registration shall be held in the county or the city of New York. If a board of elections or the board of elections of the city of New York adopts a resolution eliminating meetings for local registration, such resolution shall remain in effect for such year and each succeeding year, except years in which presidential and vice presidential electors are to be elected, unless it is thereafter repealed by a resolution adopted at least sixty days prior to the first day for holding local registrations as provided for under the provisions of this article.

**§ 5-204. Local registration; general provisions for the conduct of.** 1. At the opening of each place of registration on each day of local registration the board of inspectors shall:

- a. See that the American flag is displayed.
- b. Cause the election district map or maps, or certified description thereof, to be posted conspicuously in the registration place.
- c. Check to see that all necessary supplies are available in order to properly conduct registration.
- d. Affix or attach to their clothing the proper identification, buttons, badges or emblems issued by the board of elections pursuant to the provisions of this chapter. They shall wear no other buttons, badges or emblems which are similar in design.

[Subd. 2 REPEALED by chap. 164, Laws of 1985.]

3. a. The inspectors of election in receiving registrations shall, by printing in ink, fill out the registration poll record and the central file registration record.

b. If the applicant's name does not appear on the list of registered voters and if the applicant is not challenged, and he is found by the inspectors of election to be otherwise qualified, they shall complete his registration as provided herein.

c. If the person's name appears on the list of registered voters and he is residing at the same address as set forth therein, his registration shall be refused as unnecessary.

d. If the applicant's name appears on the list of cancelled registrations, the inspectors of election shall ascertain from such list the reason for cancellation, and if satisfied that the reason for cancellation no longer exists shall register the applicant.

e. If the inspectors of election shall refuse to receive a registration for any reason, they need not complete the registration records. They, however, shall enter the applicant's name and address on the applicant's records, shall mark the word "Refused", and insert the reason for such refusal in the remarks section on each of such registration records. In any such case, they shall inform the applicant of such reason, and advise the applicant of his right to appeal to the board of elections for review of its decision.

f. If an applicant is challenged after the inspectors of election have commenced to take his registration and if such applicant refuses to take the challenge oath as prescribed by this article, or to answer a question appearing on the challenge affidavit, they shall not complete his registration and shall insert in the remarks section of his registration records the words "Challenge Oath Refused" or "Challenge Question Not Answered".

g. After completing the registration forms the inspectors of election shall require the applicant to sign the two registration records in the spaces provided for his signature at the time of registration.

h. After securing the voter's signatures, the two inspectors by whom the registration is taken shall sign the records in the spaces provided.

k. If an applicant has removed from his residence but is still eligible to vote from that address for a reason enumerated in this chapter, the inspectors shall require him to execute a statement of temporary absence.

l. If an applicant for registration presents a court order directing that he be registered, the board shall register him, enter the words "Court Order" in the remarks space on the face of each of his registration records, write his new registration serial number on the top of the first page of such order and return such order to the board of election with the executed certificates and forms.

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4. The inspectors shall distribute to the voters applying for registration copies of the ballot proposals to be submitted to the voters at the ensuing election.

5. An inspector shall not remove or permit to be removed any registration record or blank from the locked ledger in which it is filed or to insert or permit to be inserted any such record or blank in such ledger. If a registration record blank is mutilated or voided or for any reason cannot be used, the board shall mark "Void" across the face of such blank and the blank of the same number in the other ledger of the same set.

6. The map or maps furnished in cities shall be posted in the polling place on the days of local registration.

7. There shall be no smoking in any place of registration in a church or school.

8. The inspectors shall act as a board and a majority of them shall decide questions.

9. While the polls are open no person shall do any electioneering within the polling place, or within a one hundred foot radial measured from the entrances, designated by the inspectors of election, to a building where the registration is being conducted. No political banner, poster or placard shall be allowed in or upon the place of registration during any day of registration. Where an oath is required or permitted by this article at any meeting for registration, any inspector may administer it. The inspectors, and each of them, shall preserve good order within and around the place of registration and keep access thereto unobstructed. The board or any member thereof by order in writing may direct the arrest of any person refusing to obey the lawful commands of the inspectors, or guilty of disorderly conduct disturbing their proceedings, or violating, or attempting to violate, any of the provisions of this chapter. Any police officer or peace officer, who is acting pursuant to his special duties, or any person designated by the board shall execute the order.

10. Persons entitled to register who are on line, or in the polling place, at or before the time fixed by law for closing of registration, shall be allowed to register.

**§ 5-206. Watchers.** 1. Each political party or independent body duly nominating or entitled to nominate candidates for offices to be filled at the election may, by a writing signed by the duly authorized chairman or secretary of the county, city, town or village committee of such political party or independent body, and delivered to and filed with one of the inspectors of election, appoint not more than two watchers to attend any meeting or meetings of the inspectors for an election district held for the registration of voters thereof.

2. Each watcher must be a qualified voter of the city or county in which he is to serve. Such watchers may be present at such

place of registration from at least fifteen minutes before the commencement of such meeting until after the completion of the duties of the board of inspectors for that day of registration. Any watcher may examine any challenge list furnished by the board of elections.

[Section 5-208 REPEALED by chap. 90, Laws of 1991.]

**§ 5-210. Registration and enrollment**[, transfer of registration and/or enrollment,] *and* change of enrollment [and special enrollment] upon application [filed by mail or upon personal appearance at a board of elections]. 1. In addition to local registration and veterans' absentee registration as provided in this chapter, any qualified person may apply personally for registration and enrollment, [transfer of registration and/or enrollment or special] *change of enrollment* by mail or by appearing at the board of elections on any day, except a day of election, during the hours that such board of elections is open for business.

2. Application forms for use pursuant to this section shall be furnished by a county board of elections to any person requesting such form. Application forms sent outside of the United States to a country other than Canada or Mexico, shall be sent airmail. Each county board of elections shall also cause such application forms to be as widely and freely distributed as possible.

3. Completed application forms, when received by any county board of elections or showing a dated cancellation mark of the United States Postal Service not later than the twenty-fifth day before the next ensuing primary, general or special election, and received no later than the twenty-second day before such election *or delivered in person to such county board of elections not later than the tenth day before a special election*, shall entitle the applicant to vote in such election, if he is otherwise qualified. Any county board of elections receiving an application form from a person who does not reside in its jurisdiction but who does reside elsewhere in the state of New York, shall forthwith forward such application form to the proper county board of elections. Each county board of elections shall make an entry on each such form of the date it is received by such board.

4. (a) Any qualified person who has moved within the county or city of his residence after the twenty-fifth day before a general election or who has been honorably discharged from the military after the twenty-fifth day before a general election or who became a naturalized citizen after the twenty-fifth day before a general election may personally register at the board of elections in the county of his residence and vote in the general election held at least ten days after such registration.

(b) Any qualified person who is registered and enrolled and who moves within the county or city of his residence after the twenty-

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[Matter in *italics* is new; matter in brackets [] is old law to be omitted.]

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fifth day before a primary election may personally register and enroll at a board of elections in the county of his residence not later than ten days before such primary election and, provided that such enrollment is in the same party as his or her previous enrollment, vote in such primary election.

5. A uniform statewide application form shall be designed by the state board of elections, which shall be compatible with local systems of voter registration data collection and storage, and shall elicit the information required for the registration poll record. The form shall be a bifold self mailer pre-addressed to the appropriate board of elections or containing a space to permit the applicant to address the mailer to the appropriate board of elections. The form shall include such other information as the state board of elections may reasonably require and shall also include the following information:

(a) Notice that those voters currently registered do not need to reregister unless they have moved or failed to vote *in* at least [once at a general, special or primary election during the four preceding years.] *one of the last two presidential elections or in any other general, special or primary election in the period between such presidential elections.*

(b) Instructions on how to fill out and submit the form and that the form must be received by any county board of elections at least twenty-five days prior to the election at which the applicant may vote.

(c) Notice that registration[, enrollment, transfer of registration and/or enrollment, or special] *and* enrollment is not complete until the form is received by the appropriate county board of elections.

(d) Notice of a voter's right to register [centrally or] locally.

(e) A warning that it is a crime to procure a false registration or to furnish false information to the board of elections.

(f) Notice that political party enrollment is optional but that, in order to vote in a primary election of a political party, a voter must enroll in that political party.

(g) Notice that the applicant must be a citizen of the United States, at least eighteen years old on or before the day of the next general election and a resident of the county or city to which application is made.

(h) Notice that a voter notification form will be mailed to each applicant whose completed form is received.

(i) The telephone number of the county board of elections.

(j) A space for the applicant to indicate whether or not the voter is willing to serve on election day for a board of elections as an election inspector, poll clerk, interpreter or in other capacities.

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[Matter in *italics* is new; matter in brackets [] is old law to be omitted.]



(k) The form shall also include space for the following information, which must be contained on the inside of the form after it is folded for mailing:

(i) A space for the applicant to indicate whether or not he has ever voted or registered to vote before in New York state and if so, the year in which he last voted or registered and his name and address at the time.

(ii) The name and residence address of the applicant including the zip code and apartment number, if any.

(iii) The date and place of birth of the applicant and the name at birth, if different.

(iv) If the applicant is a naturalized citizen, the year, court and place of naturalization and the name at the time of naturalization, if different or, if citizenship was obtained through derivation, the name and relationship of the person naturalized; there shall be no requirement for the listing of a naturalization number.

(v) A description of the applicant in terms of height, color of eyes, and sex.

(vi) The name and post office address of the voter's employer.

(vii) A space for the applicant to indicate his choice of party enrollment, with a clear alternative provided for the applicant to decline to affiliate with any party.

(viii) A place for the applicant to execute the form on a line which is clearly labeled "signature of applicant" preceded by the following specific form of affirmation.

"I affirm that the information provided herein is true and I understand that the application will be accepted for all purposes as the equivalent of an affidavit, and if it contains a material false statement, shall subject me to the same penalties for perjury as if I had been duly sworn."

which form of affirmation shall be followed by a space for the date and the aforementioned line for the applicant's signature.

(l) The form may also include detachable portions with space for the applicant's signature, and instructions to the voter that he must sign each of such portions.

6. A person who willfully makes a material false statement in any application for registration and enrollment and/or transfer of registration and enrollment or special enrollment by mail, or who knowingly makes a false affirmation, or who offers or attempts to offer any application for registration and enrollment or transfer of registration and enrollment or special enrollment knowing that the applicant is not qualified to register or enroll, or transfer his registration and enrollment or to specially enroll, shall be guilty of a class E felony.

6-a. *A uniform statewide change-of-residence registration form shall be designed by the state board of elections, such form shall be compatible with local systems of voter registration data collection and storage, and shall elicit the information required for the registration poll record as set forth pursuant to subdivision four of this section. The form shall be a postcard self-mailer which shall be pre-addressed to the appropriate board of elections or shall contain a space to permit the applicant to address the mailer to the appropriate board of elections. The form shall include such other information as the state board of elections may reasonably require and shall also include the following information:*

(a) *Notice to the applicant that the form may be used for registration only when a previously registered voter has moved to another address in the same county or city, that the form cannot be utilized to alter or amend the previous voter registration in any other way including, changing a name or changing party enrollment, and that any other change requires use of the standard registration form.*

(b) *A space for the applicant to indicate his or her name and date of birth, the prior and new residence addresses, including the zip code and apartment number, if any, and the telephone number of the new residence.*

(c) *Notice that a voter notification form will be mailed to each applicant whose completed form is received.*

(d) *The telephone number of the board of elections.*

(e) *A place for the applicant to execute the form on a line which is clearly labeled "signature of applicant" preceded by the following specific form of affirmation:*

*"I affirm that the information provided herein is true and I understand that this application will be accepted for all purposes as the equivalent of an affidavit, and, if it contains a material false statement, shall subject me to the same penalties for perjury as if I had been duly sworn."*

*Such form of affirmation shall be followed by a space for the date and the aforementioned line for the applicant's signature.*

7. Each county board of elections shall deliver a sufficient number of such uniform statewide application forms to each local post office within its county and keep such post office so supplied, with the request that the postmaster thereof make them available to the public for its use in participating in the electoral process.

8. [(a)] Upon its receipt by the county board of elections, each application form shall be reviewed and examined by at least two members or employees of such board authorized by the board to receive registrations. Such two members or employees shall represent the two major political parties. If the application shall contain substantially all the required information indicating that

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[Matter in italics is new.]

the applicant is legally qualified to register and/or enroll as stated in his application, the county board of elections shall transfer all information on such application to the appropriate registration records. Detachable portions of the application containing the applicant's signature, or in lieu thereof, a photostatic copy of the applicant's signature, shall be pasted in each space provided on the registration and enrollment records for the insertion of the registrant's signature.

(b) The county board of elections shall review each application form to determine if the applicant is entitled to a transfer of registration and/or enrollment or special enrollment. If such form shall contain substantially all of the required information, and the applicant is so entitled, the board shall make such transfer, or shall enter such special enrollment, in the manner provided by this chapter.

(c) An enrollment made by mail by any applicant shall be effective for the next primary election in which such applicant would be entitled to vote if such enrollment had been taken by a central registration board.]

9. The county board of elections shall, promptly and in any event, not later than twenty-one days after receipt by it of the application, mail a notification of its approval or rejection of the application to the applicant. Notices of approval shall be sent by nonforwardable mail. The voter's registration and enrollment[, transfer of registration and/or enrollment or special enrollment,] shall be complete upon receipt of the application by the appropriate county board of elections, subject, however, to the county board of elections' right to reject any such applicant in the event that the notification by mail is returned undelivered. The notice shall also advise the registrant of the date when his registration and enrollment is effective, of the date of the next regularly scheduled primary or general election in which he will be eligible to vote, of the location of the polling place of the election district in which he is or will be a qualified voter, whether such polling place is accessible to physically handicapped voters, an indication that physically handicapped voters may obtain an absentee ballot and the phone number to call for absentee ballot applications. The notice shall also advise him to notify the board of elections if there is any inaccuracy. The form of such mail notification shall be prescribed by the state board of elections and shall contain such other information and instructions as it may reasonably require to carry out the purposes of this section.

10. If the county board of elections suspects or believes that for any reason the applicant is not entitled to registration[, enrollment or transfer of registration and/or enrollment or special] *and* enrollment, it shall make inquiry in reference thereto. If the

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[Matter in *italics* is new; matter in brackets [] is old law to be omitted.]

board of elections shall find that the applicant is not qualified to register[,] *and* [enroll or transfer his registration and/or enrollment or for special enrollment], the application shall be rejected and the applicant notified of such rejection and the reason therefor, no later than ten days before the day of the first primary[,] *or* general [or special] election occurring at least [thirty] *twenty-five* days after the filing of the application.

11. Whenever the county board of elections is not satisfied from an examination of an application for registration[, enrollment, transfer of registration and/or enrollment or special] *and* enrollment, or after its initial inquiry, that the applicant is entitled to such registration[, enrollment, transfer] or [special] enrollment, it may order an investigation through any officer or employee of the state or county board of elections, police officer, sheriff or deputy sheriff.

12. An affidavit or a signed statement by any officer or employee of the state or county board of elections or any police officer, sheriff or deputy sheriff, that he visited the premises claimed by the applicant as his residence and that he interrogated an inmate, house-dweller, keeper, caretaker, owner, proprietor or landlord thereof or therein as to such applicant's residence therein or thereat, and that he was informed by one or more such persons, naming them, that they knew the persons residing upon such premises and that the applicant did not reside upon such premises as set forth in his application, shall be sufficient authority for a determination by the board that the applicant is not entitled to registration[, enrollment or transfer of registration and/or enrollment] or [special] enrollment; but this provision shall not preclude the board from making such other determination, as the result of other inquiry, as it may deem appropriate.

13. Notwithstanding the entry by the county board of elections or the central registration board on the registration poll record of the information contained on an application form prescribed by this section, such entry shall not preclude the county board of elections from subsequently rejecting the application if it is not satisfied that the applicant is entitled to register[,] *and* enroll[, transfer his registration and/or enrollment or special enrollment] as provided by this section, provided that the applicant is notified of such rejection and reasons therefor no later than ten days before the day of the first primary[,] *or* general [or special] election occurring at least [thirty] *twenty-five* days after the filing of such application form.

14. The county board of elections shall keep a record of applications for mail registration as they are received and at least once each month, shall give to the chairman of each political party in the county a complete list of the applicants whose applications

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[Matter in *italics* is new; matter in brackets [] is old law to be omitted.]

were approved together with their addresses and telephone numbers, and their election and assembly districts or wards, if any.

[Section amended by chap. 473 and subd. 6-a added by chap. 79, Laws of 1992.]

§ 5-211. **Agency assisted registration** *The state board of elections shall implement and administer a program of distribution of voter registration forms and designate the departments of labor, motor vehicles, state, social services, and other state agencies, departments, divisions, and offices which have regular contact with the public in their daily administration of business for participation in such program. Such agencies shall be required to make available, under the direction of the state board of elections, voter registration forms at counters and in public areas of such agencies where services are made available to the public.*

1. *The state board of elections shall prepare and distribute to participating agencies written instructions as to the implementation of the program. Such instructions shall include direction that:*

(a) *participating state agencies shall make available voter registration forms, explanatory written instructions and directions to an available locked receptacle to persons who are interested in registering to vote;*

(b) *strict neutrality with respect to a person's party enrollment shall be maintained and all persons seeking voter registration forms and information shall be advised that government services are not conditioned on being registered to vote; and*

(c) *state employees shall not participate or assist in completion of the registration forms but rather shall refer all questions to the state board of elections or a county board of elections.*

2. *The state board of elections shall coordinate and monitor the distribution of voter registration forms by those state agencies, departments, divisions and offices selected to participate in the program to maximize the efficient and non partisan distribution of voter registration information and forms.*

3. *Each participating agency, department, division and office that makes available voter registration forms shall prominently display promotional materials designed and approved by the state board of elections, informing the public of the existence of voter registration services.*

4. *Each participating agency, department, division or office that makes available voter registration forms pursuant to this section shall, at the next regularly scheduled printing of the primary form used to determine eligibility for services, amend such form to include the following statement:*

*If you are not registered to vote at your current address you may receive a registration form here*

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[Matter in *italics* is new; matter in brackets [] is old law to be omitted.]

*today. You may receive government services without being registered to vote. If you would like a registration form, CHECK HERE:*

5. (a) *Each participating agency, department, division or office shall designate a convenient place in the public area of each office where voter registration forms are made available where a locked receptacle capable of receiving and holding completed voter registration forms shall be located.*

(b) *Such locked receptacles shall be the property of and under the sole control of the board of elections. Only the board of elections shall have access to the locked receptacles and shall periodically collect the contents of such receptacles to ensure the timely registration of the participants in the voter registration program.*

6. (a) *The state board of elections shall develop for distribution by participating agencies written instruction sheets explaining how to complete the voter registration form. The instruction sheet shall be written in English and Spanish and shall also include:*

(i) *qualification for voting;*

(ii) *voter registration deadlines;*

(iii) *the fact that a voter must re-register each time he or she moves;*

(iv) *an explanation of the notice that voters receive from their local election authority when they have been officially registered;*

(v) *a toll free telephone number at the state board of elections that can be called for answers to registration questions; and*

(vi) *notice that some employees are not permitted to answer questions or assist in completing the registration form and that all inquiries with respect to registration should be made to the state board of elections or to a county board of elections.*

(b) *The state board of elections shall provide a toll free telephone number to answer registration questions.*

[Section added by chap. 79, Laws of 1992.]

§ 5-212. **Veterans' absentee registration.** 1. The board of elections in the county in which a veterans' hospital is located shall appoint a board of registration which shall attend each veterans' hospital between the hours of nine o'clock in the morning and five o'clock in the evening on the seventh Thursday before each general election and, in the event that it be necessary for the completion of its duties, on the seventh Friday before such election except that if any of the religious holidays of Yom Kippur, Rosh Hashanah, Simchas Torah, Shmini Atzereth or Succoth shall fall on such days, such registration shall be held on the next regular business day which does not fall on any of such religious holidays, and shall receive from inmates or patients therein, or their spouses, parents and children, the applications of such of

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[Matter in *italics* is new.]

them as desire and are qualified to be registered by absentee registration.

2. After the applicant completes and signs the application, or has it signed for him, it shall be deposited by or for him in an envelope and sealed. Before receiving the next application the board shall address the envelope to the board of elections in the county where the applicant resides and note upon a form provided for such purpose the date of the application, the name and residence address of the applicant and the name of the hospital at which the application was received.

3. At the end of each day each member of such board shall sign the form containing the list of applicants with their names and addresses and they shall, no later than the next day, return the list and the sealed envelopes to the board of elections in the county where such hospital is located.

4. The board of elections upon receipt of such applications shall immediately mail those applications that are addressed to another board of elections and shall process those applications addressed to it.

5. If a Veterans' Administration Hospital in which any veteran entitled to vote in this state is an inmate or patient, is located outside the State of New York, an application for an absentee ballot signed by such veteran or his spouse, parent or child accompanying or being with him, if a qualified voter and a resident of the same election district, shall constitute permanent personal registration.

6. All applications made and received pursuant to this section shall be processed in the manner provided herein for personal registration by mail.

7. The cost incurred by the county in which such veterans' hospital is located, for the registration of voters as herein provided, may be apportioned to the counties in which such voters reside in proportion to the number of applicants for such registration residing in such counties.

8. The board of elections shall not be required to send a board of central registration to each veterans' hospital in such county, pursuant to the provisions of this section, if, in lieu thereof, it shall provide such hospital with mail registration application forms in sufficient quantity so that each inmate or patient of such hospital who wishes to register will be able to do so. A complete application received from an inmate or patient whose residence is in a county other than the county in which the hospital is located shall be immediately transmitted to the appropriate board of elections.

§ 5-214. **Registration cards for identification.** A board of elections may provide identification cards for use in any city or town in such county in which the board deems it necessary to facilitate voting. However, the failure of a voter to present such

card shall not deprive such voter of the right to exercise the franchise, or any other right provided under this chapter.

§ 5-216. **Registration; assistance to applicant.** 1. If any person entitled to be registered shall declare to the board of inspectors that he is unable to read or write by reason of illiteracy or disability, the board shall provide assistance in registering. Such person shall, if unable to write, be excused from signing and the board shall enter the words "unable to sign" in each space reserved for his signature. The board shall also enter in the remarks space on the face of the registration records the reason for his inability to write his name.

2. If the applicant be a person who does not speak the English language, he may be assisted by a relative who can interpret for him. If the applicant registers with this assistance the board shall put in the remarks space of the registration forms the name and address, and the relationship, of the person so doing the interpreting and the interpreter shall sign his name in the remarks space.

3. If the registrant needs assistance with registration, he may also have the same assistance in order to mark the enrollment blank.

§ 5-218. **Registration; challenges.** 1. Any person who applies for registration may be challenged by any qualified voter, watcher, or inspector of election if such person has reason to suspect that the applicant is not qualified to be registered to vote.

2. When an applicant is challenged the person making the challenge must first state the reason for the challenge and complete the challenger's part of the challenge form. The board shall then administer to such applicant the following oath: "You do solemnly swear (or affirm) that you will give true answers to the questions which may be put to you to establish your qualifications to register and vote." A member of such board shall then read to the challenged person the questions printed upon the form of the challenge affidavit which relate to the reason given for the challenge, and such other questions on the form as in its discretion it may deem appropriate, and shall enter in ink, opposite each question, the answer thereto given by such applicant. After answering, the applicant shall sign his name to such challenge affidavit. The inspector or member of such board who writes the answers shall enter in the place provided on the challenge affidavit, information identifying the person challenged and the name and address of the person challenging, and shall sign the certificate at the end thereof. The other inspectors present shall also sign such certificate at the end thereof.

3. The applicant shall be registered by the board if a majority of such board shall be satisfied with the answers of the registrant.



If not satisfied, they shall notify him of the qualifications which they believe he lacks as a voter, and shall furnish him with a duplicate of the challenge affidavit as completed. They shall also advise him of his right to apply to the board of elections for registration.

4. When a person who has been challenged is registered, the board shall enter in the remarks column the word "Challenged".

5. The state board of elections shall prescribe forms for challenge affidavits for use pursuant hereto, which forms shall elicit such information from the application as it deems appropriate.

**§ 5-220. Registration; challenge after registered.** 1. Any person may challenge the registration of a voter by executing and delivering to the board of elections or a board taking registrations, his affidavit that he has reason to believe that such voter's registration should be cancelled. Such affidavit shall contain the affiant's full name, residence, and business address, the name of his employer, the registration serial number of the person challenged and a recital of the reasons and the facts supporting affiant's belief that the person challenged lacks the qualifications for voting prescribed in this chapter and specified in such affidavit. The affidavit shall state if the reasons for challenge are based upon the affiant's personal knowledge, or upon information received from another person. If the affiant's belief is based upon information furnished by another, the affidavit shall recite the name of the person furnishing the information and the basis for his information. After the affiant has signed such affidavit a member of such board shall read to him and request him to sign the following oath, which shall be subscribed by such affiant: "I do solemnly swear (or affirm) that the foregoing statement made by me on (insert day, month and year) is a truthful disclosure of the reasons for my belief that the registered voter therein named is not qualified to continue to be registered in the election district in which he is now registered." If the affiant shall take and sign such oath, the members of the board shall sign their names as witnesses below the affiant's subscription to such oath. Each such affidavit shall be directed toward the challenge of only one registrant. The board shall give full assistance to any person desiring to execute such an affidavit. The board of elections shall furnish the necessary forms. Upon receipt of such affidavit the board of elections forthwith shall conduct an investigation of the voter's qualifications to remain registered in the same manner as provided for applications for personal registration by mail. Any person whose registration is so challenged shall be notified thereof by the board of elections by registered or certified mail within five days after the affidavit is received by it.

2. If the board of elections cannot complete its investigation, or cannot make a determination before the next election at which

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the registrant could vote, it shall place his name on a challenge list as a person to be challenged when voting.

§ 5-222. **Statement of temporary absence.** 1. A voter who has removed from his residence but who is still eligible to vote from that address for any of the reasons enumerated in this chapter shall, at the time of his registration, or at the time of his removal, or upon request of the board of elections, file with such board, in person or by mail, a statement of temporary absence.

2. Such statement shall set forth where the voter actually resides, where he claims to be legally domiciled, the name of his occupation or employment, the name and address of his employer, or the school he attends, or the institution at which he is resident, the class to which he claims to belong and such other information as the board shall deem appropriate.

3. When such a statement is filed, the board of elections shall enter the words "Statement of temporary absence filed" in the "remarks" space on the face of such voter's registration poll record. The registration serial number of the voter shall be placed on such statement and it shall be preserved with the other records of the board of elections.

4. The state board of elections may prescribe a form of statement of temporary absence.

§ 5-224. **Registration of voters unlawfully denied the right to register.** 1. If any voter applies personally for registration and is unlawfully denied the right to register, the county board of elections may, upon the application of the voter in person or by mail to such board within two weeks after the last day of registration, or within five days after the date of the voter's receipt of notice of the rejection of his application, upon proper proof, and upon such notice to the chairman of the county committees of the several parties as the board shall prescribe, direct that he be registered in the election district in which he is a qualified voter. The directions of the county board of elections shall be carried out by the board itself, by its clerks, or by the proper inspectors of elections, as the board may prescribe. The county board of elections shall make a final determination of such application not later than one week after the application is made by the voter.

2. If the board of elections has reason to believe that any applicant has been wrongfully denied the right to register, it shall notify him by mail and such person, upon application in person or by mail to the board of elections, within two weeks of the date of such notice, may be registered by the board of elections.

3. The board of elections shall make a final determination on such application not later than one week after it is made.

4. If any applicant is registered pursuant to the provisions of this section, such registration shall be deemed effective as of the date of the wrongful denial of the right to register.

**§ 5-226. Registration; voter registered in wrong district.** 1. If any voter has been registered in a wrong election district, the board of elections shall, if he is a qualified voter in any election district within the jurisdiction of such board, change his registration to the correct election district. The board of elections shall thereupon give immediate notice by mail to such voter that his registration has been corrected, and also the location of the polling place of the election district in which he is a qualified voter.

2. If such voter does not reside in any election district within the jurisdiction of the board, his registration shall be cancelled and he shall be notified of the cancellation and the reason therefor.

3. The board shall maintain a list of all such corrections and cancellations as the public record in its office and shall deliver a copy of such list to the chairman of each political party seven days before each election.

**§ 5-228. Registration; certificates of local registration.** 1. At the close of local registration, each board of inspectors shall mail, or, if the board of elections directs, shall deliver to the board of elections a certificate, signed by the members of such board, stating the name, present residence address of each registrant and such other information as the board of elections shall require and a certificate stating the name and address of each person whom the board refused to register for any reason other than that he was already registered, and, in each instance, the reason for such refusal. The names and addresses shall be entered on such certificates during the day of registration as the voters concerned are registered or refused registration.

2. At the end of each period of local registration, the board of inspectors shall sign a certificate containing a tabulation of the following information:

a. The total number of voters registered on each day of local registration;

b. The total number of voters registered during such period of registration;

c. Such other information as shall be deemed appropriate by the county board of elections and the state board of elections.

Such certificate shall be mailed or delivered to the board of elections as it may direct, by the board taking registrations. In any city having therein an office of the board of elections, the board of elections may direct that such certificate shall be delivered to the police at the place of registration or the nearest police

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stationhouse. In such event, the police shall forthwith deliver the certificate to the board of elections at its nearest office.

3. The state board of elections shall prescribe the form of the certificates required by this section.

**§ 5-230. Local registration; disposition of records and supplies.** 1. At the end of each day of registration, the chairman of each board of inspectors shall deliver the ledgers locked in the carrying case, if any, the flag and all other supplies to the police at the place of registration, or, if directed, to the officer charged by this chapter with the duty of delivering such articles to the board. The police or such officer shall return all such articles on the next day of registration to the chairman of such board at the place of registration immediately prior to the opening hour for registration.

2. If allowed by the board of elections, at the end of each day of registration, the chairman may, after locking and sealing the same, leave the registration poll records in the custody of a member of the board of one political party and the corresponding central file registration records with a member of the board of the opposite political party and himself retain custody of all other articles, or securely store such other articles in the place of registration if the same be a public building.

3. If allowed by the board of elections, at the end of each day of registration, the registration poll records and all other articles may be securely stored in the place of registration if the same be a public building.

4. At the close of the last day on which any board of inspectors is authorized to take registrations such board shall seal the ledgers and lock them in the carrying case; enclose all keys in a sealed package and enclose all executed forms in a sealed package. The chairman of such board shall deliver the sealed material, unused forms and all equipment and material furnished by the board of elections to a person designated by the board of elections to take custody of these items. The person designated shall deliver all such articles to the board of elections within twenty-four hours after the polls close.

5. The members of each board taking registrations shall sign all seals and shall affix their signatures to each in such a manner that the article sealed cannot be opened without breaking their signatures.

6. Any person receiving such supplies from the board of inspectors shall give to the person delivering such supplies a receipt therefor, which, if a ledger carrying case is included, shall certify that such case was locked at the time he received it.

## TITLE III

## ENROLLMENT

- Section 5-300. Enrollment; generally.  
5-302. Enrollment; opening of enrollment box and completion.  
5-304. Enrollment; change of enrollment or new enrollment by previously registered voters.  
5-306. Enrollment; correction of.  
5-310. Enrollment; forms of affidavits, mailing requirements.

§ 5-300. **Enrollment; generally.** At the time a voter is registered or completes an application for registration he may mark his party enrollment within the circle or box underneath or next to the party of his election on the application form.

[Old §5-300 REPEALED by chap. 164, Laws of 1985.]

§ 5-302. **Enrollment; completion.** 1. Before placing the registration poll record in the poll ledger, the board shall enter in the space provided therefor on the back of such registration poll record the name of the party designated by the voter on his application form, provided such party continues to be a party as defined in this law. If such party ceases to be a party at any time, either before or after such enrollment is so entered, the enrollment of such voter shall be deemed to be blank and shall be entered as such until such voter files an application for change of enrollment pursuant to the provisions of this chapter. The board shall enter the date of such entry and affix initials thereto in the space provided.

2. If the application form is for a voter who has changed his enrollment or a voter who has previously registered and not enrolled, then the board of elections shall compare the information and the signature appearing on each application form received with that on the registration poll record of the applicant and if found to correspond in all particulars shall, not earlier than the Tuesday following the next general election and not later than the thirtieth day preceding the last day for publishing enrollment lists, proceed in the manner specified in subdivision one hereof to enter such enrollment on such voter's registration poll card.

3. If marks are found in more than one of the boxes or circles or if no marks are found in any of the boxes or circles of any application form, the voter who used the application form shall not be deemed to be enrolled, and the words blank or void shall be entered in the space reserved on his registration poll record for the name of a political party.

4. Registration poll records of voters whose registrations are not rejected by the board of elections shall *forthwith* be placed in the poll ledger or *such voters' names shall forthwith be entered in the computer files from which the computer generated registration lists are prepared*, except that the registration poll record of an otherwise qualified voter who registers after the twenty-fifth day before a primary election shall not be placed in [the] *such* poll ledger or *such voters' names shall not appear on such a computer generated registration list* until after such primary and except further that the registration poll record of a voter whose previous registration was cancelled pursuant to the provisions of this chapter after the previous general election and who registers pursuant to the provisions of this chapter after such cancellation shall not be placed in [the] *such* poll ledger or *such voters' names shall not appear on such a computer generated registration list* until after the fall primary election, unless such voter has enrolled with the same party as the enrollment on the registration which was so cancelled.

The registration poll record of a voter who is not eligible to vote in a primary election but who is eligible to vote in a special election held before such primary election shall be placed in its regular place in the poll ledger or in a special section of such poll ledger for such special election as the board of elections, in its discretion, shall provide, or *such name shall appear in its regular place on the computer generated registration list prepared for use in such special election*. Such poll record shall be removed from such poll ledger or *computer generated registration list* immediately after such special election.

5. During the period preceding the ensuing primary election, the board of elections shall maintain as a public record a list of all enrollments entered, transferred or corrected, and not contained in the last published enrollment list. Such supplemental enrollment list shall contain the same information and shall be distributed in the same manner as the original enrollment list not later than the fifteenth day before the primary election.

[Subd. 4 amended by chap. 91, Laws of 1992.]

**§ 5-304. Enrollment; change of enrollment or new enrollment by previously registered voters.** 1. A registered voter may change his enrollment in the manner prescribed by this section.

2. The term "change of enrollment" shall apply to applications by a registered voter already enrolled in one party to enroll in a different party, or to delete his enrollment in any party, or an application by a registered voter not enrolled in any party to enroll in a particular party.

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[Matter in *italics* is new; matter in brackets [] is old law to be omitted.]

3. A change of enrollment received by the board of elections not later than the twenty-fifth day before the general election shall be deposited in a sealed enrollment box, which shall not be opened until the first Tuesday following such general election. Such change of enrollment shall be then removed and entered as provided in this article.

4. Registered voters may apply for change of enrollment personally by mail to or by appearing before a county board of elections or by appearing before a board of inspectors. If the applicant has appeared in person and if the board finds that he is properly registered, it shall provide the applicant with an application form for voter registration by mail which shall be treated as an application for change of enrollment filed pursuant to this section. If the voter has applied personally by mail, the county board of elections shall mail him an application form for voter registration by mail as provided by this chapter. If a registered voter submits an application form for registration or enrollment, personally by mail, as provided by this chapter, from the residence address from which he is then registered, and such form reflects a change of enrollment, the county board of elections shall treat such form as an application for change of enrollment form filed pursuant to this section.

[Subd. 5 REPEALED by chap. 164, Laws of 1985.]

§ 5-306. **Enrollment; correction of.** 1. If, after being regularly registered in an election district a voter discovers he has made a mistake when enrolling, he may within one year from the date of his last registration apply to the board of elections of the county or city in which he resides for a correction of the mistake made by him when marking his enrollment blank, by filing his affidavit setting forth substantially as follows: how he is enrolled, and the town or city, election district, and when required, the ward or assembly district, in which he is registered, the street address, if any, from which he was registered, a statement, in substance, that his current enrollment blank was not marked correctly and that he did not intend to be so enrolled; the name of the party with which he did intend to enroll and which he desires to be entered on the registration records; a statement that he has been duly and regularly enrolled with the party whose name he desires entered on his registration records for at least five years immediately preceding the registration at which such mistake occurred or that he was not registered for all or part of such five year period; the county or counties and the addresses at which he resided when he was so enrolled; that he is in general sympathy with the principles of the party with which he requests to be enrolled and intends to support generally its nominees at the next general election, and a statement that he has not enrolled in any party or participated in any primary election or convention of any

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party during the past five years, other than the one with which he requests to be enrolled.

2. If the applicant's certificate or, the registration records in the office of such board show the applicant to have been registered during such five year period elsewhere in the state of New York the board shall require the applicant to produce a certified transcript of his enrollment, if any, in such other jurisdiction within the state accompanied with proof, by affidavit, showing his identity with the person whose name appears in such transcript. If the records of any board of elections within the state show the applicant to have been enrolled during such five year period in any party other than the one with which he requests to be enrolled, or to have been registered but not enrolled, the application for correction of enrollment shall be denied.

3. A voter may correct his enrollment pursuant hereto on any of the days the board is open for registration. A correction made during the twenty-five day period preceding a primary election shall not be effective for such election.

4. Where such application for correction of enrollment is approved, the board of elections shall enter the date of filing of the voter's affidavit along with the new party of enrollment in the spaces provided for entering enrollments on the back of his registration poll record and the words "Enrollment Corrected" in the remarks space therein. The members of the board shall affix their initials to such entry. The board shall file such affidavit in a file specially maintained for that purpose.

[Section 5-308 REPEALED by chap. 90, Laws of 1991.]

§ 5-310. **Enrollment; forms of affidavits, mailing requirements.** 1. The board shall prepare forms for the various applications and affidavits required under this title and, upon application, shall furnish a copy of the appropriate form to or for any voter desiring to use the same, and an additional copy if required. Copies also may be sold by the board, at cost, to any qualified voter.

2. Except when a voter is expressly required to file a paper in person, such paper may be filed either in person, by agent or sent by mail. Mailing within the state and within the times prescribed for filing shall be sufficient if the affidavit be received by the board. The postmark shall be sufficient proof of the date of mailing. If mailed outside of the state or if the postmark is omitted or illegible the affidavit must be received by the board within the times so prescribed for filing.

#### TITLE IV

##### CANCELLATION OF REGISTRATION

Section 5-400. Cancellation of registration; generally.

5-402. Cancellation of registration; generally, notice to voter.



- 5-403. Rejection of ballot of unqualified voter; notice of action by board.
- 5-404. Cancellation of registration; cancellation of record.
- 5-406. Cancellation of registration; failure to vote.

§ 5-400. **Cancellation of registration; generally.** A voter's registration shall be cancelled if, since the time of his last registration, he:

1. Failed to vote, during any five year period which ends in a year in which electors of president and vice president of the United States are elected, in at least one general, special or primary election or village election conducted by the board of elections.
2. Moved his residence and did not transfer his registration as provided for herein.
3. Was convicted of a felony disqualifying him from voting.
4. Has been adjudicated an incompetent.
5. Refused to take a challenge oath.
6. Has died.
7. For any other reason, is no longer qualified to vote as provided in this chapter.

§ 5-402. **Cancellation of registration; generally, notice to voter.** 1. The board of elections shall cancel the registration of a voter when he is no longer qualified to vote or as required herein.

2. Whenever the board has reason to believe that a registered voter is no longer qualified to vote, it shall, before cancelling his registration, notify him by first class mail to the address from which he was last registered that he may appear before the board or answer in writing by mail, stating the reasons why his registration should not be cancelled. Such notice shall also state that if the voter does not appear or answer in writing within fourteen days after such notice is mailed, his registration will be cancelled. Such notice shall also advise the voter of his right to reregister pursuant to the provisions of this chapter and shall contain the phone number to call for the days and hours of local registration and the location of local registration places, the deadline for personal registration by mail for the next general election and the phone number to call to obtain additional applications for personal registration by mail. Together with such notice of cancellation, the board shall mail to such registrant an application for personal registration by mail. If such registered voter shall fail to appear or answer in writing within such time or if, after he so appears or writes, the board is not satisfied that he is qualified to remain registered, the board shall cancel his registration.

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3. The board of elections shall notify immediately every person whose registration is cancelled after such person has responded, in person or by mail, to a notice sent pursuant to subdivision two of this section, of the action taken and the reason therefor, by written notice to the address from which he was last registered. Such notice shall advise such persons either of their right to reregister or their right to apply to a court of law for reinstatement, whichever is appropriate.

**§ 5-403. Rejection of ballot of unqualified voter; notice of action by board.** Whenever the ballot of any person, voted in an affidavit envelope in the manner prescribed by this chapter, is rejected under the provisions of this chapter on the grounds that such person is not a qualified voter of the election district wherein he sought to vote, or is not duly enrolled in the party in whose primary he sought to vote, the board of elections shall immediately notify such person by first class mail directed to the address given in his affidavit, of the rejection of his ballot, together with the reason therefore and the appropriate information on the times and places where he may register, re-register, enroll, or change or correct his enrollment. Where appropriate, a form of application for personal registration by mail shall be included with such notice.

**§ 5-404. Cancellation of registration; cancellation of record.** 1. The board shall cancel a registration by marking the word "Cancelled" on the face of each of the voter's registration records, without obliterating any of the entries thereon, and shall enter the reasons for such cancellation on the face of such registration records. Whenever a notation of cancellation is made on a registration record it shall be initialed by two members or employees of the board representing different political parties.

2. The board shall supply a list of registration cancellations and reinstatements to the county chairman of any political party requesting same.

**§ 5-406. Cancellation of registration; failure to vote.** 1. The board of elections shall, not later than the third week of January of each year following a year in which electors of president and vice-president of the United States are elected, determine which of the registrants under its jurisdiction had been registered under permanent personal registration throughout the five preceding calendar years and while so registered did not during such five years either vote in at least one general, special or primary election, or village election conducted by the board of elections, or mail to the board of elections a ballot otherwise eligible to be cast in such an election, which is received by such board of elections not later than fourteen days after such election but too late to be cast and canvassed.

2. If any such registrant has not, during such five preceding calendar years, voted in at least one general, special or primary election, or village election conducted by the board of elections, or mailed to the board of elections a ballot otherwise eligible to be cast in such an election, which was received by such board of elections not later than fourteen days after such election but too late to be cast and canvassed, the board shall cancel his registration and shall notify him of such cancellation. Together with such notice of cancellation, the board shall mail to such registrant an application for personal registration by mail.

3. Such a person may thereafter register as a new registrant.

4. If a ballot otherwise eligible to be cast in a general, special or primary election is received from a voter not later than fourteen days after such election, but too late to be cast and canvassed, the board of elections shall enter on the appropriate line on such voter's registration poll record the words "ballot received late" together with the other entries which would be made on such line if such ballot were cast.

## TITLE V

### REGISTRATION RECORDS

- Section 5-500. Registration records; form and content.  
 5-202. Registration records; supplies and equipment.  
 5-504. Optional discontinuation of central file registration records.  
 5-506. Optional use of computer registration lists.

**§ 5-500. Registration records; form and content.** 1. There shall be two records of the registration of each voter. Except as otherwise provided in this chapter, one record shall be sent, at the time of every election, to the polling place where the voter is entitled to vote, and shall be known as the "registration poll record". Between elections it shall be kept in the main office or a branch office of the board of elections. The other record shall be kept constantly in such main office or branch office and shall be known as the "central file registration record". The two types of records shall be prepared in different colors.

2. The face of each registration record, at or before its use, shall have entered at the top the name of the county in which it is to be used and a registration serial number, which shall be different for each voter but the same for the two records of each voter.

3. The central file registration records shall be printed on one side only, and shall be in substance, printing and arrangement with the face of the registration poll records.

4. The central file registration records and the face of the registration poll records shall contain a space for the voter's

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signature, preceded by the words, "The foregoing statements are true", and followed by the signature of the two members of the board of inspectors or central registration board by whom the voter is registered. In addition, there shall be spaces for the following entries, all of which shall precede the space for the voter's signature:

- a. Serial number assigned to voter and county of registration;
- b. The voter's surname, given name and initials of other names;
- c. The date of registration;
- d. The residence address at which the voter claims to reside and post office address, if not the same; and the number or designation of the room, apartment or floor occupied by the voter if he does not claim the entire building as his residence;
- e. The assembly district or ward and the election district in which such residence address is located;
- f. The length of the voter's residence in the state and county or city and at his address calculated to the time of the next general election;
- g. Whether the voter has previously voted or registered to vote in this state and, if so, the year in which he last voted or registered and his name and address at the time;
- h. His date and place of birth and his name at birth, if different;
- i. The name and post office address of his employer;
- j. If the voter is a naturalized citizen, the year, court and place of naturalization and the name, at the time of naturalization if different or, if citizenship was obtained through derivation, the name and relationship of the person naturalized there shall be no requirement for the listing of a naturalization number;
- k. Other appropriate descriptive data to facilitate identification of the voter, sex, height and color of eyes;
- l. Whether the voter was challenged;
- m. A space for the applicant to indicate his choice of party enrollment, with a clear alternative provided for the applicant to decline to affiliate with any party.
- n. On the face of each registration record there also shall be spaces appropriately entitled, for entering information about the cancellation of registration, the date of such cancellation, the reason therefor, and the signature of the two members or employees of the board, representing different political parties by whom the cancellation was recorded;
- o. A space for "remarks" regarding other facts required by this chapter to be recorded or appropriate to identify the voter.

5. On each registration poll record shall be spaces appropriately entitled and arranged for the voting record and signature of each voter. Each line above the last shall be reserved for the entries for each election at which the voter casts his vote. Such arrange-

ment shall allow for the entry of the following information with reference to each election at which the registrant shall vote; the year, month and day of the election; the voter's number recorded on the public-counter, and the designation of the particular machine used if there be more than one in the district, if voting machines are used; the number on the ballot delivered and voted by the voter, if paper ballots are used; the signature of the voter; and the signature or initials of the election inspectors by whom the voter is admitted to vote. On the last line at the bottom shall be a space for the voter's signature to be made at the time of registration.

6. On a different part of the registration poll record shall be spaces for recording the enrollment of the voter, changes in such enrollment, including, in each case, the number of the enrollment blank used, the date, the name of the party, appropriate remarks; and the initials of the board members who make any entry.\*

7. The state board of elections shall prescribe the form of the record required by this section which may include any additional information it shall deem necessary. The state board may provide that the form of application for registration by mail may be used in lieu of the form prescribed by this section.

**§ 5-502. Registration records; supplies and equipment.** 1. The board of elections shall furnish in time for use by the boards of inspectors of election, the registration records, an American flag, a map or certified description of the election district, and the adjoining election districts, challenge affidavits, absentee voting applications, a list of voters who are currently registered in the election district, a list of those voters who have been cancelled in the last year with the reason for such cancellations, forms for statements of temporary absence, a sufficient number of copies of the ballot proposals to be submitted to the voters at the ensuing election, at least one copy of the instruction booklet for inspectors and all other forms and supplies required for the administration of the registration system as provided by this article.

2. The board of elections shall also maintain in its custody and control:

a. At the headquarters of the board, filing cabinets and ledgers sufficient in number and form to accommodate the records required by this article to be kept at such headquarters or office.

b. Carrying cases sufficient to carry to and from the registration places the ledgers, if any, and forms required by this chapter to be available for use at such places.

3. Each ledger and cabinet shall be equipped with a lock of such a nature that when the ledger or cabinet is locked it shall not be possible to remove any record or forms which has been

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\* So in original.

filed therein, or to file in it any other record or form. Each carrying case shall be equipped with a lock. Each carrying case lock and its key shall bear an identical distinctive identifying number.

4. Subject to the requirements of this article, the state board of elections shall prescribe the number of and the form, content, color and specifications of such registration records, lists, and check cards. It may require such other forms, supplies and equipment as it deems necessary to be furnished by the boards of elections and any other officer charged with equipping the places for taking registrations.

**§ 5-504. Optional discontinuation of central file registration records.** 1. Notwithstanding the provisions of this article to the contrary, board of elections may apply to the state board of elections for permission to discontinue preparation, use and maintenance of central file registration records.

2. The state board of elections shall adopt regulations establishing the requirements which must be met by a board of election seeking such permission.

3. Such requirements shall include, but not be limited to the following:

a. The board of elections maintains a complete, current computer record of all registered voters.

b. At least one copy of such record is kept in a building other than the one in which the offices of the board of elections are located.

c. The board of elections maintains, as a public record, at the appropriate office of the board, a complete and current alphabetized list of all registered voters which contains next to each voter's name at least the following information: address, town or city, assembly district where appropriate, election district, registration serial number, party enrollment, date of registration, sex and date of birth.

4. After such inquiry as it deems appropriate, the state board of elections shall approve the applications of those boards of elections whose systems meet the requirements established by this section and the regulations of the state board. Such boards may then discontinue preparation, use and maintenance of central file registration records.

5. If the state board of elections amends its regulations, a board of elections whose system was previously approved by the state board shall have a reasonable time to conform to the new regulation.

6. If the state board of elections determines on its own initiative, or upon investigation of a complaint, that the system being used by a board of elections is not in compliance with the requirements

of this section and the regulations of the state board, it shall order such board of elections to comply forthwith.

7. If such a board of elections does not comply with the provisions of subdivision six of this section, the state board shall issue an order withdrawing permission to discontinue use of central file registration records and such board of elections shall be required to reinstitute use of such records on the first day of December following issuance of such an order.

**§ 5-506. Optional use of computer registration lists.** 1. Notwithstanding the provisions of this chapter to the contrary, a board of elections may apply to the state board of elections for permission to discontinue preparation, use and maintenance of registration poll records.

2. The state board of elections shall adopt regulations establishing the requirements which must be met by a board of elections seeking such permission.

3. Such requirements shall include, but not be limited to the following:

a. The board of elections maintains a complete, current, computer readable record for each registered voter which includes a reproducible signature. Such record may also include a copy of the entire registration poll record or application for registration of each such voter.

b. The board of elections maintains at least two copies of such computer readable records, which it stores in two different buildings.

c. The computer *generated registration* list prepared for each election [for the registration poll ledger] in each election district shall be printed by a printer which meets or exceeds standards for clarity and speed of reproduction established by the state board of elections, shall be in a form approved by such board, shall include the names of all voters eligible to vote in such election[,] and shall be in alphabetical order [and], *except that, at a primary election, the names of the voters enrolled in each political party may be placed in a separate part of the list or in a separate list, as the board of elections in its discretion, may determine.* Such list shall contain adjacent to each voter's name, at least the following: street address, date of birth, height, eye color, party enrollment, year of registration, a computer reproduced facsimile of the voter's signature or an indication that the voter is unable to sign his name, a place for the voter to sign his name at such election and a place for the inspectors to mark the voting machine number, the public counter number and the number of any paper ballots given the voter.

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[Matter in *italics* is new; matter in brackets [] is old law to be omitted.]

d. The board of elections preserves, for as long as registration records are otherwise required to be preserved, the original application for registration or registration poll record of every registered voter filed in a manner which makes such records available for examination or, *if the computer readable record for each registered voter maintained by the board of elections includes a copy of the entire registration poll record or application for registration of each such voter, the board of elections preserves the original of each such poll record or application in such a manner for a period of at least two years, or such longer period as the state board of elections may require, after such copy is entered in the computer readable record or if such computer readable records do not include the backs of those registration poll records which have been used at one or more elections, the board preserves the original of each such poll record for a period of at least two years after such copy is entered in such computer readable record or four years after the last election at which such poll record was used, whichever is later, or such longer period as the state board of elections may require.*

4. After such inquiry as it deems appropriate, the state board of elections shall approve the applications of those boards of elections whose systems meet the requirements established by this section and the regulations of the state board. Such boards may then discontinue preparation, use and maintenance of registration poll records.

5. If the state board of elections amends its regulations, a board of elections whose system was previously approved by the state board shall have a reasonable time to conform to the new regulation.

6. If the state board of elections determines on its own initiative, or upon investigation of a complaint, that the system being used by a board of elections is not in compliance with the requirements of this section and the regulations of the state board, it shall order such board of elections to comply forthwith.

7. If such a board of elections does not comply with the provisions of subdivision six of this section, the state board shall issue an order withdrawing permission to discontinue use of registration poll records and such board of elections shall be required to reinstitute use of such records on the first day of December following issuance of such an order.

8. No computer tape, computer disc or other record which can be used to reproduce such computer generated facsimile signatures shall be sold or otherwise distributed other than for use by a board of elections or upon the order of a court of competent jurisdiction. However all other data contained on any such tape, disc or record shall be sold or otherwise distributed in the same manner as other records of the board of elections.

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[Matter in *italics* is new.]



[Para. c amended by chap. 91 and para. d of subd 3 amended by chap. 389, Laws of 1992.]

## TITLE VI

### FILING AND CUSTODY OF REGISTRATION RECORDS

- Section 5-600. Registration records; filing of.  
 5-601. Registration records; physically disabled voters.  
 5-602. Lists of registered voters; publication of.  
 5-604. Enrollment lists; publication of.  
 5-606. Lists; certification of.  
 5-608. Replacement of registration and enrollment records; damaged, unusable or lost.  
 5-610. Registration records; new election district.  
 5-612. Registration records; use by town or village clerks and for school district elections.

§ 5-600. **Registration records; filing of.** 1. The board of elections shall keep all registration records, when not in use at the polls for an election, at its main office, or a branch office designated by it. Such records shall be kept in locked ledgers or locked filing cabinets and shall not be removed from the office or branch office of the board of elections, except that the registration poll records of all voters entitled to vote at an election shall be delivered as provided in this chapter to the appropriate election district polling places for use at such election.

2. The central file registration records shall be filed for the entire county using a system permitting location by name. Cancelled registration records shall be filed separately and shall be arranged in the same manner as current registration records.

3. The registration poll records shall be classified by election districts, the records for each election district being filed according to street, by number, and alphabetically within any address or in the discretion of the board of elections they may be filed alphabetically by name of voter.

4. Any registration record not completed because of the refusal of a board of inspectors to register an applicant shall be filed by the board of elections with the cancelled registration records as if the person affected had registered and his registration had been cancelled.

5. After receipt thereof from a board of inspectors at the close of a period of local registration, the board of elections, before removing any records or blank forms from any ledger containing registration records of voters registered during such period, shall compare such records and blanks with the certificate filed by such board of inspectors. It shall investigate any discrepancy between such returned material and the information contained on such certificate and if such discrepancy is not satisfactorily resolved, it shall at the request of any commissioner, make a written report thereof in triplicate and send one copy of such report to the district attorney and one to the state board of elections and keep the

third copy on file at its office as a public record. The board of elections shall then remove the records and blanks from the ledgers and shall file them as provided herein.

**§ 5-601. Registration records; physically disabled voters.** 1. A physically disabled voter whose polling place is located in a building that is not accessible shall be entitled to vote in any other election district whose polling place is located in a building which is accessible, provided that the candidates and ballot proposals on the ballot in such other election district are the same as those on the ballot in the election district in which such voter resides.

2. A written application by a disabled voter to have his registration record transferred to an election district which has an accessible polling place shall be valid for an election occurring more than fourteen days after it is received by the board of elections and, if the voter is permanently disabled, for all subsequent elections. Such application may specify the election district to which the voter wishes his registration records transferred.

3. The board of elections shall keep all such applications from permanently disabled voters on file at its office. Not later than twelve days before each election, the board shall transfer the records of each voter for whom it has such an application and who continues to be registered from the address on such application to an election district in the polling place specified in such application. If the application does not specify such an election district, or if the election district so specified is not one to which such records properly may be transferred for such election, the board of elections shall transfer such record to the election district among those to which it may properly be transferred for such election, which is located in the accessible polling place closest to the residence of the applicant.

4. If such registration records are in the form of registration poll records, the board of elections, before transferring any such registration record, shall make a photocopy thereof. Such photocopies shall be kept on file in the offices of such board in case such registration poll record is lost.

5. Upon removing such a registration poll record from a poll ledger, the board of elections shall insert in such poll ledger at the place where such registration poll record was filed, a form giving the name and address of the voter, stating that the registration poll record was moved pursuant to the provisions of this section and giving the number of the election district to which such registration poll record was moved and the location of the polling place for such election district.

6. If such registration records are kept in the form of computer generated registration lists, the board of elections at the time such registration record is transferred, shall cause to be entered on the

computer generated registration at the place where such registration record would have appeared, the name and address of the voter but without the computer reproduced facsimile of the voter's signature and either a notation that such record was moved pursuant to the provisions of this section together with the number of the election district to which such record was moved and the location of the polling place for such election district or a notation stating where, in such computer generated registration list, such information is provided.

7. Not later than ten days before each election, the board of elections shall mail to each voter who has made application pursuant to the provisions of this section, by first class mail, information specifying the number and location of the election district to which his records have been transferred or that there is no election district to which such records may properly be transferred which is located in an accessible polling place.

8. If the board determines that there is no election district in an accessible polling place to which such voter's record may properly be transferred for a particular election, it shall treat the application of such voter as an application for an absentee ballot for such election and forthwith mail such absentee ballot to such voter at his residence address together with the notice required by subdivision seven of this section.

9. The board of elections shall compile a list, arranged by election districts of residence, of the names and addresses of all voters whose registration records have been moved pursuant to the provisions of this section and the number of the election district to which such registration record was moved. Not later than six days before election day, the board of elections shall send a copy of such list to the county chairman of each party. Such list shall be a public record at the office of such board of elections.

10. The state board of elections shall prescribe a standard form of application for use under this section and all forms necessary to carry out the provisions of this section.

**§ 5-602. Lists of registered voters; publication of.** 1. After the last day of local registration and before the sixth day before the next ensuing general election in each year, the board of elections shall cause to be published a complete list of names and residence addresses of the registered voters for each election district over which the board has jurisdiction. The names for each election district may be arranged according to street and number or alphabetically. Each list shall be prepared in such a manner as to indicate the registrants whose names did not appear on the list of registered voters last published pursuant to the provisions of this section. Lists for all election districts in a ward or assembly district may be bound together in one volume.

2. The board of elections shall cause a list to be published for each election district over which it has jurisdiction.

3. The board of elections shall prepare at least fifty copies of such pamphlet and shall send at least one copy of each such list to the state board of elections, at least two copies to the county chairman of each political party, and shall keep at least five copies for public inspection at each main office or branch of the board. Other copies shall be sold at a charge not exceeding the cost of publication.

§ 5-604. **Enrollment lists; publication of.** 1. The board of elections shall also cause to be published for each election district a complete list of the registered voters of each election district. Such list shall, in addition to the information required for registration lists, include the party enrollment of each voter. At least as many copies of such list shall be prepared as the required minimum number of registration lists.

Lists for all election districts in a ward or assembly district may be bound together in one volume. Such lists shall be published before the first day of April except that in a year in which any primary is held before the first day of July such lists shall be published before the first day of March. The board shall keep at least five copies for public inspection at each main office or branch office of the board. Surplus copies of the lists shall be sold at a charge not exceeding the cost of publication.

2. Immediately after the publication of such lists the board shall send at least one true copy, duly certified, of each such list to the chairman of the state committee of each political party and to the county chairman of each party and to the state board of elections.

§ 5-606. **Lists; certification of.** 1. The board of elections shall certify to the correctness of any transcript of original registration or enrollment entries, or of any part thereof, on the payment of one cent for every twenty names contained in the transcript.

2. The board of elections shall on request give to any enrolled voter a certificate of enrollment which shall specify the name of the party with which he is enrolled, the date of enrollment and the election district in which such voter is enrolled.

§ 5-608. **Replacement of registration and enrollment records; damaged, unusable or lost.** 1. If the registration or enrollment records of any voter shall be lost, mutilated, defaced or destroyed, the board of elections shall, except as provided in subdivision two hereof, require him to reregister or reenroll. Such reregistration or reenrollment shall be deemed to have taken effect as of the date of the original registration or enrollment.

2. If one or both of the registration records of the voter are still in the possession of the board of elections and it is possible therefrom to duplicate the lost or damaged record, the board of elections shall prepare a new record containing all the information required, using the original serial number, and shall paste photostatic copies of the voter's signature in each space on the new record where his signature was placed on the original record.

3. When the spaces for signature or for other entries, on a registration poll record are filled so as to render a record no longer usable, the board of elections shall prepare a second poll record. All pertinent information shall be copied from the original poll record on to the second poll record. The registration signature on the original poll record shall be photostated and pasted on the back in the space for the registration signature on the second poll record. Within the space reserved for remarks shall be imprinted "Record Continued—2nd Poll Record", or "3rd Poll Record", as appropriate.

4. The active but unusable poll record shall be kept in a special file for active continued registrations until such time as the next poll record may be cancelled at which time the poll records are stamped "cancelled" and fastened together when placed in the cancellation file.

5. All mutilated or defaced registration records which are replaced by new records under the provisions of this section shall be stamped across the face with the words "Record Replaced", without obliterating any of the entries thereon and shall be kept on file by the board of elections.

6. If the records of an entire election district or a large segment thereof are lost, mutilated, defaced or destroyed, or are determined by the board of elections to be so inaccurate or incomplete as to be unusable, such board may, upon due notice, require re-registration of all qualified voters resident within such district. In such event, the board shall fix and determine additional days of local registration for such re-registration.

**§ 5-610. Registration records; new election district.** When an election district is created, abolished or altered in any way, the board of elections shall do all things necessary to transfer the affected registration records to conform to the new plan of election districts and shall make all necessary changes in the designation of the election district and political subdivision on the registration record of each voter affected. At least twenty days before the next election, after such new plan of election districts has been effected, the board of elections shall mail a written notice to each affected registered voter notifying him of the designation of the new political subdivision, if any, and the number of the election district to which his registration record

has been transferred, and if available, the address of his polling place.

§ 5-612. **Registration records; use by town or village clerks and for school district, improvement district and fire district elections.** 1. The board of elections shall, not later than the twentieth day before a special town election and not later than the [twelfth] *seventh* day before a village election, conducted by the village clerk, provide a list of registered voters or shall place registration poll records in properly locked ledgers in the temporary custody of the town or village clerk for the purpose of permitting him to copy such records or to deliver such records for village election purposes to the board of inspectors of the several polling places in the election districts as provided by this chapter. The board of elections shall indicate on such list, or on a separate accompanying list, the names of those voters whose registration records have been marked "permanently disabled".

2. Notwithstanding the provisions of sections nineteen hundred six, twenty hundred fourteen and twenty-six hundred six of the education law with respect to registration of voters, any person, otherwise qualified to vote who is registered under the provisions of this article shall be entitled to vote at all school district meetings or elections without further registration.

3. Whenever a school district meeting or election is scheduled, the board of elections for the appropriate county or counties shall deliver the registration lists indicating on such list or on a separate accompanying list the names of those voters whose registration record has been marked "permanently disabled", for the appropriate election districts or those portions of the election districts encompassing the school district to the appropriate officials of such school district as soon as possible upon request of the appropriate officials, but no later than the thirty days immediately prior to the regularly scheduled school district election, provided further, that such board of elections shall deliver no later than ten days prior to each such special or regular school district election supplemental registration lists containing the names of those voters who have registered after delivery of the first registration lists and who are eligible to vote in such elections indicating on such list or on a separate accompanying list the names of those voters whose registration record has been marked "permanently disabled".

4. Within five days of the adoption by a board of education of a resolution in accordance with subdivisions one and three of section two thousand fourteen of the education law, such board of education shall notify the appropriate board of elections of such adoption.

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[Matter in *italics* is new.]

5. The board of education of a school district which has adopted such a resolution shall, not less than forty-five days before each regularly scheduled school district meeting or election and fourteen days before any such special meeting or election notify the board of elections of the date of such meeting or election.

6. The board of elections, upon the request of the board of commissioners of an improvement district which elects commissioners or a fire district shall, not later than the twenty-first day before each election in such district, deliver to the secretary of such district a list of persons registered to vote as of the twenty-third day before such election in the election districts contained in such district or shall place the registration poll records for such election districts in properly locked ledgers in the temporary custody of such district secretary for the purpose of permitting him to copy such records.

[Subd. 1 amended by chap. 217, Laws of 1992. Takes effect December 1, 1992.]

## TITLE VII

### CHECKS AGAINST FRAUDULENT PRACTICES

- Section 5-700. Checks on registration.  
 5-702. Voters' check cards; investigation.  
 5-704. Prior registration; investigation of.  
 5-706. Absentee voter's ballots; undeliverable.  
 5-708. Change of voter status; reports of.  
 5-710. Check of registrants; personal.  
 5-712. Check of registrants; mail.

§ 5-700. **Checks on registration.** The board of elections shall permit only those persons to register or to remain registered who have the qualifications prescribed by this article.

§ 5-702. **Voter's check cards; investigation.** 1. The board of elections shall cause a bipartisan team of regular or special employees of such board to conduct an investigation of the qualifications to register and vote, or cause a voter's check card to be prepared for each voter who was registered after being challenged or who was challenged after registration and, if requested by any member of the board, for any other voter. The board shall forthwith deliver each such voter's check card to the head of the police department in the city, town or village in which the voter resides, or, if there be no such police department, to the sheriff or head of the police department of the county. The board shall make and retain an inventory list of all cards so delivered.

2. The head of the police department or sheriff, forthwith shall cause an investigation to be made to determine, in each instance, whether the registrant resides, and how long he has resided, at the address at which he claims a residence, and to check the facts relating to why the voter was challenged. Such investigation shall

be completed within five days after receipt of such check cards. Each check card shall be signed with the title or rank, badge number, if any, and signature of the police officer, sheriff or deputy making the investigation, who shall note above such signature whether he personally interviewed the registrant and, if not, the full name of at least one other person whom he personally interviewed at the registrant's claimed residence or place of employment; the place, date and hour of such interview; the family relationship, if any, between the registrant and the person interviewed; and any reason he may have to believe that the registrant does not reside at the address given or does not possess the qualifications prescribed by this chapter for eligibility for registration. If he is satisfied that the registrant resides at such address and does possess such qualifications he shall write the word "valid" above his signature. If the officer charged with or actually making such investigation knows of his personal knowledge that the registrant is a qualified voter in the election district in which such registrant claims a residence, he may, without further investigation, endorse on such check card, above his title or rank, badge number, if any, and signature, the words "Valid; Personal knowledge." Such endorsement shall be considered for all purposes as a statement under oath by such officer that the registrant is qualified to vote from the residence claimed.

3. No later than the sixth day after receipt of such check cards from the board of elections the head of the police department or sheriff shall return them, in sealed wrappers and in each instance endorsed as required by subdivision two of this section, to the board of elections. Each wrapper shall contain all of the check cards for a single election district, alphabetically arranged in two groups. The first group shall contain all the check cards marked "Valid" or "Valid: Personal knowledge." The second group shall contain the remainder of such check cards. On the face of the wrapper such forwarding officer shall cause to be noted his name and the title of his office, the city, town or village, assembly district or ward, if any, and the election district of the cards in the wrapper, the total number of check cards marked "Valid" and "Valid; Personal knowledge", the number of other check cards, and the total of all check cards contained in such wrapper. With each such wrapper the forwarding officer shall present to the board of elections a receipt, containing the information required to be stated on such wrapper. The original of such receipt shall be retained by the forwarding officer. The duplicate of such receipt shall be filed in the board of elections.

4. The board of elections forthwith shall compare such check cards for each election district with the inventory list prepared as directed by subdivision one of this section, the certificates executed by the registration board, the challenge affidavits executed in such district and returned to the board of elections and the registration



cards of all applicants for whom check cards were executed and shall investigate any discrepancies.

5. The board of elections shall file all such check cards which are marked "Valid" or "Valid: Personal knowledge" in a separate file maintained by it for such purpose. Within such file, all cards shall be arranged by election districts and alphabetically within such districts.

6. The board of elections shall likewise file all such check cards which are not marked "Valid" or "Valid: Personal knowledge" in a separate file or ledgers maintained by it for such purpose.

6-a. The board shall forthwith proceed, in accordance with the powers granted to it, and based on the information contained on such check cards or the information obtained from any investigation conducted by its own employees, to cancel the registration of a registered voter it believes is no longer qualified to vote. It shall make a final determination prior to the next ensuing election and the registration of any such person who is found not entitled to be registered shall be cancelled prior to such election. The board shall forthwith send to each person whose registration is so cancelled, a notice by first class mail of the fact of such cancellation, the reasons therefore and appropriate information concerning such person's right to contest such cancellation.

7. Such determination shall be noted on the affected person's check card. If it is determined that the registration is valid, such card shall then be filed in the file of cards of registered voters. If it is determined that the registration should be cancelled, the board shall note the fact and date of cancellation on his check card. The board shall file such cards, alphabetically arranged for the entire county, in a separate file.

8. Whenever it appears to the satisfaction of a board of elections that any voter or witness has made a false statement, whether or not under oath, affecting his qualifications to be registered or has given false testimony at any hearing affecting such registration, such board forthwith shall forward such statement or testimony to the district attorney and the district attorney forthwith shall present the matter to the grand jury.

9. If any such determination cannot be made or is not made prior to the next ensuing election, the board shall place the name of the affected registrant upon a challenge report.

10. Check cards. The state board of election shall prescribe a form of registration check card for use pursuant to this article.

**§ 5-704. Prior registration; investigation of.** 1. Where it appears from information required to be filed with the board of elections that a registered voter has previously registered or voted in another election district, the board of elections shall take the following steps:

2. If an applicant for registration was last registered in the same county, or in the city of New York, in any county of such city, the board of elections shall cancel his earlier registration unless it has been previously cancelled. The board shall also enter the registrant's new residence address on the face of each of his cancelled registration records.

3. If an applicant for registration shall give as the last address from which he registered or voted an address in a different county in the state of New York and not in the same city, it shall be the duty of the board of elections, within three days thereafter, to communicate with the board of elections for the county in which he alleges that he last registered or voted, informing such board of elections of his new residence address, and the address and year of his alleged last previous registration or voting. It shall be the duty of the board of elections thus communicated with to examine forthwith the previous registration record of the affected person, to cancel such previous registration if it is still in effect, and to enter the voter's new residence address and county of new registration in the registration remarks space on the registration records of his previous registration.

§ 5-706. **Absentee voter's ballots; undeliverable.** If an absentee voter's ballot sent to a voter is returned as undeliverable, the board of elections shall cause an investigation of the applicant for an absentee ballot to be made and shall cancel the voter's registration if he is found to be no longer qualified. If such investigation is not completed by seven days before election day, the board of elections shall place such voter's name on a challenge list to be furnished to the board of inspectors on election day.

§ 5-708. **Change of voter status; reports of.** 1. It shall be the duty of the state health department and the department of health of the city of New York to deliver to the state board of elections, at least semi-annually, records, in a format as mutually determined by both agencies, of the names of all persons of voting age for whom death certificates were issued. Such records shall be arranged by county of residence and shall include the name, residence and address and birth date of each such person.

2. It shall be the duty of every court which authorizes a legal change of name to notify the appropriate board of elections of such change of name of any person residing within the jurisdiction of such board. Upon receipt of any such notice the board shall ascertain whether the person so affected is registered and if so shall enter the fact in the remarks space on the face of each of his registration records. They shall also enter the fact in the third section of the challenge report as directed. Such entries shall serve as authorization for such person to vote under the legally changed name.

3. It shall be the duty of every court having jurisdiction over such matters to notify the appropriate board of elections of all convictions or revocations of probation or conditional discharge resulting in loss of voting privileges of persons residing within the jurisdiction of such board.

4. It shall be the duty of every court having jurisdiction over such matters to notify the appropriate board of elections upon the adjudication of any person of voting age as incompetent.

5. The state board of elections shall make such arrangements with the appropriate federal agency as it finds possible for the regular receipt by boards of elections of official information as to naturalizations, convictions resulting in loss of voting privileges and permanent change of address of persons residing within the jurisdiction of such boards.

6. It shall be the duty of all officers acting as or performing duties as clerk of a city council, town or village board to notify the appropriate board of elections of any action by such city, town or village which shall affect or change the name of any street located within such election district. Upon receipt of such information the board of elections shall make the necessary changes in the addresses of the persons appearing upon the registry book in the election district.\* wherein such change of street name was effected.

7. The real property assessment bureau of the department of finance of the city of New York shall notify the board of elections in the city of New York of each residence which, because of abandonment, demolition or vacancy, no longer contains a potential voter.

8. It shall be the duty of the department of motor vehicles to deliver to the state board of elections, at least semi-annually, records, in a format as mutually determined by both agencies, of the names of all licensed drivers of voting age who have voluntarily surrendered their New York state drivers licenses in order to obtain a license in another state. Where feasible the department of motor vehicles shall also deliver records of the names of all licensed drivers of voting age who have notified the department of a change of residence address. Such records shall be arranged by county of old residence and shall include the name, birth date and old residence address of each such person and the new residence address of each such person who moved within New York state.

[Old subd. 1 REPEALED by chap. 413, Laws of 1991.]

**§ 5-710. Check of registrants; personal.** 1. A special door to door check of all the registered voters in any or all of the election districts including election districts previously checked shall be conducted in any year upon the written filed request of

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\* So in original.

any one member of the board of elections. The board of elections shall employ a sufficient number of employees for the purpose of conducting such checks.

2. The board shall supply such employees with copies of the most recent registration list prepared for such election district under check as corrected by the board to reflect new registrations and cancellations occurring since the publication thereof. Such check shall be performed by two employees of the board representing the major political parties and they shall submit to the board of elections on or before a date fixed by the board, a report signed by each of them. Such signed report shall be accepted for all purposes as the equivalent of an affidavit, and if it contains any material false statement, shall subject the persons who sign the report to the same penalties as if each had been duly sworn and such provision shall be printed in bold type directly above the signature lines on such report. At the end of the ensuing period of local registration in such years, the board of elections shall forthwith prepare a supplementary list of all voters registered for the first time during such period of local registration in the election districts so canvassed and shall direct the conduct of a similar check of all such voters.

3. Whenever it appears from the report that a registered voter is no longer qualified the board shall proceed to cancel his registration in the manner provided for herein.

§ 5-712. **Check of registrants; mail.** 1. The board of elections, not less than forty days nor more than forty-five days before the first day of local registration in each year, shall send by first class mail on which is endorsed "ADDRESS CORRECTION REQUESTED", a communication to every registered voter in each election district, notifying him that such communication is a routine check to ascertain whether such voter still resides at his registration address. The communication shall notify the voter of the days and hours of the ensuing primary and general elections, the place where he appears by his registration records to be entitled to vote, the fact that voters who have moved or will have moved from the address where they were last registered or, in the year after an election at which electors of president and vice president were elected voters who have not voted in such last two presidential elections or any other election between such presidential elections, must re-register or transfer their registration and enrollment and, if the location of the polling place for such election district has been moved, the communication shall contain the following legend in bold type: "YOUR POLLING PLACE HAS BEEN CHANGED. YOU NOW VOTE AT.....", whether his polling place is accessible to physically disabled voters, an indication that a voter who will be out of the city or county on the day of the primary or general election or a voter who is ill or physically disabled may obtain an absentee ballot, an indication that a physically disabled

voter whose polling place is not accessible may request that his registration record be moved to an election district which has a polling place which is accessible, the phone number to call for applications to move a registration record or for absentee ballot applications, the phone number to call for the location of registration and polling places, the phone number to call to indicate that the voter is willing to serve on election day as an election inspector, poll clerk, interpreter or in other capacities, the phone number to call to obtain an application for registration by mail, and such other information concerning the elections or registration as the board may include. Within one week after the conclusion of local registration, the board of elections shall send a similar communication to every voter registered at such local registration, omitting therefrom the information concerning the primary election.

2. Whenever a ballot proposal is to be submitted to the people for approval at any election, the board of elections may send to every registered voter, by the same mail containing the communication required by this section, a copy of the abstract of such ballot proposal.

3. Whenever such a communication shall be returned as undeliverable the board shall proceed forthwith, in accordance with the powers granted to it by this chapter, to determine whether the registration of the affected person shall be cancelled. However, the return of such a communication which has been sent to a person who has indicated a post office address in addition to a residence address pursuant to paragraph d of subdivision four of section 5-500 of this article, shall not be deemed presumptive evidence that the person no longer resides for voting purposes at the residence address listed in accordance with such paragraph and the board of elections shall conduct such further inquiries as are necessary to determine if such voter still resides at such residence address.

4. If any such determination cannot be made or is not made prior to the next ensuing general election, the board shall place the name of the affected registrant upon the challenge report required by this chapter.

5. Each year, in the month of December, the commissioners of every local board of elections shall file with the state board of elections, on a form provided therefor by such state board, a statement setting forth the approximate number of communications mailed pursuant to the requirements of this section and the approximate number of such communications returned by the post office. Such statement shall be sworn or subscribed to and bear a form notice that false statements made therein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law. The failure of a local board of elections to file such a certificate in any year, within the time prescribed, shall create a presumption

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that such board of elections did not mail such communications in such year. Not later than January thirty-first of each year, the state board of elections shall publish a chart listing, by county, the numbers contained in the certificates required to be filed by each local board of elections in December of the previous year pursuant to the provisions of this subdivision.

## ARTICLE 6

## DESIGNATION AND NOMINATIONS OF CANDIDATES

- Title I.  
II. Village Elections

## TITLE I

- Section \*6-100. Nomination and designations; generally.  
6-102. Party nominations; electors, presidential.  
6-104. Party designations; statewide office.  
6-106. Party nominations; justice of the supreme court.  
6-108. Party nominations; towns.  
6-110. Party nominations; public office.  
6-112. Repealed.  
6-114. Party nominations; special election.  
\*6-116. Party nominations; election to fill vacancy.  
6-118. Designation and nomination by petition.  
6-120. Designation and nomination; restrictions.  
6-122. Designation or nomination; eligibility, restrictions.  
6-124. Conventions; judicial.  
6-126. Conventions; rules for holding.  
6-128. New party; first nominations by.  
6-130. Designating petition; form witness, qualification.  
6-132. Designating petition; form.  
6-134. Designating petitions; rules.  
6-136. Designating petitions; number of signatures.  
6-138. Independent nominations; rules.  
6-140. Independent nominations; form of petition.  
6-142. Independent nominations; number of signatures.  
6-144. Nominating and designating petitions and certificates; place for filing.  
6-146. Nomination and designation; declination or acceptance.  
6-147. Multiple designations of a candidate for a party position.  
6-148. Nomination and designation; filling vacancies.  
6-150. Nomination; vacancy caused by death or disqualification, unfilled at time of general or special election.  
6-152. Vacancies caused by death or disqualification and unfilled at time of primary election.  
6-153. Certificate of candidacy by write-in candidates for president and vice president.  
6-154. Nominations and designations; objections to.

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\* So in original, does not agree with section headings in text of Law.

- 6-156. Party nominations; certification.
- 6-158. Nominating and designating petitions and certificates, conventions; times for filing and holding.
- 6-160. Primaries.
- 6-162. Primary; New York city, run-off.
- 6-164. Primary, uncontested; opportunity to ballot.
- 6-166. Primary; opportunity to ballot, form of petition.
- 6-168. Designating petitions; candidates for the office of judge of the civil court of the city of New York.

## TITLE I

§ 6-100. **Nominations and designations; generally.** Nomination and designation of candidates for election to public office or party position are governed by this article.

§ 6-102. **Party nominations; electors, presidential.** Party nominations of candidates for the office of elector of president and vice president of the United States, one for each congressional district and two at large, shall be made by the state committee.

§ 6-104. **Party designation; statewide office.** 1. Party designation of a candidate for nomination for any office to be filled by the voters of the entire state shall be made by the state committee.

2. The state committee shall make a decision by majority vote. The person receiving the majority vote shall be the party's designated candidate for nomination, and all other persons who shall have received twenty-five percent or more of the vote cast on any ballot shall have the right to make written demand, duly acknowledged, to the state board of elections that their names appear on the primary ballot as candidates for such nomination. Such demand shall be made not later than seven days after such meeting and may be withdrawn in the same manner within fourteen days after such meeting.

3. In the absence of a party rule forming and designating the members of a committee to fill any vacancy in designations which may occur after the state committee has adjourned its meeting and before the primary election, the state committee shall also enact a resolution forming such a committee and selecting the members of same.

4. Upon the vote for such designation, each member of the state committee shall be entitled to cast a number of votes which shall be in accordance with the ratio which the number of votes cast for the party candidate for governor on the line or column of the



party at the last preceding general state election in the unit of representation of such member bears to the total vote cast on such line or column at such election for such candidate in the entire state. The apportionment of such votes as so prescribed shall be determined by the rules of the party.

5. Enrolled members of the party may make other designations by petition for a member of the same party.

6. The meeting of the state committee for the purpose of designating candidates shall be held not earlier than [seven] *twenty-one* days before the first day to sign designating petitions and not later than the first day to sign designating petitions for the primary election.

7. Within four days after such meeting, the state committee shall file with the state board of elections.

(a) The names of persons who have received the designation of the state committee and the offices for which designated, and the name of each person who received twenty-five percent or more, of the vote on any ballot and the offices for which they receive such vote.

(b) The names of the persons selected as the committee to fill vacancies or a certified copy of the party rule forming and empowering such a committee to fill vacancies.

8. No person may be designated by a state committee for more than one statewide office pursuant to the provisions of this section.

[Subd. 6 amended by chap. 79, Laws of 1992.]

**§ 6-106. Party nominations; justice of the supreme court.** Party nominations for the office of justice of the supreme court shall be made by the judicial district convention.

**§ 6-108. Party nominations; towns.** 1. In any town in a county having a population of over seven hundred fifty thousand inhabitants, as shown by the latest federal decennial or special population census, party nominations of candidates for town offices shall be made at the primary preceding the election. In any other town, nominations of candidates for town offices shall be made by caucus or primary election as the rules of the county committee shall provide, except that the members of the county committee from a town may adopt by a two-thirds vote, a rule providing that the party candidates for town offices shall be nominated at the primary election. If a rule adopted by the county committee of a political party or by the members of the county committee from a town, provides that party candidates for town offices, shall be nominated at a primary election, such rule shall not apply to nor affect a primary held less than four months after a certified copy of the rule shall have been filed with the board of elections.

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[Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.]

After the filing of such a rule, the rule shall continue in force until a certified copy of a rule revoking the same shall have been filed with such board at least four months before a subsequent primary.

2. In the event that there is no town committee with a chairman, the chairman of the county committee or such other person or body as the rules of such committee may provide, shall designate an enrolled member of the party who is a qualified voter of such town as the town caucus chairman to convene such caucus and give notice thereof.

3. A notice of any party caucus held for making party nominations of candidates for town offices shall be given by proper party authorities either by newspaper publication thereof once within the town at least one week and not more than two weeks preceding the caucus, or by posting in ten public places in the town at least ten days preceding the caucus. The notice shall specify the time and place or places, and the purpose of the caucus. There shall be a chairman and secretary, and there may be tellers, for each such caucus, and they shall take the constitutional oath of office before acting. No person shall participate in such a caucus for the nomination of candidates for town offices, unless he shall appear as an enrolled party voter on the transcript of enrollments from the registration poll ledger. Town caucuses described in this section shall be held at the expense of the party. Subject to the foregoing provisions, the county committee of the county containing a town may prescribe rules governing the conduct of party caucuses described in this section.

§ 6-110. **Party nominations; public office.** All other party nominations of candidates for offices to be filled at a general election, except as provided for herein, shall be made at the primary election.

§ 6-114. **Party nominations; special election.** Party nominations for an office to be filled at a special election shall be made in the manner prescribed by the rules of the party.

§ 6-116. **Party nominations; election to fill a vacancy.** A party nomination of a candidate for election to fill a vacancy in an elective office required to be filled at the next general election, occurring after seven days before the last day for circulating designating petitions or after the holding of the meeting or convention to nominate or designate candidates for such office, shall be made, after the day of the primary election, by a majority vote of a quorum of the state committee if the vacancy occurs in an office to be filled by all voters of the state, and otherwise by a majority vote of a quorum of the members of a county committee or committees last elected in the political subdivision in which such vacancy is to be filled, or by a majority of such other

committee as the rules of the party may provide. A certificate of nomination shall be filed as provided for herein.

**§ 6-118. Designation and nomination by petition.** Except as otherwise provided by this article, the designation of a candidate for party nomination at a primary election and the nomination of a candidate for election to a party position to be elected at a primary election shall be by designating petition.

**§ 6-120. Designation and nomination; restrictions.** 1. A petition, except as otherwise herein provided, for the purpose of designating any person as a candidate for party nomination at a primary election shall be valid only if the person so designated is an enrolled member of the party referred to in said designating petition at the time of the filing of the petition.

2. Except as provided in subdivisions three and four of this section, no party designation or nomination shall be valid unless the person so designated or nominated shall be an enrolled member of the political party referred to in the certificate of designation or nomination at the time of filing of such certificate.

3. The members of the party committee representing the political subdivision of the office for which a designation or nomination is to be made, unless the rules of the party provide for another committee, in which case the members of such other committee, and except as hereinafter in this subdivision provided with respect to certain offices in the city of New York, may, by a majority vote of those present at such meeting provided a quorum is present, authorize the designation or nomination of a person as candidate for any office who is not enrolled as a member of such party as provided in this section. In the event that such designation or nomination is for an office to be filled by all the voters of the city of New York, such authorization must be by a majority vote of those present at a joint meeting of the executive committees of each of the county committees of the party within the city of New York, provided a quorum is present at such meeting. The certificate of authorization shall be filed not later than four days after the last day to file the designating petition, certificate of nomination or certificate of substitution to which such authorization relates. The certificate of authorization shall be signed and acknowledged by the presiding officer and the secretary of the meeting at which such authorization was given.

4. This section shall not apply to a political party designating or nominating candidates for the first time, to candidates nominated by party caucus, nor to candidates for judicial offices.

**§ 6-122. Designation or nomination; eligibility, restrictions.** A person shall not be designated or nominated for a public office or party position who (1) is not a citizen of the state of

New York; (2) is ineligible to be elected to such office or position; or (3) who, if elected will not at the time of commencement of the term of such office or position, meet the constitutional or statutory qualifications thereof.

§ 6-124. **Conventions; judicial.** A judicial district convention shall be constituted by the election at the preceding primary of delegates and alternate delegates, if any, from each assembly district or, if an assembly district shall contain all or part of two or more counties and if the rules of the party shall so provide, separately from the part of such assembly district contained within each such county. The number of delegates and alternates, if any, shall be determined by party rules, but the number of delegates shall be substantially in accordance with the ratio, which the number of votes cast for the party candidate for the office of governor, on the line or column of the party at the last preceding election for such office, in any unit of representation, bears to the total vote cast at such election for such candidate on such line or column in the entire state. The number of alternates from any district shall not exceed the number of delegates therefrom. The delegates certified to have been elected as such, in the manner provided in this chapter, shall be conclusively entitled to their seats, rights and votes as delegates to such convention. When a duly elected delegate does not attend the convention, his place shall be taken by one of the alternates, if any, to be substituted in his place, in the order of the vote received by each such alternate as such vote appears upon the certified list and if an equal number of votes were cast for two or more such alternates, the order in which such alternates shall be substituted shall be determined by lot forthwith upon the convening of the convention. If there shall have been no contested election for alternate, substitution shall be in the order in which the name of such alternate appears upon the certified list, and if no alternates shall have been elected or if no alternates appear at such convention, then the delegates present from the same district shall elect a person to fill the vacancy.

§ 6-126. **Conventions; rules of holding.** 1. The time and place of meeting of a convention shall be fixed, with the times prescribed herein, by a committee appointed pursuant to the rules of the state committee. The room designated for the meeting place of a convention shall have ample seating capacity for all delegates and alternates. Every convention shall be called to order by the chairman of the committee from which the call originates or by a person designated in writing for that purpose by such chairman, or, if he fails to make such designation, then, by a person designated in such manner as the rules of the party shall prescribe. Such chairman or person designated shall have the custody of the roll of the convention until it shall have been organized. No such

convention shall proceed to the election of a temporary chairman or transact any business until the time fixed for the opening thereof nor until a majority of the delegates or respective alternates named in the official roll shall be present. The roll call upon the election of a temporary chairman shall not be delayed more than one hour after the time specified in the call for the opening of the convention, provided a majority of delegates, including alternates sufficient to make up such majority by substitution, are present. The person who calls the convention to order shall exercise no other function than that of calling the official roll of the delegates upon the vote for temporary chairman and declaring the result thereof.

2. The temporary chairman shall be chosen upon a call of the official roll. The committees of the convention shall be appointed by the convention, or by the temporary chairman, as the convention may order. Where only one candidate is placed in nomination for any office, the vote may be taken viva voce. When more than one candidate is placed in nomination for an office the roll of the delegates shall be called and each delegate when his name is called shall arise in his place and announce his choice, except that the chairman of a delegation from any unit of representation provided for by party rules, unless a member of such delegation objects, may announce the vote of such delegation. The convention may appoint a committee to nominate candidates to fill vacancies in nominations made by the convention and caused by the death, declination or disqualification of a candidate. The permanent officer shall keep the records of the convention.

Subd. 3 REPEALED by chap. 378, Laws of 1986. Substance of repealed section incorporated into subd. 6 of Sect. 6-158.

**§ 6-128. New party; first nominations by.** 1. When an independent body becomes a party at a general election by qualifying under the requirements set by law, nominations shall, prior to and including the first general election thereafter, be made as provided by the rules of such party. A certificate of such nominations shall contain:

- (a) the name of the party filing the nominations.
- (b) The title of the office for which the nominations is made and the name and residence address of the person so nominated.
- (c) The names of the members of the committee, if any, appointed to fill vacancies in nominations.
- (d) A description and representation of the party's emblem.
- (e) The name of the committee making the nominations.
- (f) A certified copy of the party rules describing the rule-making body and nomination process.
- (g) An affidavit containing a statement by the presiding officer and secretary of the committee that they are such officers and the statements in the certificate are true.

2. The certificate of nomination, with all required information contained therein, shall be filed in the same places and manner as provided for designating petitions, not later than seven weeks preceding the general election, or as otherwise provided herein.

3. After examination, no board or officer shall receive for filing and any such certificate of nomination unless the above requirements have been fulfilled.

4. If there is any question or conflict relating to the rules or the rule-making body, rules which a majority of the candidates of such party who were nominated by petition for offices voted for by all the voters of the state at the general election at which the independent body became a party certify were duly adopted by a properly authorized body shall be deemed to be the rules. The certificate of such candidates describing the rule-making body shall be controlling.

**§ 6-130. Designating petition; form, witness, qualification.** 1. The sheets of a designating petition must set forth in every instance the full name of the signer, his residence address, ward (if any), election district, town or city (except in the city of New York), and the date when the signature is affixed.

2. In the city of New York and in towns in the county of Nassau, the petition must also set forth the assembly district in which the signer resides.

**§ 6-132. Designating petition; form.** 1. Each sheet of a designating petition shall be signed in ink and shall contain the following information and shall be in substantially the following form:

I, the undersigned, do hereby state that I am a duly enrolled voter of the..... and entitled to vote at the next primary election of such party, to be held on ....., 19..; that my place of residence is truly stated opposite my signature hereto, and I do hereby designate the following named person (or persons) as a candidate (or candidates) for the nomination of such party for public office or for election to a party position of such party.

Names of candidates	Public Office or party position	Place of residence (also post office address, if not identical)
.....	.....	.....
.....	.....	.....

I do hereby appoint .. (insert the names and addresses of at least three persons, all of whom shall be enrolled voters of said

party) as a committee to fill vacancies in accordance with the provisions of the election law.

In witness whereof, I have hereunto set my hand, the day and year placed opposite my signature.

Date	Name of Signer	Residence
.....	.....	.....
.....	.....	.....
Ward (if any) or Assembly District (in the city of New York and in towns in the county of Nassau)	Election District	Town or city (except in the city of New York, the county)
.....	.....	.....
.....	.....	.....

2. There shall be appended at the bottom of each sheet a signed statement of a witness who is a duly qualified voter of the state and an enrolled voter of the same political party as the voters qualified to sign the petition, and who is also a resident of the political subdivision in which the office or position is to be voted for. However, in the case of a petition for election to the party position of member of the county committee, residence in the same county shall be sufficient. Such a statement shall be accepted for all purposes as the equivalent of an affidavit, and if it contains a material false statement, shall subject the person signing it to the same penalties as if he had been duly sworn. The form of such statement shall be substantially as follows:

*STATEMENT OF WITNESS*

I, ..... (name of witness) state: I am a duly qualified voter of the State of New York and am an enrolled voter of the .... party. I now reside at ..... (residence address, also post office address if not identical) [which is in the .... (fill in number) election district of the ..... Ward/Assembly district (fill in Ward, if any, otherwise fill in Assembly District where required) in the Town or City of .... (fill in name of city or town) in the County of ..... (fill in name of county)].

Each of the individuals whose names are subscribed to this petition sheet containing .. (fill in number) signatures, subscribed the same in my presence on the dates above indicated and identified himself to be the individual who signed this sheet.

I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false

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[Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.]

statement, shall subject me to the same penalties as if I had been duly sworn.

Date: .....  
Signature

*Witness identification information: The following information must be completed prior to filing with the board of elections in order for this petition sheet to be valid.*

*Ward (if any)  
or Assembly  
District in  
the city of  
New York and  
in towns in  
the County of*

*Election District Nassau Town or City County*

3. In lieu of the signed statement of a witness who is a duly qualified voter of the state qualified to sign the petition, the following statement signed by a notary public or commissioner of deeds shall be accepted:

On the dates above indicated before me personally came each of the voters whose signatures appear on this petition sheet containing ..... (fill in number) signatures, who signed same in my presence and who, being by me duly sworn, each for himself, said that the foregoing statement made and subscribed by him, was true.

Date: .....  
(Signature and official title  
of officer administering oath)

4. In the city of New York, to be accepted for filing, petitions for each party shall be printed on paper of the color which the state board of elections has selected for such party.

5. *The state board of elections shall prepare a sample form of a designating petition which meets the requirements of this section and shall distribute or cause such forms to be distributed to each board of elections. Such forms shall be made available to the public, upon request, by the state board of elections and each such board.*

[Subd. 2 amended and subd. 5 added by chap. 79, Laws of 1992. Takes effect January 1, 1993.]

**§ 6-134. Designating petitions; rules.** 1. A designating petition may designate candidates for nomination for one or more public offices or for nomination for election to one or more party positions, or both, but designations or nominations for which the

[Matter in italics is new.]



petitions are required to be filed in different offices, may not be combined in the same petition. If two or more offices having the same title are to be filled for different terms, the terms of office shall be included as part of the title of the office.

2. Sheets of a designating petition shall be bound together in one or more volumes. The sheets in each volume shall be numbered consecutively at the foot of each sheet, beginning with number one. There shall be a cover sheet attached to each petition consisting of ten or more sheets and each volume thereof. Each cover sheet shall indicate the office for which each designation and nomination is being made, the name and residence address of each candidate, the total number of pages comprising the petition, and the total number of signatures contained in such petition, except that such cover sheet need not contain the names and addresses of candidates for the position of member of the county committee if a list of the names and addresses of such candidates grouped by the election district in which they are candidates is filed together with such petition. If the petition is filed in two or more volumes, the cover sheet for each volume shall also contain the following additional information: the number of the volume, the total number of pages in the volume, the total number of signatures contained in the volume, and the numbers of the first and last pages contained therein. The cover sheet for any volume which contains petitions for the position of member of the county committee in addition to petitions for another office or position, shall also set forth the following information for each election district for which candidates for county committee are contained in such volume: the number of the election district, the numbers of the pages on which such candidates are designated, the total number of such pages and the total number of signatures on such pages. *In those cases when the same candidates appear on each and every sheet of the petition, the total number of pages and the total number of signatures stated on the cover sheet shall be deemed to apply to each such candidate.*

3. All sheets designating the same candidate for nomination for the same public office or party position, when bound together as provided herein, and offered for filing, shall be deemed to constitute one petition for such candidate.

4. The sheets of a petition designating a candidate for an office to be filled by the voters of the entire state shall be filed in volumes separated according to the congressional districts in which are located the residences of the greatest number of signatories on each such sheet. Within each congressional district, the sheets of such petition shall be separated according to the counties in which the greatest number of signatures were obtained. The cover sheet of the petition and each volume shall, in addition to the other information required herein for cover sheets, indicate the

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[Matter in *italics* is new.]

numbers of the congressional districts and the names of the counties contained in each volume.

5. If a voter shall sign any petition or petitions designating a greater number of candidates for public office or party position than the number of persons to be elected thereto his signatures, if they bear the same date, shall not be counted upon any petition, and if they bear different dates shall be counted in the order of their priority of date, for only so many designees as there are persons to be elected.

6. A signature made earlier than thirty-seven days before the last day to file designating petitions for the primary election shall not be counted.

7. The use of titles, initials or customary abbreviations of given names by the signers of, *or witnesses to*, designating petitions *or the use of customary abbreviations of addresses of such signers or witnesses*, shall not invalidate such signatures *or witness statement* provided that the identity of the signer *or witness* as a registered voter can readily be established by reference to the signature on the petition and that of a person whose name appears in the registration poll ledgers.

8. *An alteration or correction of information appearing on a signature line, other than the signature itself and the date, shall not invalidate such signature provided that the information, in its altered or corrected form, is consistent with the requirements of this article.*

[8.]9. A signer need only place his signature upon the petition, and need not himself fill in the other required information.

[9.]10. In the event that the number of signatures indicated on the cover sheet of any petition or volume thereof, understates the number of signatures contained in such petition or volume, such error shall not be the basis for invalidating the petition or volume but the number of signatures indicated on such cover sheet shall be deemed to be the number of signatures in such petition. In such a circumstance, the signatures deemed not to have been filed shall be those at the end of the petition or volume. If the number of signatures in any petition thereof is overstated on the cover sheet, such petition shall not be invalid because of such overstatement, but a number of signatures at the end of such petition or volume equal to the amount of such overstatement shall be deemed not to have been filed. If an overstatement or understatement of the total number of signatures contained in a petition which consists of more than one volume results from an overstatement or understatement of the total number of signatures contained in one or more volumes of such petition, then the number of signatures deemed not to have been filed shall not exceed the number of signatures actually filed in the volumes on

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[Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.]

which there is such an overstatement or understatement. If the overstatement or understatement on any petition exceeds the number of signatures actually filed by more than ten percent and a court of competent jurisdiction, in a proceeding brought pursuant to section 16-102 of this chapter, determines upon proper proof, that such overstatement or understatement was inadvertent, the number of signatures deemed not to have been filed shall be limited to ten percent of the number actually filed.

11. *The failure to list a committee to fill vacancies or the failure to list at least three enrolled voters of the party as a committee to fill vacancies shall not invalidate the petition unless a vacancy occurs which, under law, may be filled only by such a committee.*

12. *A person other than the subscribing witness may insert the information required by the subscribing witness statement, provided that all subscribing witness information required above the subscribing witness' signature is inserted either before such subscribing witness signs the statement or in the presence of such subscribing witness.*

13. *If the number of signatures on any petition sheet, is understated in the witness statement, such petition sheet shall not be invalid solely because of such understatement, but such petition sheet shall be deemed to contain the number of signatures indicated on such witness statement and the signatures at the end of such petition sheet which are in excess of the number so indicated shall be deemed not to have been filed.*

14. *In addition to the requirement for the signature, the printed name of the signer may be added, provided that the failure to provide a place to print the name or failure to print a name if a space is provided shall not invalidate the signature or petition.*

15. *The provisions of subdivisions two and four of this section shall be liberally construed, not inconsistent with substantial compliance thereto and the prevention of fraud. The provisions of this subdivision shall in no way be construed to restrict or expand the construction of any other provision of this chapter or any other requirements applicable to the petition process.*

16. *The state board of elections shall prepare a sample form of a cover sheet which meets the requirements of this section and shall distribute or cause such forms to be distributed to each board of elections. Such forms shall be made available to the public, upon request, by the state board of elections and each board of elections.*

[Section amended and subs. 11, 12, 13 and 14 added by chap. 79, Laws of 1992.]

**§ 6-136. Designating petitions; number of signatures.** 1. Petitions for any office to be filled by the voters of the entire state must be signed by not less than [twenty] *fifteen*

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[Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.]

thousand or five per centum, whichever is less, of the then enrolled voters of the party in the state, of whom not less than one hundred or five per centum, whichever is less, of such enrolled voters shall reside in each of one-half of the congressional districts of the state.

2. All other petitions must be signed by not less than five per centum, as determined by the preceding enrollment, of the then enrolled voters of the party residing within the political unit in which the office or position is to be voted for, provided, however, that for the following public offices the number of signatures need not exceed the following limits:

(a) For any office to be filled by all voters of the city of New York, [ten] *seven thousand five hundred* signatures;

(b) For any office to be filled by all the voters of any county or borough within the city of New York, [five] *four thousand* signatures;

(c) For any office to be filled in the city of New York by all the voters of any municipal court district, one thousand five hundred signatures;

(c-1) For any office to be filled in the city of New York by all the voters of any city council district from which members of the city council other than the president of the council, are elected, nine hundred signatures;

(d) For any office to be filled by all the voters of cities or counties, except the city of New York and counties therein, containing more than two hundred fifty thousand inhabitants according to the last preceding federal enumeration, two thousand signatures;

(e) For any office to be filled by all the voters of cities or counties containing more than twenty-five thousand and not more than two hundred fifty thousand inhabitants, according to the last preceding federal enumeration, one thousand signatures;

(f) For any office to be filled by all the voters of any other city or county, or of a councilmanic district in any city other than the city of New York, five hundred signatures;

(g) For any office to be filled by all the voters of any congressional district, twelve hundred fifty signatures;

(h) For any office to be filled by all the voters of any state senatorial district, one thousand signatures;

(i) For any office to be filled by all voters of any assembly district, five hundred signatures;

(j) For any office to be filled by all the voters of any political subdivision, except as herein otherwise provided, contained within another political subdivision, not to exceed the number of signatures required for the larger subdivision;

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[Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.]

(k) For any other office to be filled by the voters of a political subdivision containing more than one assembly district, county or other political subdivision, not to exceed the aggregate of the signatures required for the subdivisions or parts of subdivisions so contained; and

(l) For any county legislative district, five hundred signatures.

3. The number of signatures on a petition to designate a candidate or candidates for the position of delegate or alternate to a state or judicial district convention or member of the state committee or assembly district leader or associate assembly district leader need not exceed the number required for member of assembly, and to designate a candidate for the position of district delegate to a national party convention need not exceed the number required for a petition for representative in congress.

[Subds. 1 and 2 amended by chap. 79, Laws of 1992. Takes effect January 1, 1993.]

**§ 6-138. Independent nominations; rules.** 1. Independent nominations for public office shall be made by a petition which shall be on white paper, containing the signatures of registered voters of the political unit for which a nomination is made who were registered to vote prior to the first day for signing of independent nominating petitions. The name of a person signing such a petition for an election for which voters are required to be registered shall not be counted, if such person voted at a primary election where a candidate was nominated for an office for which such petition purports to nominate a candidate; or, if the name of a person who has signed such a petition appears upon another valid and effective petition designating or nominating the same or a different person for the same office.

2. Except as otherwise provided herein, the form of, and the rules for a nominating petition shall conform to the rules and requirements for designating petitions contained in this article.

3. *a* The name selected for the independent body making the nomination shall be in English characters and shall not include the name or part of the name or an abbreviation of the name or part of the name, nor shall the emblem or name be of such a configuration as to create the possibility of confusion with the emblem or name of a then existing party, or *the emblem or name of an independent body selected by a previously filed independent nominating petition for the same office.* [If the name or emblem of such petition is the same as any previously filed independent nominating petition, the board of elections shall notify the persons filing such petition not later than two days after the filing of such petition and shall permit the candidates named in such petition to select a new name or emblem within seven days after the date of such notice.]

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[Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.]

b. *Notwithstanding the requirements of paragraph a of this subdivision, if the emblem or name selected for an independent body on any independent nominating petition is the same as that selected by any previously filed independent nominating petition for the same office, the board of elections with which, such later petition was filed shall, not later than two days after the filing of such later filed petition, send notice of such duplicate selection of emblem or name by first-class mail, to the candidate for such office who was nominated by such later filed petition, and that the candidate to whom such notice is required to be sent may file with such board of elections, not later than seven days after such notice was mailed, a certificate selecting a different emblem or name.*

c. *A person who has been nominated or who expects to be nominated as the candidate of an independent body for the office of President of the United States at any election for such office may, not later than three days after the last day to file nominating petitions, file with the state board of elections, a special certificate which shall be irrevocable, stating that such person does not wish to permit candidates for any other office, except the office of Vice-President of the United States, to appear on the ballot with the same name and emblem as the independent body which has nominated or will nominate such candidate for the office of President.*

d. *Not later than seven days after the last day to file nominating petitions, the state board of elections shall notify each local board of elections of the name of each candidate for President of the United States who has filed such a special certificate, together with the name and emblem of the independent body selected on the petition which nominated such candidate.*

e. *If any candidate has been nominated for any other office by a petition which selected the same name or emblem for an independent body as the name or emblem selected on the petition which nominated a candidate for President of the United States who has filed a special certificate pursuant to paragraph c of this subdivision, the board of elections with which the petition nominating such candidate for such other office was filed shall, not later than ten days after the last day to file nominating petitions, send to each such candidate, by first class mail, notice that a special certificate pursuant to paragraph c of this subdivision has been filed and that the candidate to whom such notice is sent may file with such board of elections, not later than seven days after such notice was mailed, a certificate selecting a different name and emblem.*

f. *If such a petition shall not show an emblem, or if the petition shall fail to select a name for such independent body, or if pursuant to the provisions of paragraph b or paragraph e of this subdivision, a candidate shall fail to select another emblem or name for such independent body, the officer or board in whose office the petition*

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[Matter in italics is new.]

is filed shall select an emblem or name or both to distinguish the candidates nominated thereby. The name and emblem shown upon such petition or *selected by a candidate authorized to make such selection by paragraph b or paragraph e of this subdivision, or selected by an officer or board shall also conform to the requirements of this chapter with respect to names or emblems permitted to be selected by a party.*

*g. Nothing contained [herein] in this subdivision shall preclude a court of competent jurisdiction from rejecting an independent nominating petition if [it] the court determines that fraud was involved in the selection of a name or emblem.*

4. A signature made earlier than six weeks prior to the last day to file independent petitions shall not be counted. A signature on an independent petition for a special election made earlier than the date of the proclamation of the governor calling the special election shall not be counted.

[Subd. 3 amended by chaps. 79, 305 and 306, Laws of 1992.]

§ 6-140. **Independent nominations; form of petition.** 1. *a.* Each sheet of an independent nominating petition shall be signed in ink, shall contain the following information and shall be *in* substantially the following form:

I, the undersigned, do hereby state that I am a registered voter of the political unit for which a nomination for public office is hereby being made, that my present place of residence is truly stated opposite my signature hereto, and that I do hereby nominate the following named person (or persons) as a candidate (or as candidates) for nomination for public office (or public offices) to be voted for at the election to be held on the ..... day of ....., 19.., and that I select the name ..... (fill in name) as the name of the independent body making the nomination (or nominations) and ..... (fill in emblem) as the emblem of such body.

Name of Candidate	Public Office	Place of residence (also post office address if not identical)
.....	.....	.....
.....	.....	.....

I do hereby appoint ..... (here insert the names and addresses of at least three persons, all of whom shall be registered voters within such political unit) as a committee to fill vacancies in accordance with the provisions of the election law.

[Matter in *italics* is new.]

In witness whereof, I have hereunto set my hand, the day and year placed opposite my signature.

Date	Name of signer	Residence
.....	.....	.....
.....	.....	.....
Ward (if any) or Assembly District (in the city of New York and in towns in the County of Nassau)	Election District	Town or city (except in the city of New York, the county)
.....	.....	.....
.....	.....	.....

b. There shall be appended at the bottom of each sheet a signed statement of a witness who is a duly qualified voter of the state and who also is qualified to sign the petition. Such a statement shall be accepted for all purposes as the equivalent of an affidavit, and if it contains a material false statement, shall subject the person signing it to the same penalties as if he had been duly sworn. The form of such statement shall be substantially as follows:

**STATEMENT OF WITNESS**

I, ..... (name of witness) state: I am a duly qualified voter of the State of New York and I am also duly qualified to sign the petition. I now reside at .....  
 ..... (residence address, also post office address if not identical) [which is in the .... (fill in number) election district of the ..... Ward/Assembly district (fill in Ward, if any. Otherwise fill in Assembly District where required) in the Town or City of ..... (fill in name of city or town) in the County of ..... (fill in name of county).]

Each of the individuals whose names are subscribed to this petition sheet containing .... (fill in number) signatures, [subscribe] *subscribed* the same in my presence on the dates above indicated and identified himself to be the individual who signed this sheet.

I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn.

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[Matter in *italics* is new; matter in brackets [] is old law to be omitted.]



Date: ..... Signature of Witness

Witness identification information:
The following information must be completed prior to filing with the board of elections in order for this petition sheet to be valid.

Ward (if any) or Assembly District in the city of New York and in towns in the County of Nassau
Election District Nassau Town or City County

Date: ..... (Signature and official title of officer administering oath)

2. In lieu of the signed statement of a witness who is a duly qualified voter of the state qualified to sign the petition, the following statement signed by a notary public or commissioner of deeds shall be accepted:

On the dates above indicated before me personally came each of the voters whose signatures appear on this petition sheet containing ..... (fill in number) signatures, who signed same in my presence and who, being by me duly sworn, each for himself, said that the foregoing statement made and subscribed by him, was true.

3. The state board of elections shall prepare a sample form of an independent nominating petition which meets the requirements of this section and shall distribute or cause such forms to be distributed to each board of elections. Such forms shall be made available to the public upon request, by the state board of elections and each such board.

[Section amended by chap. 79, Laws of 1992.]

§ 6-142. Independent nominations; number of signatures.

1. An independent nominating petition for candidates to be voted for by all the voters of the state must be signed by at least [twenty] fifteen thousand voters, of whom at least one hundred shall reside in each of one-half of the congressional districts of the State.

2. An independent nominating petition for the nomination of candidates for an office to be filled by the voters of any other political unit must be signed by voters numbering five per centum of the total number of votes cast for governor at the last guber-

[Matter in italics is new; matter in brackets [] is old law to be omitted.]

natorial election in such unit, excluding blank and void votes, except that not more than three thousand five hundred signatures shall be required upon any such petition for any office to be filled in any political subdivision of the state wholly outside the city of New York, and not more than the following numbers of signatures shall be required upon any such petition for the following public offices respectively:

(a) for any office to be filled in any county or portion thereof outside the city of New York, one thousand five hundred;

(b) for any office to be filled by all the voters of the city of New York, seven thousand five hundred;

(b-1) for any office to be filled by all the voters of any two counties in such city, [five] *four* thousand[.];

(c) for any office to be filled by all the voters of any county or borough in such city, [five] *four* thousand;

(d) for any office to be filled by all the voters of any municipal court district, three thousand signatures

(d-1) [For] *for* any office to be filled in the city of New York by all the voters of any city council district from which members of the city council other than the president of the council, are elected, two thousand seven hundred;

(e) for any office to be filled by all the voters of any congressional district, three thousand five hundred;

(f) for any office to be filled by all the voters of any state senatorial district, three thousand;

(g) for any office to be filled by all the voters of an assembly district, one thousand five hundred;

(h) for the office of trustee of the Long Island Power Authority, five hundred;

(i) for any office to be filled by the voters of any political subdivision contained within another political subdivision except as herein otherwise provided, not to exceed the number of signatures required for the larger subdivision.

[Section amended by chap. 79, Laws of 1992. Takes effect January 1, 1993.]

**§ 6-144. Nominating and designating petitions and certificates; place for filing.** Petitions, certificates and minutes specified in this article shall be filed in the office of the Board of Elections of the county, except as follows: for an office or position to be voted for wholly within the city of New York in the office of the Board of Elections of that city; for an office or position to be voted for in a district greater than one county, or portions of two or more counties, in the office of the state board of elections; for a village office to be filled in a village election not conducted by the board of elections, in the office of the village clerk. All

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[Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.]

such petitions and certificates shall at the time of filing thereof be endorsed by such officer or board with the day, hour and minute of such filing. Such officer or board shall keep a book, which shall be open to public inspection in which shall be entered the times of filing all such petitions and certificates; the names and residences of all candidates named therein; the names and residences of all candidates certified to such officer or board; the title of the office or party position; the name of the party or independent body to which the petition or certificate relates and a memorandum of any objections to such petition or certificate. Forthwith upon the filing of a petition or certificate designating or nominating a person or persons for public office, such officer or board shall mail notice thereof to each such person. Such notice shall also state the last day to decline such designation or nomination.

**§ 6-146. Nomination and designation; declination or acceptance.** 1. A person designated as a candidate for nomination or for party position, or nominated for an office, otherwise than at a primary election, may, in a certificate signed and acknowledged by him, and filed as provided in this article, decline the designation or nomination; provided, however, that, if designated or nominated for a public office other than a judicial office by a party of which he is not a duly enrolled member, or if designated or nominated for a public office other than a judicial office by more than one party or independent body or by an independent body alone, such person shall, in a certificate signed and acknowledged by him, and filed as provided in this article, accept the designation or nomination as a candidate of each such party or independent body other than that of the party of which he is an enrolled member, otherwise such designation or nomination shall be null and void.

2. If any designation or nomination is declined, the officer or board to whom or which notification thereof is given shall forthwith inform by mail or otherwise the committee authorized to fill the vacancy, that the designation or nomination has been declined, and if such declination is filed with the state board of elections after such board has given official notice, pursuant to the provisions of this chapter, to the several boards of elections that the name of the candidate filing such declination is to appear on a ballot, such board also shall give immediate notice by mail or otherwise that such designation or nomination has been declined, to the several boards of elections which prepare the official ballots for election districts affected by such declination.

3. When a person who was not designated for nomination at a primary election receives a nomination for public office at such primary election, the officer or board with whom or which a designating petition for such an office is required to be filed shall forthwith notify, by mail, such person of his nomination, and that he must decline or accept such nomination in writing as hereinafter provided.

4. A person nominated without designation for public office at a primary election may decline such nomination. A person so nominated for public office by a party of which he is not a duly enrolled member, must decline or accept such nomination, otherwise such nomination shall be null and void. Such declinations or acceptances must be filed not later than five days after the mailing of notification of such nomination by such officer or board. If the nomination is declined the vacancy may be filled not later than three days after such declination shall have been filed in the office of the officer or board.

5. A person who has been nominated for public office by a party and who is thereafter nominated for another office by such party, or who is thereafter nominated by such party to fill a vacancy caused by such a nomination to fill a vacancy by such party, may decline such first nomination not later than the third day after the filing of the certificate of his nomination for such other office, but such a declination shall not be effective if such other nomination by such party is duly declined.

**§ 6-147. Multiple designations of a candidate for a party position.** 1. The name of a person designated on more than one petition as a candidate for a party position to be filled by two or more persons shall be printed on the ballot with the group of candidates designated by the petition first filed unless such person, in a certificate duly acknowledged by him and filed with the board of elections not later than the eighth Tuesday preceding the primary election or five days after the board of elections mails such person notice of his designation in more than one group; whichever is later, specifies another group in which his name shall be printed.

2. A person designated as a candidate for the position of member of the county committee in more than one election district shall be deemed to have been designated in the lowest numbered election district unless such person, in a certificate duly acknowledged by him, and filed with the board of elections not later than the eighth Tuesday preceding the primary election or five days after the board of elections mails such person notice of his designation in more than one election district whichever is later, specifies that he wishes to be deemed designated in a different election district.

3. The board of elections shall forthwith notify each person designated more than once for the same party position in one or more districts of the fact of such designations and of his right to file a certificate pursuant to the provisions of this section, specifying the group or district in which he wishes to be deemed a candidate.

**§ 6-148. Nomination and designation; filling vacancies.** 1. A vacancy in a designation or nomination caused by

declination, where a declination is permitted by this article, or by the death or disqualification of the candidate, or by a tie vote at a primary, may be filled by the making and filing of a certificate, setting forth the fact and cause of the vacancy, the title of the office, the name of the original candidate, if any, and the name and address of the candidate newly designated or nominated.

2. A vacancy in a designation or independent nomination, or in a party nomination made otherwise than at a primary, may be filled by a majority of the committee to fill vacancies shown upon the face of the petition or certificate of the designation or nomination in which the vacancy occurs.

3. A vacancy in a nomination made at a primary, or by a tie vote thereat, may be filled by a majority of the members, of the party committee or committees last elected in the political subdivision in which the vacancy occurs, present at a meeting at which there is a quorum or by a majority of such other committee as the rules of the party may provide.

4. If the vacancy be filled by a committee named in a petition or certificate of nomination, the new certificate shall be signed by a majority of such committee; if filled by any other committee, it shall be signed by the presiding officer and secretary of the committee. Appended to the certificate shall be the affidavit of the persons signing the certificate that they were a majority of such committee, or such officers, as the case may be, and that the statements in such certificate are true.

5. The certificate designating a person to fill a vacancy in a designation or nomination shall have appended thereto his written consent to be so designated or nominated, duly acknowledged.

6. When a certificate of a new designation or nomination shall be filed with the state board of elections after such board has given official notice, pursuant to the provisions of this chapter, to the several boards of elections, of the names to appear on the ballot at the election to which such new designation or nomination applies, such board shall forthwith certify to the proper board of elections the name of the person designated or nominated by such certificate and such other facts as are required to be stated therein.

**§ 6-150. Nomination; vacancy caused by death or disqualification, unfilled at time of general or special election.** If a vacancy shall occur in a nomination, caused by disqualification or death of the candidate subsequent to noon of the Tuesday before a general or special election and prior to the closing of the polls on such election day, such vacancy shall not be filled, and the votes cast for such deceased candidate shall be canvassed and counted, and if he shall receive a plurality of the votes cast, a vacancy shall exist in the office for which such nomination was made to be filled in the manner provided by law for vacancies in office occurring by reason of death after election.

**§ 6-152. Vacancies caused by death or disqualification and unfilled at time of primary elections.** If a vacancy shall occur in a designation of a candidate for nomination or election at a primary election, caused by the death or disqualification of a candidate subsequent to noon of the seventh day before the primary election and prior to the closing of the polls, such vacancy shall not be filled and the votes cast for such deceased or disqualified candidate shall be canvassed and counted, and, if he shall receive a plurality of the votes cast, another candidate may thereafter be nominated or the vacancy filled as provided by law or the rules of the party.

**§ 6-153. Certificate of candidacy by write-in candidates for president and vice president.** 1. Any person who wishes to be a write-in candidate for president of the United States shall, not later than the third Tuesday before the general election, file a certificate of candidacy with the state board of elections.

2. Such certificate shall be signed by such candidate and shall contain the following:

(a) The name and address of the candidate for president.

(b) The name and address of a candidate for vice president of the United States, if any, and a certificate of acceptance signed by such candidate.

(c) The names and addresses of the candidates for electors pledged to such candidate for president, together with a certificate of acceptance and pledge of support signed by each such candidate for elector.

**§ 6-154. Nominations and designations; objections to.** 1. Any petition filed with the officer or board charged with the duty of receiving it shall be presumptively valid if it is in proper form and appears to bear the requisite number of signatures, authenticated in a manner prescribed by this chapter.

2. Written objections to any certificate of designation or nomination or to a nominating or designating petition or a petition for opportunity to ballot for public office or to a certificate of acceptance, a certificate of authorization, a certificate of declination or a certificate of substitution relating thereto may be filed by any voter registered to vote for such public office and to a designating petition or a petition for opportunity to ballot for party position or a certificate of substitution, a certificate of acceptance or a certificate of declination relating thereto by any voter enrolled to vote for such party position. Such objections shall be filed with the officer or board with whom the original petition or certificate is filed within three days after the filing of the petition or certificate to which objection is made, or within three days after the last day to file such a certificate, if no such certificate is filed except that if any person nominated by an independent nominating

petition, is nominated as a party candidate for the same office by a party certificate filed, or a party nomination made after the filing of such petition, the written objection to such petition may be filed within three days after the filing of such party certificate or the making of such party nomination. When such an objection is filed, specifications of the grounds of the objections shall be filed within six days thereafter with the same office or board and if specifications are not timely filed, the objection shall be null and void. Each such officer or board is hereby empowered to make rules in reference to the filing and disposition of such petition, certificate, objections and specifications.

3. When a determination is made that a certificate or petition is insufficient, such officer or board shall give notice of the determination forthwith by mail to each candidate named in the petition or certificate, and, if the determination is made upon specified objections, the objector shall be notified.

**§ 6-156. Party nominations; certification.** 1. Certificates of nominations, made otherwise than at a primary, shall contain the name of the political party making the nomination, the title of the office for which such person is nominated, the name and residence of the nominee, the committee, if any, appointed to fill vacancies in the nominations, and shall be signed by the presiding officer and a secretary of the body making the nomination. When a nomination is made by a committee other than one composed of members of a state committee or a county committee, a certified copy of the rule or resolution constituting such committee, shall, if a copy thereof shall not have been filed previously, be attached to the certificate.

**§ 6-158. Nominating and designating petitions and certificates, conventions; times for filing and holding.** 1. A designating petition shall be filed not earlier than the tenth Monday before, and not later than the ninth Thursday preceding the primary election.

2. A certificate of acceptance or declination of a designation shall be filed not later than the fourth day after the last day to file such designation.

3. A certificate to fill a vacancy in a designation caused by declination shall be filed not later than the fourth day after the last day to decline. A certificate to fill a vacancy in a designation caused by death or disqualification shall be filed not later than ten days after such death or disqualification or four days before the primary election, whichever is earlier.

4. A petition of enrolled members of a party requesting an opportunity to write in the name of an undesignated candidate for a public office or party position at a primary election shall be filed not later than the eighth Thursday preceding the primary

election. However, where a designating petition has been filed and the person named therein has declined such designation and another person has been designated to fill the vacancy, then in that event, a petition for an opportunity to ballot in a primary election shall be filed not later than the seventh Thursday preceding such primary election.

5. A judicial district convention shall be held not earlier than the Tuesday following the third Monday in September preceding the general election and not later than the fourth Monday in September preceding such election.

6. A certificate of a party nomination made other than at the primary election for an office to be filled at the time of a general election shall be filed not later than [the seventh Tuesday preceding such] *seven days after the fall primary* election, except that a certificate of nomination for an office which becomes vacant after the [ninth Tuesday] *seventh day* preceding such *primary* election shall be filed not later than fourteen days after the creation of such vacancy and except, further, that a certificate of party nomination of [candidacy] *candidates* for elector of president and vice-president of the United States shall be filed not later than fourteen days after the fall primary election, and except still further that a certificate of party nomination made at a judicial district convention shall be filed not later than the day after the last day to hold such convention and the minutes of such convention, duly certified by the chairman and secretary, shall be filed within seventy-two hours after adjournment of the convention. A certificate of party nomination for an office to be filled at a special election shall be filed not later than ten days following the issuance of a proclamation of such election.

7. A certificate of acceptance or declination of a party nomination made other than at a primary election for an office to be filled at the time of a general election shall be filed not later than the third day after the last day to file the certificate of such party nomination. A certificate of acceptance or declination of a party nomination for an office to be filled at a special election shall be filed not later than twelve days following the issuance of a proclamation of such election.

8. A certificate to fill a vacancy caused by a declination of a party nomination for an office to be filled at the time of a general election shall be filed not later than four days after the last day to file such declination, except that if such nomination was made at the primary election, such certificate shall be filed not later than ten days after the last day to file such declination. A certificate to fill a vacancy caused by a declination of a party nomination for an office to be filled at a special election shall be filed not later than fourteen days following the issuance of a proclamation

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[Matter in *italics* is new; matter in brackets [] is old law to be omitted.]



of such election. A certificate to fill a vacancy in a nomination caused by death or disqualification shall be filed not later than ten days after such death or disqualification or four days before the election, whichever is earlier.

9. A petition for an independent nomination for an office to be filled at the time of a general election shall be filed not earlier than twelve weeks and not later than eleven weeks preceding such election. A petition for an independent nomination for an office to be filled at a special election shall be filed not later than twelve days following the issuance of a proclamation of such election. A petition for trustee of the Long Island Power Authority shall be filed not earlier than seven weeks and not later than six weeks preceding the day of the election of such trustees.

10. Notwithstanding any other provisions of law, where a vacancy occurs less than fourteen days before the last day for the filing of an independent petition for an office to be filled at the time of a general election, or after the last day to file an independent petition, such petition may be filed for the said office within fourteen days after the vacancy occurs. A certificate of acceptance or declination in such an event shall be filed within two days thereafter and a certificate to fill a vacancy caused by declination shall be filed within two days after such declination has been filed.

11. A certificate of acceptance or declination of an independent nomination for an office to be filled at the time of a general election shall be filed not later than the third day after the eleventh Tuesday preceding such election except that a candidate who files such a certificate of acceptance for an office for which there have been filed certificates or petitions designating more than one candidate for the nomination of any party, may thereafter file a certificate of declination not later than the third day after the primary election. A certificate of acceptance or declination of an independent nomination for an office to be filled at a special election shall be filed not later than fourteen days following the issuance of a proclamation of such election.

12. A certificate to fill a vacancy caused by a declination of an independent nomination for an office to be filled at the time of a general election shall be filed not later than the sixth day after the eleventh Tuesday preceding such election. A certificate to fill a vacancy caused by a declination of an independent nomination for an office to be filled at a special election shall be filed not later than sixteen days following the issuance of a proclamation of such election.

13. If a vacancy occurs too late to comply with the provisions of this section, the certificates of nomination, certificates of acceptance or declination, certificates to fill a vacancy in such nomination and certificates of authorization of a nomination shall be filed as soon as practicable.

14. A vacancy occurring before September twentieth of any year in any office authorized to be filled at a general election, except in the offices of governor, lieutenant-governor, or United States senator shall be filled at the general election held next thereafter, unless otherwise provided by the constitution, or unless previously filled at a special election.

[Subd. 6 amended by chap. 79, Laws of 1992.]

§ 6-160. **Primaries.** 1. If more candidates are designated for the nomination of a party for an office to be filled by the voters of the entire state than there are vacancies, the nomination or nominations of a party shall be made at the primary election at which other candidates for public office are nominated and the candidate or candidates receiving the most votes shall be the nominees of the party.

2. All persons designated for uncontested offices or positions at a primary election shall be deemed nominated or elected thereto, as the case may be, without balloting.

§ 6-162. **Primary; New York City, run-off.** In the city of New York, when no candidate for the office of mayor, city council president or comptroller receives forty percent or more of the votes cast by the members of a political party for such office in a city-wide primary election, the board of elections of such city shall conduct a run-off primary election between the two candidates receiving the greatest number of votes for the same office.

§ 6-164. **Primary, uncontested; opportunity to ballot.** Enrolled members of a party entitled to vote in the nomination of a candidate for public office or the election of a candidate for party position in a primary election of such party, and equal in number to at least the number of signers required to designate a candidate for such office or position may file with the officer or board with whom or which are filed designating petitions for such office or position a petition requesting an opportunity to write in the name of a candidate or candidates, who need not be specified, for such office or position. Upon the receipt of such a petition, such office or position shall be deemed contested and the primary ballots of the party shall afford an opportunity to vote thereon. Requests for an opportunity to write in the names of candidates for two or more offices or positions may be included in the same petition. Such petitions shall be subject to objections and court determination thereof in the same manner as designating petitions so far as the provisions therefor are applicable. All required notices shall be served on the members of the committee named in the petition. A signature to a petition for an opportunity to ballot in primary elections made earlier than sixteen days before the last day to file designating petitions for the primary election shall not be counted.

**§ 6-166. Primary; opportunity to ballot, form of petition.** 1. The form of a petition requesting an opportunity to write in the name of an undesignated candidate or undesignated candidates at a primary election shall conform to the requirements for a designating petition, except as otherwise provided herein.

2. Each sheet of such petition shall be signed in ink and shall be substantially in the following form:

I, the undersigned, do hereby state that I am a duly enrolled voter of the ..... party and entitled to vote at the next primary election of such party, that my place of residence is truly stated opposite my signature hereto, and I do hereby request an opportunity to write in the name of an undesignated candidate or candidates for nomination to the public office or offices or for election to the party position or positions, in the political unit or units of representation hereinafter set forth, of such party to be voted on the ..... day of ..... 19....., as hereinafter specified.

Public Office or party position	Political unit or unit of representation
.....	.....
.....	.....

The appointment of a committee to receive notices, the signatures on the petition with all required information and the signed statement of a witness or authentication by a notary public or commissioner of deeds, shall be in the form prescribed for a designating petition.

**§ 6-168. Designating petitions; candidates for the office of judge of the civil court of the city of New York.** 1. The board of elections of the city of New York, not later than fourteen days before the first day to circulate designating petitions for a primary election, or the day after a vacancy occurs, whichever is later, shall promulgate and have available for public inspection at its main office, a list of all vacancies in the office of judge of the civil court of the city of New York for which nominations will be made at such primary election. Such list shall include the borough and district, if any, in which each such vacancy exists, the name of the judge who was last elected to such seat and a number assigned to each such vacancy by the board of elections.

2. A designating petition for any candidate for any such office shall include in the title of the office for which a designation is being made, the number assigned by the board of elections to the vacancy for which such candidate is designated.

3. If, at any primary election in which more than one nomination is to be made for the office of judge of the civil court of the city of New York in any borough of such city or in any civil court district within any such borough, only one candidate is designated for any such vacancy, such candidate shall be deemed nominated

and his name shall not appear upon the primary ballot unless a petition for opportunity to ballot for such vacancy is filed pursuant to the provisions of this chapter.

4. If more than one person is designated for one or more such vacancies, all such persons shall be listed on the primary ballot as candidates for such office without reference to the seat for which they were designated and those persons, equal to the number of such vacancies, who receive the highest number of votes shall be nominated as candidates for such office.

## TITLE II

### VILLAGE ELECTIONS

- Section 6-200. Application of title.  
6-202. Party nominations; villages.  
6-204. Designating petition; form.  
6-206. Independent nominations; petition, form.  
6-208. Petitions, qualifications of signers.  
6-210. Petitions and certificates; place and times for filing.  
6-212. Designations and nominations, objections.

§ 6-200. **Application of title.** 1. This title applies to all general and special village elections for officers which are conducted by the board of elections on a date other than the date of the general election and all the provisions of this chapter, not inconsistent with this title, shall apply.

2. For the purposes of this title, a village shall be deemed to be located within a county if more than fifty percent of the population of the village as shown by the last federal decennial, or special census resides in that portion of the village located in that county.

§ 6-202. **Party nominations; villages.** 1. Party nominations of candidates for village offices in any county shall be made at a party caucus or at a primary election, as the rules of the county committee, heretofore or hereafter adopted consistent with the provisions of this chapter shall provide. If the rules of the county committee of any political party provide that party nominations for village offices of that party in any or all villages in the county shall be made at a village primary election, such primary election shall be held forty-nine days prior to the date of the village election. In the event there is no village committee with a chairman, the chairman of the county committee, or such other person or body as the rules of such committee may provide, shall designate an enrolled member of the party who is a qualified voter of the village as the village election chairman. The chairman of the county committee of each party in which nominations in any village are made at a primary election shall file with the board of

elections, at least one week before the first day to file designating petitions for such primary elections, a list of the name and address of the chairman of the village committee or the village election chairman in each such village. Such village chairman shall have general party responsibility for the conduct of the village caucus or primary election. Such nominations shall be made not more than fifty-six, nor less than forty-nine days prior to the date of the village election.

2. A notice of any village primary held for making party nominations of candidates for village offices to be filled at a village election shall be given by the proper party authorities by publication at least once in each of the two weeks preceding the primary in at least one newspaper of general circulation within the village.

3. A notice of any party caucus held for making party nominations for village offices for village elections shall be given by the proper party authorities either by newspaper publication thereof once within the village at least one week and not more than two weeks preceding the caucus, or by posting such notice in six public places in the village at least ten days preceding the caucus.

4. The notice shall specify the time and place or places, and the purpose of such caucus or primary, including the offices for which candidates will be nominated thereat. There shall be a chairman and a secretary and tellers for each such village primary or caucus, who shall be appointed by the appropriate party officials. No person shall participate in such primary or caucus who is not a resident of the village and an enrolled voter of the party conducting the primary or caucus. At any primary or caucus in which nominees are chosen by vote of the people in attendance, the person eligible and receiving the highest number of votes for an office shall be deemed nominated. Such village primary or caucus shall not be conducted at public expense. The board of elections shall furnish a list of enrolled voters to the chairman of the village caucus or primary.

5. Any party nomination made at any such caucus or village primary shall be evidenced by the filing of a certificate of nomination with the board of elections. There shall be filed, together with such certificate, a list of enrolled members of the party who have participated in such caucus or primary. Such list shall be certified by the presiding officer or secretary of such caucus or primary.

§ 6-204. **Designating petition; form.** 1. Party designations for elective village offices shall be made on a designating petition which shall be on white paper containing the signatures in ink of residents of the village who are registered to vote with the appropriate county board of elections at the time of signing and who are enrolled in such political party. The sheets of such a petition shall be numbered consecutively, beginning with number one, at

the foot of each sheet. A signer need not himself fill in the date, residence or election district. Each sheet of such petition must be in substantially the following form and shall contain all the information required therein:

**PARTY DESIGNATING PETITION**

I, the undersigned do hereby state that I am a registered voter of the Village of ..... and a duly enrolled voter of the ..... party and entitled to vote at the next primary election of such party, that my place of residence is truly stated opposite my signature hereto, and I hereby designate the following named persons as candidates for nomination of such party for the public offices to be voted for at the primary election to be held on the ..... day of ..... 19 .... as hereinafter specified.

Name of Candidate	Public Office	Term	Residence
.....	.....	.....	.....
.....	.....	.....	.....

I do hereby appoint (insert names and addresses of at least three persons, all of whom shall be enrolled voters of said party) as a committee to fill vacancies in accordance with the provisions of the election law.

In witness whereof, I have hereunto set my hand, the day and year placed opposite my signature.

**Village Election**

Date	Name	Residence (if any)	District
.....	.....	.....	.....
.....	.....	.....	.....

I ..... (name of witness) state: I am a duly qualified voter of the State of New York; and an enrolled voter of the ..... party and now reside in the ..... election district of the Village of ..... County of ..... State of New York at ..... (residence address and post office address if not identical) therein. Each of the persons whose names are subscribed to this petition sheet containing ..... signatures, subscribed his name in my presence.

I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn.

.....  
 Date Signature of Witness

In lieu of the signed statement of a witness who is a duly qualified voter of the state qualified to sign the petition, the following statement signed by a notary public shall be accepted:

On the dates above indicated before me personally came each of the voters whose signatures appear on this petition sheet containing . . . . . (fill in number) signatures, who signed same in my presence and who, being by me duly sworn, each for himself, said that the foregoing statement made and subscribed by him, was true.

.....  
Date (Signature and official title of officer administering oath)

Page No. ....

2. Notwithstanding any other provision of law, the number of signatures required on a designating petition shall be five percent of the number of enrolled voters of the party residing in the village.

**§ 6-206. Independent nominations; petition, form.**

1. Independent nominations for elective village offices shall be made by a petition which shall be on white paper containing the signatures in ink of residents of the village who are registered with the appropriate county board of elections at the time of signing. The sheets of such a petition shall be numbered consecutively beginning with number one at the foot of each sheet. A signer need not himself fill in the date, residence or election district. Each sheet of such petition must be in substantially the following form and shall contain all the information required therein:

**VILLAGE INDEPENDENT NOMINATING PETITION**

I, the undersigned, do hereby state that I am a registered voter of the Village of . . . . ., that my present place of residence is truly stated opposite my signature, and I do hereby nominate the following named person (or persons) as a candidate (or as candidates) for public office to be voted for at the election to be held on the . . . . day of . . . ., 19. . . ., and that I select the name . . . . . (fill in name) as the name of the independent body making the nomination (or nominations) and . . . . (fill in emblem) as the emblem of such body.

Name of Candidate	Public Office	Term	Residence
.....	.....	.....	.....
.....	.....	.....	.....

I do hereby appoint (insert names and addresses of at least three persons, all of whom shall be registered voters within such

village) as a committee to fill vacancies in accordance with the provisions of the election law.

In witness whereof, I have signed this petition on the day and year stated before my signature.

Date	Signature	Residence	Village Election District (if any)
.....	.....	.....	.....
.....	.....	.....	.....

**STATEMENT OF WITNESS**

I, ..... state that I am a duly qualified voter and now reside at ..... (residence address, also post office address if not identical) in the ..... election district of the Village of ..... in the State of New York in the County of ..... Each of the voters whose names are subscribed to this petition sheet containing ..... (fill in number) signatures, subscribed his name in my presence.

I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn.

.....  
 Date Signature of Witness

2. In lieu of the signed statement of a witness who is a duly qualified voter of the state qualified to sign the petition, the following statement signed by a notary public shall be accepted:

On the dates above indicated before me personally came each of the voters whose signatures appear on this petition sheet containing ..... (fill in number) signatures, who signed same in my presence and who, being by me duly sworn, each for himself, said that the foregoing statement made and subscribed by him, was true.

.....  
 Date (Signature and official title  
 of officer administering oath)

Page No. ....

3. The name selected for the independent body making the nomination shall be in the English language and shall not include the name or part of the name, or an abbreviation of the name or of part of the name, of a then existing party. The name and emblem shown upon such petition shall conform to the requirements of this chapter, relating to party names and party emblems. If such a petition shall not show an emblem, or the petition shall fail to select a name for such independent body, the board of



elections shall select an emblem or name, or both to distinguish the candidates nominated thereby.

4. An independent nominating petition for a village office must be signed by at least one hundred voters in villages containing a population of five thousand or more; by at least seventy-five voters in villages containing a population of three thousand and less than five thousand; and by at least fifty voters in villages containing a population of one thousand and less than three thousand; and in villages containing a population of less than one thousand by voters numbering at least five per centum of the number of voters at the last regular village election. For the purposes of this section, the population of a village shall be determined by the last federal decennial or local special population census federally supervised pursuant to section twenty of the general municipal law.

§ 6-208. **Petitions, qualifications of signers.** Any village resident who is a registered voter of the village and, in the case of a designating petition, an enrolled member of the party filing the petition may sign an independent nominating petition or a designating petition providing that: (a) such signature was made not more than six weeks prior to the last day to file such petition; (b) he has not signed more than one petition designating or nominating a candidate for mayor or village justice. If he has signed more than one such petition, only the earliest signature for each such office shall be valid; (c) he has not signed more than one petition designating or nominating a candidate for each vacancy which exists for the office of village trustee or village justice if the village has provided for two such justices. If he has signed more than one such petition for each such vacancy, only the earlier signatures shall be valid; or (d) he does not vote at a primary election or party caucus where a candidate was nominated for the same office for each such vacancy.

§ 6-210. **Petitions and certificates; place and times for filing.** 1. Petitions and certificates specified in this title shall be filed with the county board of elections.

2. a. A certificate of party nomination for an office to be filled at the time of a general or special village election for offices shall be filed not earlier than fifty-four days nor later than forty-seven days preceding the election.

b. A certificate of acceptance or declination of a party nomination for an office to be filled at the time of a general or special village election shall be filed not later than forty-four days prior to such election.

c. A certificate to fill a vacancy caused by declination of a party nomination for an office to be filled at the time of a general or special village election shall be filed not later than forty-one days prior to such election.

d. Party designating petitions for a village primary election shall be filed not earlier than twenty-two days nor later than fifteen days prior to the primary election. Upon such a filing, the board of elections shall immediately notify the village election chairman of such party and the person or persons designated in such petition of the fact of such filing and that such petition may be inspected in its office.

e. A written declination of a party designation must be filed within three days of the date of the filing of the designating petition. Upon the filing of such declination, the board of elections shall, within one day notify the committee to fill vacancies named in the petition. A certificate to fill the vacancy caused by a declination or any other reason must be filed within three days after the date of the notice to the committee to fill vacancies and shall have appended thereto the written consent of the person or persons designated.

3. a. An independent nominating petition for an office to be filled at the time of a general or special village election shall be filed not earlier than thirty-five days nor later than twenty-eight days preceding the election.

b. A certificate of acceptance or declination of an independent nomination for an office to be filled at the time of a general or special village election shall be filed not later than twenty-five days prior to such election.

c. A certificate to fill a vacancy caused by a declination of an independent nomination for an office to be filled at the time of a general or special village election for offices shall be filed not later than twenty-two days prior to such election, and shall have appended thereto the written consent of the person or persons nominated.

§ 6-212. **Designations and nominations, objections.** Written objections to a nominating or designating petition or to a certificate of nomination, certificate of acceptance, certificate of authorization, certificate of declination or certificate of substitution with respect to an office to be filled at a general or special village election may be filed not later than the day after the last day to file such petition or certificate, or the day after such petition or certificate is received by the board of elections if such petition or certificate is mailed within the time permitted by law, whichever is later. Written specifications of the grounds for such objections shall be so filed within two days thereafter. A failure to file such written specifications shall render the original objection null and void. Upon receipt of written specifications, the county board of elections shall immediately notify each candidate named in such petition or certificate and take all steps necessary and consistent with this chapter to render a determination on the questions raised in such objections and specifications. When a determination has

been made by the county board of elections that the petition is sufficient or insufficient, it shall immediately notify each candidate named in the petition or certificate, and, if such determination was made on objection, the objector.

## ARTICLE 7

## ELECTION BALLOT

- Title I. Form of ballots.  
 II. Voting machines.

## TITLE I

## FORM OF BALLOTS

- Section 7-100. Ballots; provision for.  
 7-102. Ballots; placing names and ballot proposals thereon.  
 7-104. Ballots; form of, voting machine.  
 7-106. Paper ballots; form of.  
 7-108. Ballots; form for elections.  
 7-110. Ballots; form for ballot proposals.  
 7-114. Ballots; form for primary election.  
 7-116. Ballots; order of names on.  
 7-118. Ballots; facsimile and sample.  
 7-120. Ballots; emergency use, to be furnished.  
 7-121. Ballots which are counted by machine.  
 7-122. Ballots; absentee voters.  
 7-123. Ballots; military voters.  
 7-124. Ballots for special federal voters.  
 7-125. Ballots; special presidential voters.  
 7-126. Ballots; pasters, use of.  
 7-128. Ballots; inspection of.  
 7-130. Ballots; examination by voters and instruction in use of voting machines.

§ 7-100. **Ballots; provision for.** Ballots shall be provided for every election at which public or party officers are to be nominated or elected.

§ 7-102. **Ballot; placing names and ballot proposals thereon.** 1. The names of all candidates and the form of submission of all duly certified ballot proposals [except the names of candidates for an uncontested office or party position at a primary election] shall be printed upon the official ballot *except that at a primary election, no ballot proposals or names of candidates for uncontested offices or party positions shall be printed upon the official ballot.*

2. In the event that two or more persons with identical names are designated as candidates for the same office or position at any primary election, a different number shall be included with the name of every candidate for such office or position on such ballot. Such number shall be in arabic numerals and shall be placed at

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[Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.]

the beginning of each such candidate's name. The board of elections with which the certificates or petitions of designation for such candidates are filed shall determine such numbers by lot not later than ten days after the last day to file such certificates or petitions upon at least five days written notice by first class mail to each such candidate. Such notice shall also contain information concerning the provisions of subdivision four of this section and the deadlines for filing the information provided for in such subdivision four.

3. a. In the event that a candidate in a primary election believes that the name of another candidate for the same office or position at such election is sufficiently similar to his so as to cause confusion among the voters, such candidate may, not later than five days after the last day to file the certificates or petitions of designation, file with the board of elections with which such certificates or petitions of designation are filed, a request that such board determine that such a sufficient similarity exists.

b. The board of elections shall meet to hear arguments on, and make a determination with respect to such a request, not later than seven days after the last day to make such request, upon five days written notice by first class mail to every candidate for such office or position. Such notice shall also contain information concerning the provisions of subdivision four of this section and the deadlines for filing the information provided for in such subdivision four.

c. If such board makes a determination that such a similarity exists, it shall forthwith assign a different number, which it shall determine by lot, to be included with the name of every candidate for such office or position on such ballot. Such number shall be in arabic numerals and shall be placed at the beginning of each such candidate's name.

4. a. If such board assigns numbers to candidates' names pursuant to the provisions of subdivision two or three of this section it shall also prepare for distribution at such election, a leaflet which contains biographical information on each such candidate, on one side of a single sheet of paper in the order of the numbers it has assigned to such candidates. If such leaflet is published in a second language in addition to English, the two language versions shall appear on opposite sides of the same sheet of paper. Such biographical information may not exceed one hundred words and may only include such candidate's name, address, present and past public offices held, present and past occupations and employers, other public service experience, educational background and organizational affiliations.

b. Each candidate for an office or position for which such numbers are assigned may file with such board, not later than fourteen days after such determination, any or all of the information permitted by paragraph a of this subdivision in the form

in which such candidate wishes such information to appear in such leaflet. If such board determines that such filing does not comply with the requirements of this subdivision, it shall notify such candidate forthwith by first class mail. Such candidate may file revised information with such board not later than ten days after such notice was mailed. If a candidate does not make a filing within the times prescribed by this paragraph, the words "no information supplied" shall appear next to his name on such leaflet.

[Subd. 1 amended by chap. 219, Laws of 1992. Takes effect December 1, 1992.]

§ 7-104. **Ballots; form of, voting machine.** 1. All ballots shall be printed in black ink on clear, white material, of such uniform size and style as will fit the ballot frame, and in as plain, clear type as the space will reasonably permit, capitalizing only the first letters and initials of each name.

2. The names of parties or independent bodies which contain more than fifteen letters may, whenever limitations of space so require, be printed on the ballot in an abbreviated form. In printing the names of candidates whose full names contain more than fifteen letters, only the surname must be printed in full. The officer or board charged with the duty of preparing the ballots shall request each such candidate to indicate, in writing, the shortened form in which, subject to this restriction, his name shall be printed. If no such indication is received from such candidate within the time specified in the request, such officer or board shall make the necessary determination.

3. The face of the ballot shall be completely covered with a protective covering of smooth, hard, transparent material so that it shall be impossible to alter the face of the ballot without removing or breaking such covering.

4. (a) The party emblem for each political party represented on the machine, and the party name or other designation, and a designating letter and number shall be affixed to the name of each candidate, or, in case of presidential electors, to the names of the candidates for president and vice-president of such party.

(b) The titles of offices may be arranged horizontally, with the names of candidates for an office and the slot or device for write-in ballots for such office arranged vertically under the title of the office, or the titles of offices may be arranged vertically, with the names of candidates for an office and the slot or device for write-in ballots for such office arranged horizontally opposite the title of the office.

(c) Each office shall occupy as many columns or rows on the machine as the number of candidates to be elected to that office.

5. (a) The names of all candidates nominated by any party or independent body for an office shall always appear in the row or column containing generally the names of candidates nominated

by such party or independent body for other offices except as hereinafter provided.

(b) When the same person has been nominated for an office to be filled at the election by more than one party, the voting machine shall be so adjusted that his name shall appear in each row or column containing generally the names of candidates for other offices nominated by any such party.

(c) If such candidate has also been nominated by one or more independent bodies, his name shall appear only in each row or column containing generally the names of candidates for other offices nominated by any such party and the name and emblem of each such independent body shall appear in one such row or column to be designated by the candidate in a writing filed with the officer or board charged with the duty of providing ballots, or if such person shall fail to so designate, the names and emblems of such independent bodies shall appear in such row or column as such officer or board shall determine.

(d) If any person shall be nominated for any office by one party and two or more independent bodies his name shall appear on the voting machine twice; once in the row or column containing generally the names of candidates for other offices nominated by such party, and once in the row or column containing generally the names of candidates nominated by the independent body designated by such person in a writing filed with the officer or board charged with the duty of providing ballots and in connection with the name of such person in such row or column shall appear the name and emblem of each independent body nominating him or, if such person shall fail to so designate, the name of such candidate and the names and emblems of such independent bodies shall appear in such row or column as such officer or board shall determine.

(e) If any person is nominated for any office only by more than one independent bodies, his name shall appear but once upon the machine in one such row or column to be designated by the candidate in a writing filed with the officer or board charged with the duty of providing ballots, or if the candidate shall fail to so designate, in the place designated by the officer or board charged with the duty of providing ballots, and in connection with his name there shall appear the name and emblem of each independent body nominating him, but, where the capacity of the machine will permit, the name of such person shall not appear or be placed in a column or on a horizontal line with the names of persons nominated by a party for other offices.

6. Notwithstanding the provisions of subdivision five of this section, the name of a person who is nominated for the office of governor, or *state senator*, or member of assembly, shall appear

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[Matter in *italics* is new.]

on the ballot labels of the machine as many times as there are parties or independent bodies nominating him, and there shall be a separate voting and registering device at each place in which such name shall appear.

7. The machine shall be so adjusted that when levers or devices for voting, and slots or devices for write-in ballots, equal to the total number of persons to be elected to an office or position shall have been operated, all other such levers or devices for voting, and slots or devices for write-in ballots used in connection with that office or position shall be thereby locked. All levers or devices shall be locked in any space which does not contain the name of a candidate or a question to be voted on.

8. If any type of machine used in any county or city contains any feature, the use of which is neither required nor prohibited by the provisions of this chapter, the board of elections may, by resolution, require that one or more of such features shall be used in such county. Thereafter all machines of such type used in such county or city shall be operated in conformity with any such resolution. Any such resolution may thereafter be rescinded by such board and after being so rescinded may be re-adopted. Once re-adopted by any board of elections, such a resolution may not be rescinded again by such board.

9. The board of elections shall provide a card or printed slip to be placed in the card holder which shall have printed upon it in black ink for each party or independent row containing the names of candidates, the image of a closed fist with index finger extended pointing to the party or independent row. Inset within the image of the fist on a white space, in black letters as large as the space will permit, shall be printed the name of the party or independent body and at the right of the fist and below the index finger shall be printed in black ink the emblem and the designating letters of the row or column.

10. With respect to candidates for the offices of governor and lieutenant governor of a party or independent body, ballots shall be printed so that the names of such candidates for both offices shall appear in the same row or column, with the name of the candidate for governor appearing first and the machine shall be so adjusted that both offices are voted for jointly and have but one designating letter or number.

[Subd. 6 amended by chap. 79, Laws of 1992.]

§ 7-106. **Paper ballots; form of.** 1. Paper ballots shall be printed on paper of a quality, size, color, and weight approved by the state board of elections.

2. All paper ballots of the same kind for the same polling place shall be identical. A different, but in each case uniform style and size of type, shall be used for printing the names of candidates, the titles of offices, political designations, and the reading form



of all questions submitted. The names of candidates shall be printed in capital letters in black-faced type.

3. Each ballot shall be printed on the same sheet with a stub which shall be separated therefrom by a horizontal line of perforations extending across the entire width of the ballot. On the face of the stub shall be printed the instructions to the voter. On the back of the stub immediately above the center of the indorsement on the back of the ballot, shall be printed "No. . . . . " the blank to be filled with consecutive number of ballots beginning with "No. 1", and increasing in regular numerical order.

4. On the back of the ballot, below the line of perforations, just to the right of center, and outside when the ballot is folded, and on the front of the ballot, directly below the perforated line, shall be printed the following indorsement, the blanks properly filled in:

Official Ballot for General Officers (or whatever the case may be)  
County of . . . . . Assembly District (or ward  
and city or town) . . . . . Election  
. . . . . District. . . . .

(Date of Election.)

(Facsimile of the signature of officer or officers providing the ballot.)

5. On the stub at the top of the ballot shall be printed in heavy black type the following instructions:

INSTRUCTIONS

- (1) Mark only with a pen having blue or black ink or with a pencil having black lead.
- (2) To vote for a candidate whose name is printed on this ballot make a single cross X mark or a check ✓ mark in one of the squares to the right of an emblem opposite his name.
- (3) To vote for a person whose name is not printed on this ballot write his name on a blank line under the names of the candidates for that office.
- (4) To vote yes or no on a proposal make a single X or ✓ mark in the square opposite your vote.
- (5) Any other mark or writing, or any erasure made on this ballot outside the voting squares or blank spaces provided for voting will void this entire ballot.
- (6) If you tear, or deface, or wrongly mark this ballot, return it and obtain another.

6. Each such ballot shall be printed in sections in which the candidates' names, emblems and political designations, the ballot proposals and other requisite matter shall each be boxed in by heavy black lines. On the ballot shall be voting squares in which voters may make their voting marks. All voting squares shall be

bounded by heavy black lines, the perpendicular lines to be not less than one-sixteenth of an inch wide. The voting squares and the spaces occupied by the emblem shall have a depth and width of five-sixteenths of an inch. No voting squares shall be provided in front of the blank spaces provided for a voter to write in a name.

7. The space for the title of an office shall be three-eighths of an inch, and the name of a candidate or for writing in a name, one-fourth of an inch, in depth. At the left of the name of each designated candidate shall be an enclosed voting space, three-eighths of an inch in width and approximately one-fourth of an inch of depth, bounded above, below and to the right by black lines, heavier than those which separate the spaces containing the names of candidates. To the left of voting spaces which do not adjoin a vertical line dividing two parts, there shall be a heavy black vertical line approximately one-eighth of an inch in width. No voting space shall be provided in the space for writing in names. In such case, the space corresponding to a voting space shall be all black.

8. Below the names of the candidates for each office or position there shall be printed as many blank spaces, for writing in names of persons for whom the voter desires to vote, as there are persons to be nominated or elected.

9. In case the sections shall be so numerous as to make the ballot unwieldy if they are printed in one column, they may be printed in as many columns as shall be necessary, and in that case, in order to produce a rectangular ballot, blank sections may be used.

10. The names of parties or independent bodies which contain more than fifteen letters may, whenever limitations of space so require, be printed on the ballot in an abbreviated form. In printing the names of candidates whose full names contain more than fifteen letters, only the surname must be printed in full. The officer or board charged with the duty of preparing the ballots shall request each such candidate to indicate, in writing, the shortened form in which, subject to this restriction, his name shall be printed. If no such indication is received from such candidate within the time specified in the request, such officer or board shall make the necessary determination. No emblem shall occupy a space longer in any direction than the voting square to which it relates.

§ 7-108. **Ballots; form for elections.** 1. Upon ballots for a general election, the offices shall be listed in the customary order.

2. If two or more candidates are nominated for the same office for different terms, the term for which each is nominated shall be printed as a part of the title of the office.

3. In every instance where multiple casting of votes is permitted for two or more candidates for the same office or position, the

instruction on the ballot or machine shall read "Vote for any . . . . .", (the blank space to be filled with the number of persons to be nominated for the office or elected to the position).

§ 7-110. **Ballots; form for ballot proposals.** Ballot proposals shall appear on the voting machine or ballot in a separate section. At the left of, or below or above, each proposal shall appear two voting levers or two voting squares, each at least one-half inch square. Next to the first lever or square shall be printed the word "Yes," and next to the second lever or square shall be printed the word "No." The proposals shall be numbered consecutively on the voting machine or ballot. The number of each proposal shall appear in front of its designation as an amendment, proposition or question in the following form: "Proposal one, an amendment; proposal two, a proposition; proposal three, a question".

§ 7-114. **Ballots; form for primary election.** 1. (a) The face of the official ballot for a primary election shall be divided into parts. Descriptive words to indicate the purpose of each part shall be printed at its head. Beginning at the left or top, the first part shall be entitled, and shall be for "Candidates for nomination for public office". The second part shall be entitled, and shall be for "Candidates for party positions." When necessary, a part may be divided into two or more columns or rows, but the names of all persons designated for the same office or party position shall be in the same column or row.

(b) In each part shall be printed the titles of the offices or party positions, as the case may be, for which the part is to be used, and under each such title shall be printed the names of the designated candidates for the office or position.

(c) Where a candidate for nomination for the same public office or for election to the same party position is designated by two or more petitions, his name shall be placed upon the ballot for the primary election but once as such a candidate.

(d) The ballot shall not contain a space for voting for candidates for uncontested offices and positions, and no ballot shall be printed for a party whose primary is uncontested unless a petition for opportunity to ballot has been filed.

2. (a) The paper ballot for a primary election shall conform to the form for paper ballots set forth in this article with respect to quality and weight of paper, perforated line, and number on the stub on the back of the ballot.

(b) On the back of the paper ballot, on the stub, immediately below the number, shall be the name of the party. On the back of the ballot and below the stub, and immediately to the left of the center of the ballot, and on the front of the ballot, below the perforated line, shall be printed, in addition to the other infor-

mation required for paper ballots, the name and emblem of the party and the words "Official primary ballot."

(c) On the front of the stub, above the perforated line at the top of the paper ballot shall be printed the same instructions as on the general election ballot.

(d) The parts of the paper ballot below such heavy black horizontal line shall be separated by a heavy black vertical line or lines, one-fourth of an inch in width. Descriptive words to indicate the purpose of each part shall be printed at its head, below the heavy black horizontal line. Immediately below such captions shall be printed two light parallel horizontal lines approximately one-sixteenth of an inch apart, extending across each part.

(e) The names of candidates on paper ballots shall be numbered with arabic numerals printed in heavy faced type beginning with "one" for the first candidate named in the first part and continuing in numerical order to and including the last candidate named in the last part, except that where two or more candidates are to be elected to a party position, the names of candidates designated by each petition shall be grouped, and each group shall have but one number, which shall be printed opposite the approximate center of the group.

(f) The number of candidate shall be printed on the paper ballot between the voting space and the name of the candidate. Each group shall have a bracket embracing the names in the group.

(g) Spaces containing names of candidates and for writing in names, and intervening spaces on the paper ballot, shall be separated by light horizontal lines. Names of candidates shall be printed in capital letters not less than one-eighth nor more than three-sixteenths of an inch in height.

(h) The paper ballots of no two parties shall be the same color, and the state board of elections shall select the color for each new party, and not later than twelve weeks before a primary election, shall transmit to each board of elections a certificate stating the colors so selected.

**§ 7-116. Ballots; order of names on.** 1. In printing the names of candidates on the ballot, the candidate or candidates of the party which polled for its candidate for the office of governor at the last preceding election for such office the highest number of votes, shall be row or column A or one and the candidates of the other parties shall be placed on such ballot in descending order of such votes.

2. The officer or board who or which prepares the ballot shall determine the order in which shall appear, below the names of party candidates the nominations made only by independent bodies. Such officer or board also shall determine the order in which shall be printed, in a section of such ballot the names of two or more candidates nominated by one party or independent body, for

an office to which two or more persons are to be elected; provided, however, that any such candidate may, by a writing filed with such board or officer not later than one week after the adjournment of the convention or one week after the primary election nominating him, or otherwise not later than two days after the filing of the petition or certificate nominating him, demand that such order be determined by lot, and in that case such order shall be so determined, upon two days notice by mail given by such board of officer to each candidate for such office. The state board of elections shall perform the duties required by this subdivision in all cases affecting nominations filed in its office.

3. The officer or board with whom or which are filed the designations for a public office or party position shall determine by lot, upon two days notice by mail given by such board or officer to each candidate for such office or position and to the committee, if any, named in the designating petition, the order in which shall be printed on the official primary ballot, under the title of the office or position, the names of candidates for public office, the names of candidates for a party position to which not more than one person is to be elected, and the groups of names of candidates for party position where two or more persons are to be elected thereto and any petition designates two or more persons therefor, provided, however, that whenever groups of names for more than one party position are designated by the same petition, the order in which they shall be printed on the official primary ballot shall be determined by a single lot. Candidates for delegate or delegates and alternate delegate or delegates to conventions designated by the same petition shall, for the purpose of this subdivision, be treated as one group. The names of candidates, if any, for a party position to which two or more persons are to be elected, who are designated by individual petitions and not in a group shall be printed below such group or groups, in such order between themselves, as such officer or board shall determine by lot upon the notice specified in this subdivision. The names within a group of candidates designated for party position by one petition shall be printed in the same order in which they appear in the petition, unless they appear in a different order on different pages of the petition, in which case their order within the group shall be determined by such officer or board by lot upon the notice specified in this subdivision. Candidates for members of a state committee designated by a single petition shall, for the purposes of this subdivision, be treated as one group. However, the notice to a committee of the drawing need not be mailed to more than five members, if there be that many, and as to offices or party positions for which designating petitions are filed with the board of elections of the city of New York the notice shall be given to the committees only.

4. If a vacancy in a designation or nomination be filled after the making, in the manner provided in this section, of a deter-

mination of the order in which the names of candidates for the office or position are to be printed, the name of the candidate designated or nominated to fill such vacancy shall be printed in the place so determined for the original candidate.

5. The titles of public offices shall appear on ballots for primary elections in the same consecutive order that they will appear on the general election ballot. The titles of the party positions shall appear in the following order: member of state committee, assembly district leader, associate assembly district leader, members of county committee *in the City of New York*, delegate or delegates to conventions, alternate delegate or delegates to conventions, and *members of county committee in counties outside the City of New York*. Where, pursuant to the rules of the county committee, the party position involved is that of assembly district leader or associate assembly district leader for a part of an assembly district, such part shall be so indicated in the title on the ballot.

6. In the city of New York, the ballot on the voting machine for primary elections shall conform to the following additional provisions:

The names of the candidates designated for such public office or party position in the primary of a party shall be placed under the title of the office or position in the alphabetical order of their surnames, in the first or lowest numbered assembly district and election district of any political unit or subdivision within a county. If candidates' surnames are identical, their given or first name shall determine their order. If the board of elections has assigned numbers to the candidates for an office or position because of identical or similar names among such candidates, the names of such candidates shall be placed under the title of such office or position in the order of such numbers in such first or lowest numbered district. Thereafter the names shall be rotated by election districts by transposing the first named candidate to the bottom of the order at each succeeding election district, so that each name shall appear first and in each other position in an equal number, as nearly as possible, of the election districts and except, further, that where two or more candidates are to be elected to the same party position, the names of candidates for such a position which appear on the same designating petition shall be grouped together on the ballot in the order in which their names appear on the designating petition and the group rotated alphabetically in relation to other groups or individual candidates according to the surname of the first person on the designating petition of such group. Groups of candidates for delegate and alternate delegate, and groups of candidates for male and female delegate and male and female alternate delegate to the same convention designated on the same petition shall be rotated together alphabetically in relation to other groups or individual candidates according to the surname of the

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[Matter in *italics* is new.]

first person listed on such designating petition in the group of candidates for whichever of such delegate or alternate delegate positions will appear first on the voting machine. If the rules of a party committee provide for equal representation of the sexes among the members of a state committee elected from each unit of representation, elections for male and female members of such a committee from a single unit of representation shall be conducted as elections for two different party positions.

County committee candidates or groups of candidates shall be printed within the first election district of each assembly district or part thereof, according to the priority of filing of designating petitions and they shall then be rotated by election district by placing the candidate or group of candidates designated in the same petition as the candidate or group of candidates which was printed first in an election district at the bottom of the order in the next succeeding election district in which a candidate or group of candidates designated in such petition appears on the ballot.

In cases where a name is added to or removed from the ballot by court order too late to make a complete adjustment to these requirements feasible, the name may be added at the bottom of the list of candidates in all election districts, or removed from the ballot in all election districts without changing the previously arranged order of other names and without invalidating the election. Any inadvertent error in the order of names discovered too late to correct the order of the names on the ballots concerned shall not invalidate an election.

Except where a contest or candidate is removed from the ballot by court order too late to make complete compliance with this paragraph feasible, the title of each public office or party position and the names of the candidates for such office or position appearing on any voting machine used for primary elections in the city of New York shall appear on such machine immediately adjacent to one another, either horizontally or vertically; and no blank spaces shall separate the names of candidates actually running for an office or party position on such voting machine, and no blank spaces shall separate any two such offices or positions which appear on such voting machine in the same column or row.

[Subd. 5 amended by chap. 279, Laws of 1992.]

§ 7-118. **Ballots; facsimile and sample.** The board of elections shall provide facsimile and sample ballots which shall be arranged in the form of a diagram showing such part of the face of the voting machine as shall be in use at that election. Such facsimile and sample ballots shall be either in full or reduced size and shall contain suitable illustrated directions for voting on the voting machine. Such facsimile ballots shall be mounted and displayed for public inspection at each polling place during election day. Sample ballots may be mailed by the board of elections to each eligible voter at least three days before the election, or in

lieu thereof, a copy of such sample ballot may be published at least once within one week preceding the election in newspapers representing the major political parties.

§ 7-120. **Ballots; emergency use, to be furnished.** 1. If any voting machine for use in any election shall become out of order during an election it shall, if possible, be repaired or another machine substituted as promptly as possible. In case such repair or substitution cannot be made, emergency ballots, printed or written, and of any suitable form, may be used for the taking of votes.

2. If the official ballots for an election district shall not be delivered within the time necessary to open the polls, or shall be lost, destroyed or stolen, or if the supply of official ballots shall be exhausted before the polls are closed, the board of elections, or at its direction, the town or city clerk, or the election inspectors of such district, shall cause emergency ballots to be prepared, printed or written, as nearly in the form of the official ballots as practicable. The inspectors shall use the ballots so substituted in the same manner, as near as may be, as the official ballots.

3. It shall be the duty of each board of elections to cause a sufficient number of emergency ballots to be placed at each polling place in which voting machines are used to be employed in the event the voting machines break down. At any time during the hour succeeding a breakdown, the inspectors of election may use such emergency ballots, and if such breakdown lasts more than one hour, such emergency ballots must be used. The sample ballots may be used for this purpose in full or reduced size.

§ 7-121. **Ballots which are counted by machine.** A board of elections may provide, by resolution adopted at least two months before an election at which voting machines are used, that all ballots cast for such election, other than on the voting machines, shall be counted by a machine of a type approved by the state board of elections and that all ballots printed for use at such election may be printed and arranged in a manner which would permit them to be counted by such machine.











§ 7-122. **Ballots; absentee voters.** 1. (a) Ballots for absentee voters shall be, as nearly as practicable, in the same form as those to be voted in the district on election day, if any, except that ballots for primary elections shall omit the party position of ward, town, city or county committee and except further that such ballots need not have a stub, and shall have the words "Absentee Ballot", endorsed thereon.

(b) The names of candidates upon the ballot shall be printed in appropriate sections, with titles of offices, section numbers, emblems, voting squares, names of parties and political organi-



zations and blank spaces for writing in names of persons not printed on the ballot.

Except as to the spacing, such ballot shall be printed wherever applicable substantially as follows:

<p>123456789        123456789        123456789        123456789</p> <p>(Under name)</p>	<p>123        SENATOR</p> <p>(Under name)</p>
<p> <input type="checkbox"/></p> <p>1 A        DEMOCRATIC</p> <p>RICHARD BONE        for Governor        and        JOHN DOE        for Lieutenant        Governor</p>	<p><input type="checkbox"/></p> <p> 2 A        DEMOCRATIC</p> <p>JOHN DOE</p>
<p> <input type="checkbox"/></p> <p>1 B        REPUBLICAN</p> <p>RICHARD BONE        for Governor        and        JOHN DOE        for Lieutenant        Governor</p>	<p><input type="checkbox"/></p> <p> 2 B        REPUBLICAN</p> <p>JOHN DOE</p>
<p> <input type="checkbox"/></p> <p>1 C        CONSERVATIVE</p> <p>RICHARD BONE        for Governor        and        JOHN DOE        for Lieutenant        Governor</p>	<p><input type="checkbox"/></p> <p> 2 C        CONSERVATIVE</p> <p>JOHN DOE</p>
<p> <input type="checkbox"/></p> <p>1 D        LIBERAL</p> <p>RICHARD BONE        for Governor        and        JOHN DOE        for Lieutenant        Governor</p>	<p><input type="checkbox"/></p> <p> 2 D        LIBERAL</p> <p>JOHN DOE</p>
<p> <input type="checkbox"/></p> <p>1 E        Right to        Life</p> <p>RICHARD BONE        for Governor        and        JOHN DOE        for Lieutenant        Governor</p>	<p><input type="checkbox"/></p> <p> 2 E        Right to        Life</p> <p>JOHN        DOE</p>

(c) The indorsement shall be printed on the front of the ballot and may also be printed on the back of the ballot just to the right of center, and outside when the ballot is folded:

Absentee Ballot for General (or Primary or Special) Election  
County of ..... (Date of Election.) (Facsimile of  
the signature of officer or officers providing the ballot.)

(d) On the front of the ballot, shall be printed in heavy black type the following instructions:

INSTRUCTIONS

1. Mark in pen or pencil.

2. To vote for a candidate whose name is printed on this ballot, make a single cross X mark or a single check ✓ mark in the voting square above the name of the candidate.

3. To vote for a person whose name is not imprinted on this ballot write the name in the blank space which appears at the bottom of the column under the title of the office.

4. To vote on a proposal make a cross X mark or a check ✓ mark in one of the squares contained in the box setting forth such proposal.

5. Any other mark or writing, or any erasure made on this ballot outside the voting squares or blank spaces provided for voting will void this entire ballot.

2. The following provisions shall apply to all absentee ballots prepared for counting by ballot counting machines and all other provisions of this chapter not inconsistent with this subdivision shall be applicable to such ballots.

(a.) The party emblem need not be printed next to the name of each candidate.

(b) The blank spaces provided for the voter to write in a name may be on the back of the ballot.

(c) The ballot proposals may be on the back of the ballot, or on a separate ballot.

(d) The election district, the ward or legislative district if any, the town or city and the assembly district (in New York city and Nassau county) shall be written, stamped or printed on the back of each such ballot.

(e) If such ballot is a ballot which is marked with a writing instrument, the printed instructions to the voter shall read as follows:

INSTRUCTIONS

1. Mark only with the pencil supplied with this ballot.

2. To vote for a candidate whose name is printed on this ballot, fill in the voting square above (or next to) the name of the candidate.

3. To vote for a person whose name is not printed on this ballot, write the name in the blank space (indicate where on ballot the write-in line appears) containing the title of the office.

4. To vote on a proposal, fill in one of the squares contained in the box setting forth such proposal.

5. Any other mark or writing, or any erasure made on this ballot outside the voting squares, or blank spaces provided for voting will void this entire ballot.

(f) If such ballot is a ballot in which holes are to be punched, the printed instructions to the voter shall read as follows:

### INSTRUCTIONS

1. To vote for a candidate whose name is printed on this ballot, punch out the voting square (or circle) above (or next to) the name of the candidate.

2. To vote for a person whose name is not printed on this ballot, write the name in the blank space (indicate where on ballot write-in line appears) containing the title of the office.

3. To vote on a proposal, punch out one of the squares (or circles) contained in the box setting forth such proposal.

4. Any other mark or writing, or any erasure made on this ballot outside the voting squares (or circles) or blank spaces provided for voting will void this entire ballot.

(g) Such instructions may be printed on the front or back of the ballot or on a separate sheet or card. If such instructions are not printed on the front of the ballot, there shall be printed on the ballot, in the largest size type for which there is room, the following legend: "See instructions on other side" or "See enclosed instructions", whichever is appropriate.

(h) Such ballots which are to be counted by ballot counting machines may consist of two or more cards, which are divided into perforated sections which can be separated at the time of canvassing.

3. The board of elections shall deliver to each voter, together with each ballot which is marked with a writing instrument, an instrument whose markings can be read by such machines and together with each ballot in which holes are punched, an instrument suitable for punching the necessary holes in such ballot.

4. The determination of the appropriate county board of elections as to the candidates duly designated or nominated for public office or party position whose name shall appear on the absentee ballot and as to ballot proposals to be voted on shall be made no later than the day after the state board of elections issues its certification of those candidates to be voted for at the general, special or primary election. The determinations of the state board of elections and the respective county boards of elections shall be final and conclusive with respect to such offices for which petitions

or certificates are required to be filed with such boards, as the case may be but nothing herein contained shall prevent a board of elections, or a court of competent jurisdiction from determining at a later date that any such certification, designation or nomination is invalid and, in the event of such later determination, no vote cast for any such nominee by any voter shall be counted at the election.

5. The board of elections shall furnish with each absentee ballot an envelope. On one side of the envelope shall be printed:

**OFFICIAL ABSENTEE BALLOT**

for

**GENERAL (OR PRIMARY OR SPECIAL) ELECTION,**

....., 19....

Name of voter .....  
Residence (street and number if any) .....  
City/or town of ..... (village, if any) .....  
County of .....  
Assembly district (only in New York City and county of Nassau)

.....  
Ward .....  
Election District .....  
Party Enrollment (in case of primary election) .....

6. The date of the election, name of the county, and name of a city, if there be a separate ballot for city voters, shall be printed, and the name of the voter, residence, number of the assembly district, if any, name of town, number of ward, if any, election district and party enrollment, if required, shall be either printed or written or stamped in by the board.

7. There shall also be a place for two inspectors of opposite political parties to indicate, by placing their initials thereon, that they have checked and marked the voter's poll record.

8. On the reverse side of such envelope shall be printed the following statement:

**STATEMENT OF ABSENTEE VOTER**

I do declare that I am a citizen of the United States, that I am duly registered in the election district shown on the reverse side of this envelope and I am qualified to vote in such district; that I will be unable to appear personally on the day of the election for which this ballot is voted at the polling place of the election district in which I am a qualified voter because of the reason given on my application heretofore submitted; that I have not qualified nor do I intend to vote elsewhere, that I have not committed any act nor am I under any impediment which denies me the right to vote.

I hereby declare that the foregoing is a true statement to the best of my knowledge and belief, and I understand that if I make any material false statement in the foregoing statement of absentee voter, I shall be guilty of a misdemeanor.

Date ..... 19 .....

Signature or mark of voter

.....  
Signature of Witness (required only if voter does not sign his own name)

.....  
Address of Witness

9. The envelope shall be gummed, ready for sealing, and shall have printed thereon, on the side opposite the statement, instructions as to the duties of the voter after the marking of the ballot, which instructions shall include a specific direction stating when such envelope must be postmarked and when such envelope must reach the office of the board of elections in order to be canvassed.

10. Each ballot envelope shall be enclosed in a second envelope addressed to the board of elections and bearing a specific direction that if an application for absentee ballot is received with the ballot, such application must be completed by the voter and returned in such envelope together with the envelope containing the absentee ballot. Such second envelope shall be enclosed in a third envelope addressed to the absentee voter. The second and third envelopes shall have printed on the face thereof the words "Election Material—Please Expedite".

§ 7-123. **Ballots; military voters.** 1. The state board of elections, after conferring with federal authorities, if any, authorized to act, shall prescribe the form and cause to be printed by the appropriate boards of elections or otherwise sufficient ballots for military voters to be used at the election, subject to the following limitations:

2. The ballots for military voters shall be the same form as those to be voted by absentee voters in the election district of the military voter on election day. Any instructions that the state board of elections deems pertinent shall accompany such ballots but shall not be affixed thereto in any manner so as to leave any marks on such ballots not found on absentee ballots.

3. Each ballot shall be furnished with a ballot envelope upon which shall be printed:

**BALLOT FOR MILITARY VOTER  
STATEMENT**

I do state (or affirm) that I am (MUST CHECK ONE)

(a) in the actual military service of the State of New York, or of the United States .....

- (b) the spouse .....
- (c) parent .....
- (d) child .....

of a voter in the actual military service of the State of New York or of the United States, accompanying or being with such voter and a resident of the same election district; that I am a citizen of the United States; that on the date of the election for which this ballot is voted I will be at least eighteen years of age and immediately preceding said date will have been a resident of the county, city or village in which I offer my vote for thirty days, that I have not voted any other ballot for any candidate from any address other than hereinafter set forth; and that I have not committed any act, nor am I under any impediment which denies me the right to vote.

My voting residence in the State of New York is:

Street and Number, or R.F.D. ....  
 City, Village or Town .....  
 County .....

I hereby declare, that the forgoing is a true statement to the best of my knowledge and belief, and I understand that if I make any material false statement in the foregoing statement of military voter, I shall be guilty of a misdemeanor.

Date ..... 19 .....

Signature or mark of voter

Signature of Witness (required only if voter does not sign his own name)

Address of Witness

4. On the reverse side of the ballot envelope containing the statement of military voter shall be printed:

**TO BE FILLED IN BY THE BOARD OF ELECTIONS:**

County of .....  
 Name of voter .....  
 Voting residence (street and number, if any) .....  
 City (or town) of ..... Ward .....  
 Assembly District ..... Election District .....

Party Enrollment (in case of primary election) .....  
**IMPORTANT TO MILITARY VOTER:** Be sure to indicate in (a), (b), (c), or (d), whether you are a serviceman or the spouse, parent or child of a serviceman in the statement before you sign your name at the end of the statement. **YOU MUST SIGN THE STATEMENT ON THE REVERSE SIDE OF THIS ENVELOPE.**

4-a. The envelope shall be gummed, ready for sealing, and shall have printed thereon, on the side opposite the statement, instructions as to the duties of the military voter after the marking of the ballot, which instructions shall include a specific direction stating that the envelope must be mailed to the appropriate board of elections and a specific direction stating when such envelope must be postmarked and when such envelope must reach such board of elections in order to be canvassed. Such envelope shall also include a direction that an application for military ballot should not be enclosed in such envelope.

5. Such ballot envelope and military ballot shall be enclosed in a second envelope addressed to the appropriate board of elections, and bearing on it the words "Official Election Ballot—Via Air Mail", and a specific direction that if an application for a military ballot is received with such military ballot, such application must be completed by the military voter and returned in such envelope together with the envelope containing the military ballot. Such envelope shall provide lines in the upper left corner for the military voter to write his name and complete military address.

6. The second envelope addressed to the appropriate board of elections and the envelope which contains the ballot shall be mailed to the military voter in a third envelope on which is printed the words "Official Election Ballot—Via Air Mail".

§ 7-124. **Ballots for special federal voters.** 1. The ballots for special federal voters shall provide for voting for presidential and vice-presidential electors, United States senator, representative in congress, and delegates and alternate delegates to a national convention only and shall be in the form prescribed by this chapter for absentee ballots except that on either the front or the back of the ballot shall be printed or stamped the words "Official Ballot—Special Federal Voter", provided, however, that at any election at which special federal voters may vote for all the offices and positions on the ballot, no such separate ballot shall be printed and the ballot for special federal voters shall be the same as the ballot provided to absentee voters in such election.

2. The board of elections shall furnish with each special federal ballot an envelope. On one side of the envelope shall be printed: **OFFICIAL BALLOT, SPECIAL FEDERAL VOTERS,**

**FOR . . . . . ELECTION . . . . . 19 . . . . .**

Name of voter . . . . .  
 Residence from which vote is being cast:  
     Street and number . . . . .  
     City or town . . . . .  
     County . . . . .  
     Assembly District or Ward . . . . .  
     Election District . . . . .  
     Party Enrollment (in case of primary election) . . . . .

The date of the election and the name of the county shall be printed, and the name of the voter, residence, name of town, number of ward or assembly district, if any, and election district shall be either printed or written or stamped in by the board.

3. On the reverse side of such envelope shall be printed the following statement:

**STATEMENT OF SPECIAL FEDERAL VOTER**

I do declare I am a qualified special federal voter of said district; that I am not qualified and am not able to qualify to vote elsewhere than as set forth on the reverse side of this envelope; that I have not committed any act nor am I under any impediment which denies me the right to vote.

I hereby declare that the foregoing is a true statement to the best of my knowledge and belief, and I understand that if I make any material false statement in the foregoing statement, I shall be guilty of a misdemeanor.

Date ..... 19 .....

.....  
Signature or mark of voter

.....  
Signature of witness (required  
only if voter does not sign his  
own name)

.....  
Address of Witness

4. The envelope shall be gummed, ready for sealing, and shall have printed thereon, on the side opposite the statement, instructions as to the duties of the voter after the marking of the ballot, which instructions shall include a specific direction stating that the envelope must be delivered or mailed to the appropriate board of elections and a specific direction stating when such envelope must be delivered or postmarked and when such envelope, if so mailed, must reach such board of elections in order to be canvassed.

5. Such envelope shall be enclosed in a second envelope bearing on it the address of the board of elections, the words "Official Election Balloting Material—Via Air Mail" and a specific direction that if an application for special federal ballot is received with the ballot, such application must be completed by the voter and returned in such envelope together with the envelope containing the special federal ballot.

§ 7-125. **Ballots, special presidential voters.** 1. The ballots for special presidential voters shall provide for voting for presidential and vice presidential electors only and shall be in the form prescribed for absentee ballots, except that either on the front or the back they shall be endorsed with the words printed or stamped, "Official Ballot-Special Presidential Voter" and "Presidential Electors".





5. Each ballot envelope shall be enclosed in a second envelope addressed to the board of elections and bearing a specific direction that if an application for special presidential ballot is received with the ballot, such application must be completed by the voter and returned in such envelope together with the envelope containing the special presidential ballot. Such second envelope shall be enclosed in a third envelope addressed to the special presidential voter. The second and third envelopes shall have printed on the face thereof the words "Election Material—Please Expedite".

§ 7-126. **Ballots; pasters, use of.** 1. If a certificate of designation or nomination to fill a vacancy shall lawfully be filed with the board or officer required to furnish official ballots, or the board of elections shall receive from the state board of elections a notification of a new designation or nomination to fill a vacancy, after the official ballots have been printed, and before the election, the board or officer providing the official ballots shall prepare and furnish to the inspectors of election in each election district affected, adhesive pasters containing the name of the new candidate designated or nominated, with directions for the proper use thereof.

2. Each paster shall be of plain paper of the same color as the official ballot to which it is being affixed, printed in plain black ink and in the same kind of type used in printing the names of the candidates upon the official ballots, and shall be of a size as large as and no larger than the space occupied upon the official ballot by the name of the candidate in whose place the candidate named upon the paster has been designated or nominated.

3. Whenever such pasters are provided, the board or officer furnishing them shall certify to the inspectors of election in the election districts affected by the vacancy the name of the person originally designated or nominated, the name of the person designated in the new certificate, the title of the office or party position for which the designation or nomination is made, the name of the political party to which the committee making the designation or nomination belongs, and shall state the number of pasters furnished, which number shall be equal to the number of official ballots furnished for each such district.

4. The inspectors or clerks shall affix one of such pasters, in the proper place and manner, upon each official ballot before the ballot is delivered to the voter.

§ 7-128. **Ballots; inspection of.** 1. Each officer or board charged with the duty of providing official ballots for an election shall have sample ballots open to public inspection five days before the election for which they were prepared and the official ballots open to such inspection four days before such election except that the sample and official ballots for a village election held at a different time from a general election shall be open to public

inspection at least two days before such election. During the times within which the ballots are open for inspection, such officer or board shall deliver to each voter applying therefor a sample of the ballot which he is entitled to vote.

2. Each officer or board charged with the duty of preparing ballots to be used on voting machines in any election shall give written notice, by first class mail, to all candidates, except candidates for member of the county committee, who are lawfully entitled to have their names appear thereon, of the time when, and the place where, they may inspect the voting machines to be used for such election. The candidates or their designated representatives may appear at the time and place specified in such notice to inspect such machines, provided, however, that the time so specified shall be not less than two days prior to the date of the election.

A candidate, whose name appears on the ballot for an election district or his designated representative, may, in the presence of the election officer attending the voting machine, inspect the face of the machine to see that his ballot label is in its proper place, but at no time during the inspection shall the booth be closed.

**§ 7-130. Ballots; examination by voters and instruction in use of voting machines.** One or more voting machines which shall contain the ballot labels, showing the party emblems and title of officers to be voted for, and which shall so far as practicable contain the names of the candidates to be voted for, shall be placed on public exhibition in some suitable place by the board of elections, in charge of competent instructors, for at least three days during the thirty days next preceding an election. No voting machine which is to be assigned for use in an election shall be used for such purpose after having been prepared and sealed for the election. During such public exhibition, the counting mechanism of the machine shall be concealed from view and the doors may be temporarily opened only when authorized by the board or official having charge and control of the election. Any voter shall be allowed to examine such machine, and upon request shall be instructed in its use.

**TITLE II**

**VOTING MACHINES**

Section	7-200.	Adoption and use of voting machine.
	7-201.	Voting and ballot counting machines; examination of.
	7-202.	Voting machines; requirements of.
	7-203.	Voting machines; requirement of use.
	7-204.	Contracts for purchase of voting machines.
	7-205.	Voting machines; use of at primaries.

- 7-206. Testing of voting and ballot counting machines.
- 7-207. Voting and ballot counting machines; preparation of, party representatives.

§ 7-200. **Adoption and use of voting machine.** 1. The board of elections of the city of New York and the local legislative governing body of each other city and of each town shall, and the board of trustees of any village may adopt any kind of voting machine approved by the state board of elections, or the use of which has been specifically authorized by law; and thereupon such voting machine may be used at any or all elections and shall be used at all general or special elections held in such city, town or village and in every contested primary election in the city of New York and in every contested primary election outside the city of New York in which there are one thousand or more enrolled voters qualified to vote except in a town or city in which the voting machines owned by such town or city do not permit the primary of more than one party on a single voting machine for voting, registering and counting votes cast at such elections.

2. No city or town may purchase any voting machine of a type approved by the state board of elections after September first, nineteen hundred eighty-six unless such type of voting machine has been approved for use in that county by the county board of elections. No more than two types of voting machines may be used in any city, town or village at a single election. If a voting machine of a type approved by the state board of elections after September first, nineteen hundred eighty-six is used at an election in any election district, no machine of a type approved for use by the state board of elections before September first, nineteen hundred eighty-six may be used in such election district at any subsequent election. Notwithstanding the other provisions of this subdivision, any county, city or town may borrow or lease for use on an experimental basis for a period of not more than one year each, machines of any type approved by the state board of elections after September first, nineteen hundred eighty-six.

3. For five years after any voting machine of a type approved by the state board of elections after September first, nineteen hundred eighty-six is first used in any election district, the city or town which purchased such machine shall provide a model of such voting machine for each polling place in which any such election district is located. Such models shall meet the standards set forth in regulations promulgated by the state board of elections.

4. Whenever there are more offices to be elected than can be accommodated on the voting machine or more candidates have been nominated for an office than can be accommodated on the voting machine, the board of elections may provide for the use of separate paper ballots for such offices, when other offices are voted for on voting machines by voters of the same election district.

**§ 7-201. Voting machines and ballot counting; examination of.** 1. Any person or corporation owning or being interested in any voting or ballot counting machine may apply to have the state board of elections examine such machine. Such applicant shall pay to the board before the examination a fee equal to the cost of such examination, or forty thousand dollars, whichever is less. The state board of elections shall cause the machine to be examined and a report of the examination to be made and filed in the office of the board. Such examination shall include a thorough review and testing of any electronic or computerized features of the machine. Such report shall state an opinion as to whether the kind of machine so examined can safely and properly be used by voters and boards of elections at elections, under the conditions prescribed in this article. If the report states that the machine can be so used, and the board after its own examination so determines, the machine shall be deemed approved, and machines of its kind may be adopted for use at elections as herein provided. The voting or ballot counting machine shall be examined by examiners or testing laboratories to be selected for such purpose by the board. Each examiner or laboratory shall receive compensation and expenses for making an examination and report as to each voting or ballot counting machine examined by him or it. Neither any member of the state board of elections nor any examiner or owner or employee of any testing laboratory, shall have any pecuniary interest in any voting or ballot counting machine. Any form of voting or ballot counting machine not so approved, cannot be used at any election.

2. When any change is made in the operation or material of any feature or component of any machine which has been approved pursuant to the provisions of this section, such machine must be submitted for such re-examination and reapproval pursuant to the provisions of subdivision one of this section as the state board of elections deems necessary.

3. If at any time after any machine has been approved pursuant to the provisions of subdivision one or two of this section, the state board of elections has any reason to believe that such machine does not meet all the requirements for voting machines set forth in this article, it shall forthwith cause such machine to be examined again in the manner prescribed by subdivision one of this section. If the opinions in the report of such examinations do not state that such machine can safely and properly be used by voters at elections under the conditions prescribed by this article, the state board of elections shall forthwith rescind its approval of such machine. After the date on which the approval of any machine is rescinded, no machines of such type may be purchased for use in this state. The state board of elections shall examine all machines of such type which were previously purchased, to determine if they may continue to be used in elections in this state.

4. The state board of elections may authorize, for use on an experimental basis, one or more types of voting equipment not previously approved by such board pursuant to the provisions of this section and may authorize a county board of elections or a city, town or village to rent or borrow a limited number of one such type of equipment for use in a primary, special, general or village election. Authorization for such use of such a machine may be given for all or part of any city, town or village for any such election.

5. The board shall deposit all fees collected pursuant to the provisions of subdivision one of this section to the credit of the voting and ballot counting machine examination fund established pursuant to section ninety-two-p of the state finance law.

**§ 7-202. Voting machine; requirements of.** 1. A voting machine to be approved by the state board of elections must be constructed so as to allow for voting for all candidates who may be nominated and on all ballot proposals which may be submitted and, except for elections at which the number of parties and independent bodies on the ballot exceeds the number of rows or columns available, so that the amount of space between the names of any two candidates of any party or independent body in any row or column of such machine at any election is no greater than the amount of space between the names of any other candidates of such party or independent body at such election. It also must permit a voter to vote for any person for any office, whether or not nominated as a candidate by any party or independent body without the ballot, or any part thereof, being removed from the machine at any time. The machine must permit voting in absolute secrecy. It also must be constructed so that a voter cannot vote for a candidate or on a ballot proposal for whom or on which he is not lawfully entitled to vote. It also must be so constructed as to prevent voting for more than one person for the same office, except where a voter is lawfully entitled to vote for more than one person for that office, and it must afford him an opportunity to vote for as many persons for that office as he is by law entitled to vote for and no more, while at the same time preventing his voting for the same person twice. It must be provided with a "protective counter" which records the number of times the machine has been operated since it was built and a "public counter" which records the number of persons who have voted on the machine at each separate election. It must be provided with a lock or locks, or other device or devices, the use of which, immediately after the polls are closed or the operation of the machine for such election is completed, will absolutely prevent any movement of the voting or registering mechanism or the recording of any additional votes. It must be provided with sufficient space to display the information required herein. It may also be provided with a device for printing or photographing all counters or numbers

recorded by the machine before the polls open and after the polls close. Every voting machine shall be furnished with illumination sufficient to enable voters while in the booth to read the ballot labels, and suitable for the use of election officers in examining the counters. All voting machines shall be provided with a screen and hood or curtain which shall be so made and adjusted as to completely conceal the voter and his action while voting.

2. After September first, nineteen hundred eighty-six any voting machine approved by the state board of elections must be constructed so as to allow voting by persons in wheelchairs. The protective counters and public counters on all such machines must be located so that they will be visible to the inspectors and watchers at all times while the polls are open. Any test mechanism used to test or demonstrate the operation of such a machine must be designed so that it cannot be operated on the day of an election. Such machines shall contain an audible or visual device which enables all the election inspectors and poll watchers at such election district to determine when the voting machine has been activated for voting and when the voter has completed casting his vote. Such machines shall permit the primaries of at least two parties to be held on such machine at a single election.

3. Voting machines may include a visual device which enables the election inspectors and poll watchers to determine, in a primary election, the party in which the voter using the machine is casting his vote.

4. Voting machines may contain visual devices which inform the voter of candidates and ballot proposals for which he has voted and inform him of the contests in which he has not yet voted.

5. The state board of elections shall, by regulation, establish standards for acceptable noise levels for operating features of voting machines and standards for the length and thickness of the curtains on voting machines.

**§ 7-203. Voting machines; requirement of use.** 1. The local legislative governing body of every city or town, as the case may be, shall provide a sufficient number of voting machines to fully equip all election districts therein.

2. At every general election except a general election in the city of New York in a year in which there is no election for electors of president and vice-president of the United States or governor of the state or mayor of such city, any election district which, at the time of such election, contains more than eight hundred voters shall have two voting machines.

3. In the event that such local legislative body shall not agree upon and execute a contract or contracts for the purchase of the necessary voting machines, such contract or contracts shall be awarded, made and executed by the state board of elections on

approval of the attorney general as to form. The expense of making and entering into such contracts, including the preparation and printing of specifications, and also all payments for voting machines to be made thereunder, shall be chargeable to the city or town, as the case may be and it shall be the duty of the comptroller or other chief fiscal officer of the city or town to pay the same upon the certificate of the local board, body or officer making such contract, or upon the certificate of the state board of elections in the event that such contract be made by it. No provision of any charter or other law or ordinance governing the purchase of patented articles shall be deemed to apply to the purchase of voting machines pursuant to the provisions of this section.

4. The board of elections may purchase voting machines for use in demonstration and as extra machines within the county. Such machines shall be in the custody and control of the county board of elections.

**§ 7-204. Contracts for purchase of voting machines.** 1. All contracts for purchase of voting machines of types approved by the state board of elections after September first, nineteen hundred eighty-six shall include, but not be limited to, requirements that the vendors provide assistance in training board of elections personnel in the operation of such machines and any ancillary equipment, assistance in the conduct of all elections conducted during the first year in which each such machine is used and at least five years of service for all such machines and ancillary equipment.

2. All such contracts shall also require the vendor to guarantee in writing to keep such machines in good working order for at least five years without additional cost and to perform satisfactorily its training and service obligations under the contract and to give a sufficient bond conditioned to that effect.

3. The state board of elections shall issue regulations specifying the manner in which contracts must be drawn in order to comply with the provisions of this section.

4. Purchase contracts for purchase of voting machines of types approved by the state board of elections after September first, nineteen hundred eighty-six may not become effective until a date at least ten days after copies of such contracts are received by the state board of elections unless, within such ten day period, such board of elections notifies the political subdivision which submitted such contract that such contract does not meet requirements of this chapter or the regulations of the state board of elections.

**§ 7-205. Voting machines; use of at primaries.** 1. The board of elections of any county outside the city of New York may adopt, and shall adopt when required by local law in any



city or by action of the county legislative body in any county, the use of voting machines for contested primary elections in any or all parts of such city or county for any office or position for which such board is not required to use such machines. Wherever voting machines are used for primary elections, the board of elections having jurisdiction over elections in the city, county or town concerned shall issue directions for such use for each primary election which shall be in conformity with the provisions of this section and of all other applicable provisions of this chapter and which shall be binding on all election officials in the area involved.

2. Additional voting machines may be acquired for this purpose. If the voting machines used are equipped with a mechanism by which a voter of one party may be permitted to vote for any candidate of his own party but prevented from voting for any candidates of other parties, the same machines may be used for the primaries of all parties or of more than one party. In the use of such a machine an inspector assigned for the purpose by the board of inspectors shall set the machine before each voter enters the voting booth so that it can be operated only for candidates of the party in which the voter is enrolled. If the face of a single machine will not hold the candidates of all parties, two or more machines may be used in a single election district, but all the candidates of any one party for whose primary contests voting machines are used must appear on the same machine except as provided in subdivision five of this section.

3. If the voting machines are not thus adapted to use for the primary contests of more than one party on the same machine, a separate voting machine shall be provided for the primary contests of each party for which such voting machines are used. Voting machines of both types may be used in the same primary election in different election districts or in the same election district for different parties.

4. Wherever voting machines are used for primary elections, they shall be used in accordance with the following provisions of this section for all primary contests so far as the available supply of voting machines will permit, except that the use of voting machines in all contested primary elections in the city of New York shall be mandatory except as provided in subdivision five. Outside the city of New York, if the available supply of voting machines is insufficient to contain all primary contests, paper ballots shall be used insofar as necessary. If there are not enough voting machines to cover all election districts for all parties therein, preference shall be given in the use of machines, first to contests for nomination for public office over contests for election to party position and, second to the contests which are held in the greatest numbers of election districts. If a voting machine used for a party in a particular election district will not accommodate all the candidates of the party therein, as many as possible of the contests

of such party shall be carried on the voting machine subject to the following priorities: first to contests for nomination for public office, and second to offices voted for in such party in the most election districts. Subject to these requirements, the board of elections of any county outside the city of New York shall designate which election districts and which parties therein shall use voting machines for primary contests, and which contests shall appear on a voting machine when the machine will not accommodate all the contests of a party.

5. To provide an opportunity for voting for offices or party positions for which more candidates have been designated than can be accommodated on the voting machines, the board of elections may provide for the use of a separate paper ballot for such offices and positions when other offices and positions are voted for on voting machines by voters of the same party.

6. When voting machines are used for primary elections the provisions of the other sections of this article shall be observed so far as applicable, except that the provisions for party rows or columns and the use of party names and emblems for each individual candidate shall be disregarded. When primary candidates of more than one party appear on the same voting machine, the candidates of each party shall appear together on one part of the machine distinctly and prominently separated from the part or parts used for candidates of other parties and prominently labeled with the name of the party. When a voting machine is used for the primary candidates of one party only, the machine shall be prominently labeled with the name of that party.

7. The state board of elections shall have power to issue supplementary instructions for the use of voting machines in primary elections in accordance with the provisions of this section. Subject to such instructions and to the provisions of this section the board of elections shall have power to make all necessary or desirable provisions for such use.

**§ 7-206. Testing of voting and ballot counting machines.** 1. The state board of elections shall test every voting machine of a type approved after September first, nineteen hundred eighty-six and every ballot counting machine to insure that each such machine functions properly before such machines may be used in any election in this state.

2. Such testing shall include, but not be limited to, a verification of the authenticity and integrity of the resident vote tabulation programming in open, encrypted, compiled, assembled, or any other form, in each voting machine of such types, by comparison of such resident vote tabulation programming with the programming which was in the machine of such type which was approved for use in this state and the recording of at least eight hundred votes on each such voting machine and a sufficient number of votes on

each such ballot counting machine, by a method which may be mechanical or electronic, to determine if such machine accurately records such votes.

3. At least annually, the board of elections of each county in which any such voting and ballot counting machines are in use shall test each such machine in a manner prescribed by the state board of elections under conditions supervised by such state board. Such tests shall include, but not be limited to the tests required by subdivision two of this section.

**§ 7-207. Voting and ballot counting machines; preparation of, party representatives.** 1. It shall be the duty of the board of elections to cause the proper ballot labels to be prepared and placed on those voting machines which require ballot labels, to cause the machines and any removable electronic or computerized devices which operate such machines or record the vote thereon to be placed in proper order for voting, to examine all voting machines and all such electronic or computerized devices before they are sent out to the different polling places, to see that all the registering counters are set at zero, to cause a printed record of all the ballot label programming data, for each election, which is entered into each voting machine of a type approved after September first, nineteen hundred eighty-six, or which is entered into any removable electronic or computerized device which operates such machine or records the vote thereon, to be produced directly from the device on which such ballot label programming data was entered and to lock all voting machines so that the counting machinery can not be operated and to seal each one with a numbered seal.

2. (a) Before preparing or programming the voting and ballot counting machines and any removable electronic or computerized devices which operate such machines or record the vote thereon for any election, written notices shall be mailed to the chairman of the county committees of the major political parties, stating the times when and place or places where the machines and devices will be prepared or programmed; at which times and place or places, one representative of each of such political parties, certified by the respective chairmen of the county committees of such parties, shall be entitled to be present and see that the machines and devices are properly prepared and placed in proper condition and order for use at the election. The party representatives shall take the constitutional oath of office, which shall be filed in the office of the board of elections.

(b) It shall be the duty of such party representatives to be present at the preparation of the voting machines for election and see that the machines are properly prepared and that all registering counters are set at zero by examining such counters or by examining the printed or photographic record produced by such voting ma-

chine or by examining the printed record of the ballot label programming data on such machine. When the machines have been prepared for election, it shall be the duty of the custodian or custodians of voting machines and party representatives, to make a certificate in writing which shall be filed in the office of the board of elections, stating the number of machines, whether or not all the machines are set at zero, the number registered on the protective counter, and the number on the seal with which the machine is sealed.

3. No custodian or other employee of the board of elections shall in any way prevent free access to and examination of all voting machines that are to be used at the election, by the duly appointed party representatives. The board of elections and its employees shall afford the party representatives every facility for the examination of all voting machines and devices and the registering counters, the printed or photographic record of the counters or the printed record of the ballot label programming data on such machines, if any, the protective counters and the public counters of each and every voting machine. All such printed or photographic records shall be public records at the offices of the boards of elections.

4. It shall be the duty of the board or officer charged by law with the duty of equipping the polling places to cause the voting machine or machines, prepared as above provided to be delivered at each of the respective polling places in which they are to be used, at least one hour before the time set for the opening of the polls. After the machine has been delivered, it shall be set up in the proper manner for use at the election, and it shall be the duty of the local authorities to provide ample protection against tampering with the machines.

5. The party representatives shall be paid for their services an amount that shall be fixed by the board of elections, such amount shall, however, be approved by the governing body of the municipality wherein said machines are used and paid by such municipality.

## ARTICLE 8

## CONDUCT OF ELECTIONS

- Title    I. Polling places.  
           II. Election inspectors.  
           III. Casting the ballot.  
           IV. Absentee voting.  
           V. Challenging voters.

## TITLE I

## POLLING PLACES

- Section 8-100. Elections; dates of and hours for voting.  
           8-102. Polls; opening of.  
           8-104. Polls.  
           8-106. Polling places; attendance for educational purposes.

§ 8-100. **Elections; dates of and hours for voting.** 1. (a) A primary election, to be known as the fall primary, shall be held on the first Tuesday after the second Monday in September before every general election unless otherwise changed by an act of the legislature. In each year in which electors of president and vice president of the United States are to be elected an additional primary election, to be known as the spring primary, shall be held on the first Tuesday in April unless otherwise changed by an act of the legislature, for the purpose of electing delegates to the national convention, members of state and county committees and assembly district leaders and associate assembly district leaders.

(b) In the event a run-off primary election is required in the city of New York, it shall be held on the second Tuesday next succeeding the date on which the initial primary election was held.

(c) The general election shall be held annually on the Tuesday next succeeding the first Monday in November.

2. Polls shall be open for voting during the following hours: a primary election from twelve o'clock noon until nine o'clock in the evening, except in the city of New York and the counties of Nassau, Suffolk, Westchester, Rockland, Orange, Ulster and Erie, and in such city or counties from six o'clock in the morning until nine o'clock in the evening; the general election from six o'clock in the morning until nine o'clock in the evening; a special election called by the governor pursuant to the public officers law, and, except as otherwise provided by law, every other election, from six o'clock in the morning until nine o'clock in the evening.

3. In any election district in which a primary of any party is uncontested, no primary of such party shall be held. In any election district in which the primaries of all parties are uncontested on

the day of any primary election, no primaries shall be held on such day and the polling place shall not be opened for voting.

4. No primary, special or general election for any state or local office or for the election of officers of any corporation which is funded in whole or in part by federal, state or municipal moneys shall be held on a Saturday or Sunday.

**§ 8-102. Polls; opening of.** 1. The inspectors of election, and clerks, if any, shall meet at the polling place at least one-half hour before the time set for opening the polls of election. The inspectors of election shall:

(a) See that the American flag is displayed.

(b) Cause the facsimile ballots to be posted conspicuously within the polling place.

(c) Cause the distance markers to be placed at a distance of one hundred feet from the polling place.

(d) Establish a guard-rail by delineating and marking out the voting area by a suitable means. The voting machine, ballots and all equipment shall be kept within such guard-rail.

(e) Place the books, ballots and sample ballots, blanks, stationery and supplies so that they will be ready and convenient for use.

(f) Affix or attach to their clothing and cause the clerks, if any, to affix or attach to their clothing the proper identification buttons, badges or emblems issued by the board of elections pursuant to the provisions of this chapter. The inspectors and clerks shall wear no other buttons, badges or emblems which are similar in design.

(g) See that the voting booths are supplied with pencils having black lead only.

(h) Unlock the ballot boxes, see that they are empty, allow them to be examined by the watchers present, and lock them up again in such a manner that the watchers and the persons just outside the guard-rail may see that the boxes are empty when re-locked.

(i) Inspect the voting machine to see that it is in good working order and has a curtain to preserve the secrecy of voting; inspect the screen of the voting booth; inspect the polling place to make certain there is no way that anyone can view any action of a voter inside the voting machine or booth; and affix a conspicuous notice, in the form prescribed by the state board of elections, in a prominent place in the machine or booth, instructing the voter that, in order to have his vote counted, he must leave the voting levers in a down position when he operates the handle to open the curtain. Such notice shall be printed in English and such other languages as the board of elections may determine to be appropriate.

(j) Announce that the polls are open for voting and the time when the polls will close.

2. The keys to the voting machine shall be delivered to the inspectors at least one-half hour before the time set for the opening of the polls, in a sealed envelope, on which shall be written or printed the number and location of the voting machine, the number of the seal, and the number registered on the protective counter, as reported by the voting machine custodian. The envelope containing the keys shall not be opened until at least one inspector from each of the two parties shall be present in the polling place and shall have examined the envelope to see that it has not been opened. Before opening the envelope, all the election officers present shall examine the number on the seal on the machine, also the number registered on the protective counter, and shall see if they are the same as the numbers written on the envelope containing the keys. If found not to agree, the envelope must not be opened until the voting machine custodian, or other authorized person, shall have been notified and shall have presented himself at the polling place for the purpose of re-examining such machine and shall certify that it is properly arranged. If the numbers on the seal and protective counter, are found to agree with the numbers on the envelope, the inspectors, except as hereinafter provided, shall open the doors concealing the counters and, before the polls are open, each inspector shall carefully examine every counter and see that it registers zero and allow the watchers to examine them. If the machine is provided with a device for printing or photographing candidate and amendment counters, the door concealing the counters shall not be opened and the inspectors shall instead carefully examine the printed or photographic record produced by the machine to see that each counter registers zero, and shall allow watchers to examine the printed or photographic record. The inspectors shall then sign a certificate showing the delivery of the keys in a sealed envelope, the number on the seal, the number registered on the protective counter, if all the counters are set at zero (000), if the public counter is set at zero (000), and if the ballot labels are properly placed in the machine. The machine shall remain locked against voting until the polls are formally opened, and shall not be operated except by voters in voting. If any counter is found not to register zero (000), the inspectors of election shall immediately notify the custodian who shall if practicable adjust the counters at zero (000), but if it shall be impracticable for the custodian to arrive in time to adjust such counters before the time set for opening the polls, the inspectors shall immediately make a written statement of the designating letter and number of such counter, together with the number registered thereon, and shall sign and post the same upon the wall of the polling place, where it shall remain throughout election day, and in filling out the return of canvass they shall subtract such number from the number then registered on such counter.

**§ 8-104. Polls.** 1. The American flag shall be kept displayed at each polling place throughout the election. Facsimile ballots and distance markers shall not be taken down, torn or defaced during the election. While the polls are open no person shall do any electioneering within the polling place, or in any public street, within a one hundred foot radial measured from the entrances designated by the inspectors of election, to such polling place or within such distance in any place in a public manner; and no political banner, button, poster or placard shall be allowed in or upon the polling place or within such one hundred foot radial. While the polls are open no person shall consume any alcoholic beverages within the polling place.

2. The boxes and all official ballots shall be kept within the guard-rail, and at least six feet therefrom, from the opening of the polls until the announcement of the result of the canvass and the signing of the inspectors' returns thereof. No person shall be admitted within the guard-rail during such period except the election officers, authorized watchers, persons admitted by the inspectors to preserve order or enforce the law, and voters duly admitted for the purpose of voting; provided, however, that candidates voted for at the polling place may be within the guard-rail during the canvass.

3. The provisions of this chapter concerning the preservation of order and apprehension for crime on a day of registration, shall apply to a day of election, but a person taken into custody shall not be prohibited thereby from voting.

4. After a ballot box shall have been locked for the purposes of election, it shall not be opened until it is opened at the close of the polls for purposes of canvass. Each inspector shall be responsible personally for the custody of each ballot box and its contents from the time the election begins until the box is delivered, according to law, to the person entitled to receive it.

5. Voters entitled to vote who are on line or in the polling place at the time fixed by law for the closing of the polls shall be allowed to vote.

6. In the city of New York, during days of primary, general, special and community school board elections, at each premises wherein a polling place or places are located, at least one police officer or peace officer designated by the police commissioner of such city pursuant to the provisions of article two of the criminal procedure law shall be assigned for duty from the opening until the closing of the polls. Additional police officers or peace officers may be assigned as is deemed appropriate by the police commissioner of such city.

**§ 8-106. Polling places; attendance for educational purposes.** 1. Notwithstanding any inconsistent provision of law, in order to facilitate education and participation in the electoral



process, a number of students in grades eight to twelve, inclusive, not to exceed four at any one time in any polling place, may enter any polling place between twelve o'clock noon and three o'clock p.m., for the purpose of observing the activities taking place therein and, when allowed by the inspectors, for the purposes of subdivision two of this section, provided there is proper parental or teacher supervision present, and provided further, any such student who in any way interferes with the orderly process of voting shall not be allowed to remain in the polling place.

2. Notwithstanding any inconsistent provision of law, each board of elections may provide a spare voting machine inside any polling place or in a room adjacent to any polling place for the educational use of students in grades eight to twelve, inclusive. Each such board shall establish procedures for the use of the machine including, but not limited to, location and preparation of the machine and duties of the machine tenders. At least four weeks prior to an election, each board intending to provide a voting booth for the educational use of students shall notify each school district within its jurisdiction of the location of the spare voting machine. Upon such notice, but not later than two weeks prior to such election, each school district intending to utilize the spare voting machine made available for educational use as herein provided shall notify the board of such intention. Any ballot used in connection with such spare voting machine shall be in the form prescribed by section 7-118 of this chapter for facsimile or sample ballots.

## TITLE II

### ELECTION INSPECTORS

Section 8-202. Board of inspectors; conduct of.

§ 8-202. **Board of inspectors; conduct of.** 1. The chairman of the board of inspectors theretofore appointed shall continue to act as such, and the inspectors shall act as a board, and a majority thereof shall decide questions. Two inspectors who are not of the same political faith shall have charge of the registration poll ledgers *or computer generated registration lists*, subject to inspection thereof by any inspector and his participation in the decision of any question. Of the inspectors in charge of the registration poll ledgers *or computer generated registration lists*, one shall be assigned to the duty of comparing the signatures of voters. Inspectors shall be assigned to the foregoing duties by majority vote of the board of inspectors, before the opening of the polls. Such assignments shall be by lot if a majority cannot agree. The duties of an inspector or clerk may be changed during the day. If there be clerks, the board of inspectors may direct a clerk, who is not otherwise

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[Matter in *italics* is new.]

engaged, to perform any duty of an inspector of the same party, except to vote upon a question to be decided by such board. Where an oath is required or permitted by this article at any election, any inspector may administer it. Where voting machines are used, one clerk or inspector shall attend each voting machine.

2. The exterior of the voting machine and every part of the polling place shall be in plain view of the election inspectors and watchers. The voting machine shall be placed at least four feet from the table used by the inspectors in charge of the poll books. The guard-rail shall be at least three feet from the machine and the table used by the inspectors, and shall have openings to admit voters to and from the machine. The voting machine shall be so located in the polling place that, unless its construction requires otherwise, the ballot labels on the face of the machine can be seen plainly by the election inspectors and the party watchers when the machine is not in use by voters. The election inspectors shall not themselves be, or allow any other person to be, in any position or near any position, that will permit one to see or ascertain how a voter votes, or how he has voted nor shall they permit any other person to be less than three feet from the machine while such machine is occupied. The election inspector or clerk attending the machine shall inspect the face of the machine after each voter has cast his vote, to see that the ballot labels are in their proper places and that the machine has not been injured or tampered with. During elections the door or other covering of the counter compartment of the machine shall not be unlocked or opened or the counters exposed except by a member of the board of elections, a voting machine custodian or any other person upon the specific instructions of a member of the board of elections.

[Subd. 1 amended by chap. 91, Laws of 1992.]

### TITLE III

#### CASTING THE BALLOT

- Section 8-300. Voting; manner of.  
 8-302. Voting; verification of registration.  
 8-304. Voters; signature identification.  
 8-306. Voters; assistance to.  
 8-308. Voting; voting machine write-in.  
 8-310. Voting; paper ballot, delivery to voter.  
 8-312. Voting; paper ballots, marking and casting.  
 8-314. Voting; primary election, missing enrollment record.  
 8-316. Ballots; mutilated or spoiled.

§ 8-300. **Voting; manner of.** 1. The inspectors shall admit within the voting area only two voters at a time for each voting machine or voting booth and shall ascertain whether each such voter is entitled to vote. If he is found to be entitled to vote, he

shall be admitted within the voting machine or booth and be permitted to vote.

2. The operating of the voting machine by the voter while voting or the marking of his ballot shall be secret and obscured from all other persons except as provided by this chapter in cases of voting by assisted voters.

3. No voter shall remain within a voting machine longer than three minutes or a voting booth longer than five minutes and if he shall refuse to leave after the lapse of such time, he shall be removed by the inspectors.

§ 8-302. **Voting; verification of registration.** 1. At all elections held pursuant to the provisions of this chapter two inspectors representing different political parties shall act together at all times in supervising the use of the registration records and in verifying the rights of persons to vote on the basis of such records.

2. The voter shall give his name and his residence address to the inspectors. An inspector shall then loudly and distinctly announce the name and residence of the voter.

3. When a person presents himself for voting one of the members of the board shall inspect the challenge report.

a. If the applicant's name is reported in the first section of such report he shall not be permitted to vote except pursuant to the provisions of paragraph (f) of this subdivision.

b. If the applicant's name is reported in the second section of such report or if an indication that the voter is to be challenged appears next to his name on the computer generated registration list, the board shall inform him of the reported reason for including his name on such report and shall request him to reply to such report. After receiving such reply the board, if it believes the applicant qualified to vote, and if he is not challenged by a person other than a board member, shall permit him to vote. Otherwise, the board shall challenge him in the manner provided in this chapter. It shall also complete without delay the entries required to be made opposite the applicant's name on the challenge report or the computer generated registration list *or in the place provided at the end of such computer generated registration list.*

[c. If the applicant is a woman, whose name is reported in the third section of such report as having married, the board shall ascertain whether she is married and, if so, whether she wishes to vote under her married name. Whether married or not, she shall be permitted to vote under her name before her marriage if she prefers, unless challenged on other grounds. If she has married and wishes to vote under her married name she shall sign first on her registration poll record or next to her name on the computer generated registration list, the name under which she is registered

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[Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.]

and, immediately above it, her married name. If the applicant is a person whose name is reported in the third section for the reason that it has been changed by court order, he shall sign first on his registration poll record or next to his name on the computer generated registration list the name under which he is registered and then, immediately above it, his new name as indicated in parentheses on the challenge report and shall then be permitted to vote unless challenged on other grounds. A person who claims a changed name but whose name does not appear in section three of the challenge report shall nevertheless be permitted to vote unless challenged on other grounds. The board shall either enter the names of all such persons in the third section of the challenge report under the heading "Added by board of inspectors", in the form in which they are registered, followed in parentheses by the name as changed or enter the name as changed next to such voter's name on the computer generated registration list and then proceed in the same manner as hereinabove provided. The board shall complete without delay at the time of application the entries required to be made on the challenge report opposite the name of each applicant listed in the third section. When the registration poll record of a person who has voted under a new name is returned to the board of elections, such board shall change his name on the face of each of his registration records without completely obliterating the old one, and thereafter such person shall vote only under his new name. If a voter has signed a new name on a computer generated registration list, such board shall enter such new signature in such voter's computer record.

d.jc. If an applicant whose name is not reported in either the first or second section of such report is challenged the board, without delay, shall either enter his name in the fourth section of such report together with the other entries required to be made in such section opposite the applicant's name or make an entry next to his name on the computer generated registration list or *in the place provided at the end of the computer generated registration list.*

d. *A person who claims a changed name shall be permitted to vote unless challenged on other grounds. The inspectors shall either enter the names of all such persons in the third section of the challenge report or in the place provided at the end of the computer generated registration list, in the form in which they are registered, followed in parentheses by the name as changed or enter the name as changed next to such voter's name on the computer generated registration list. The voter shall sign first on the registration poll record or on the computer generated registration list, the name under which the voter is registered and, immediately above it, the new name, provided that on such a computer generated registration list, the new name may be signed in the place provided at the end*

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[Matter in italics is new.]

*of such list. When the registration poll record of a person who has voted under a new name is returned to the board of elections, such board shall change his name on the face of each of his registration records without completely obliterating the old one, and thereafter such person shall vote only under his new name. If a voter has signed a new name on a computer generated registration list, such board shall enter such voter's new name and new signature in such voter's computer record.*

e. If an applicant requests assistance in voting and qualifies therefor, the board shall provide assistance as directed by this chapter, and shall without delay either enter such applicant's name and the other entries required in the fifth section of the challenge report or make an entry next to such applicant's name on the computer generated registration list *or in the place provided at the end of the computer generated registration list.*

f. Whenever a voter presents himself and offers to cast a ballot, and the address at which he claims to live is in the election district in which he seeks to vote but no registration poll record can be found for him in the poll ledger *or his name does not appear on the computer generated registration list or his signature does not appear next to his name on such computer generated registration list or his registration poll record or the computer generated registration list does not show him to be enrolled in the party in which he claims to be enrolled, he shall be permitted to vote only as hereinafter provided:*

(i) He may present a court order requiring that he be permitted to vote. At a primary election, such a court order must specify the party in which the voter is permitted to vote. He shall be required to sign his full name on top of the first page of such order, together with his registration serial number, if any, and his name and the other entries required shall then be entered without delay in the sixth section of the challenge report *or in the place provided at the end of the computer generated registration list, or, if such person's name appears on the computer generated registration list, the board of elections may provide a place to make such entry next to his name on such list.* The voter shall then be permitted to vote in the manner otherwise prescribed for voters whose registration poll records are found in the ledger *or whose names are found on the computer generated registration list; or*

(ii) He may swear to and subscribe an affidavit stating that he has duly registered to vote, the address in such election district from which he registered, that he remains a duly qualified voter in such election district, that his registration poll record appears to be lost or misplaced *or that his name and/or his signature was omitted from the computer generated registration list, and at a primary election, the party in which he is enrolled. The inspectors*

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[Matter in *italics* is new.]

of election shall offer such an affidavit to each such voter whose residence address is in such election district. Each such affidavit *shall be in a form prescribed by the state board of elections*, shall be printed on an envelope of the size and quality used for an absentee ballot envelope, and shall contain an acknowledgment that the affiant understands that any false statement made therein is perjury punishable according to law. The voter's name and the entries required shall then be entered without delay and without further inquiry in the sixth section of the challenge report *or in the place provided at the end of the computer generated registration list*, with the notation that the voter has executed the affidavit hereinabove prescribed, *or, if such person's name appears on the computer generated registration list, the board of elections may provide a place to make such entry next to his name on such list*. The voter shall then, without further inquiry, be permitted to vote an emergency ballot provided for by this chapter. Such ballot shall thereupon be placed in the envelope containing his affidavit, and the envelope sealed and returned to the board of elections in the manner provided by this chapter for protested official ballots, including a statement of the number of such ballots.

3-a. The inspectors shall also give to every person whose address is in such election district for whom no registration poll record can be found and, in a primary election, to every voter whose registration poll record does not show him to be enrolled in the party in which he wishes to be enrolled a copy of a notice, in a form prescribed by the state board of elections, advising such person of his right to, and of the procedures by which he may, cast an affidavit ballot or seek a court order permitting him to vote, and shall also give every such person who does not cast an affidavit ballot, an application for registration by mail.

3-b. In every election district in which the candidates for any office or position in a primary election have been assigned numbers by the board of elections because of identical or similar names, the inspectors shall also give to every person eligible to vote in such primary, a copy of a leaflet prepared by the board of elections which contains biographical information about such candidates.

4. At a primary election, a voter whose registration poll record is in the ledger shall be permitted to vote only in the primary of the party in which such record shows him to be enrolled unless he shall present a court order pursuant to the provisions of subparagraph one of paragraph f of subdivision three of this section requiring that he be permitted to vote in the primary of another party, or unless he shall present a certificate of enrollment issued by the board of elections, not earlier than one month before such primary election, pursuant to the provisions of this chapter which certifies that he is enrolled in a party other than the one in which such record shows him to be enrolled, or unless he shall subscribe

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[Matter in *italics* is new.]

an affidavit pursuant to the provisions of subparagraph two of paragraph (f) of subdivision three of this section.

5. Except for voters unable to sign their names, no person shall be permitted to vote without first identifying himself as required by this chapter.

[Subd. 3 amended by chap. 89, Laws of 1992.]

**§ 8-304. Voters; signature identification.** 1. A person before being allowed to vote shall be required, except as provided in this chapter, to sign his name on the back of his registration poll record on the first line reserved for his signature at the time of election which is not filled with a previous signature, or on the line of the computer generated registration list reserved for his signature. The two inspectors in charge shall satisfy themselves by a comparison of this signature with his registration signature and by comparison of his appearance with the descriptive material on the face of the registration poll record that he is the person registered. If they are so satisfied they shall enter the other information required for the election on the same line with the voter's latest signature, shall sign their names or initials in the spaces provided therefor, and shall permit the applicant to vote. Any inspector or inspectors not satisfied shall challenge the applicant forthwith.

2. If a person who alleges his inability to sign his name presents himself to vote, the board of inspectors shall permit him to vote, unless challenged on other grounds, provided he had been permitted to register without signing his name. The board shall enter the words "Unable to Sign" in the space on his registration poll record reserved for his signature or on the line of the computer generated registration list reserved for his signature at such election. If his signature appears upon his registration record or upon the computer generated registration list the board shall challenge him forthwith, except that if such person claims that he is unable to sign his name by reason of a physical disability incurred since his registration, the board, if convinced of the existence of such disability, shall permit him to vote, shall enter the words "Unable to Sign" and a brief description of such disability in the space reserved for his signature at such election. At each subsequent election, if such disability still exists, he shall be entitled to vote without signing his name and the board of inspectors, without further notation, shall enter the words "Unable to Sign" in the space reserved for his signature at such election.

3. The voter's signature made by him upon registration and his signature made at subsequent elections shall be effectively concealed from the voter by a blotter or piece of opaque paper until after the voter shall have completed his signature.

4. In any case where a person who has heretofore voted has placed his voting signature on the back of his registration poll

record on the first or any succeeding line or lines at the time or times of an election, instead of on the last line of the space thereon required to be reserved for such voting signatures and on any lines next running upward therefrom, the inspectors of election shall obliterate such misplaced signature or signatures, initial the obliteration and require such voter to sign his name again in the correct place on such registration poll record.

5. Any person who has heretofore registered and who at such time placed his or her registration signature on the back of the registration poll record otherwise than in the space required to be provided therefor at the bottom of such poll record, shall, before being permitted to vote at any election thereafter, subscribe a new registration signature for himself on the last line at the bottom of such poll record, and, at the same time, if the inspectors of election are satisfied that the signatures were made by the same person, obliterate his original registration signature placed elsewhere than on the bottom of such record. Such obliterations may be made by crossing out the signature so as to completely efface the same or by affixing thereover a piece of gummed tape of a size sufficient only to cover such signature and of a type adequate to fully conceal the same.

§ 8-306. **Voters; assistance to.** 1. A voter who states under oath to the board of inspectors that he requires assistance may be assisted in the manner and subject to the conditions and requirements provided for in this section.

2. A board of inspectors of election shall assist any voter:

(a) who informs such board, under oath, that he cannot read and therefore requires assistance, or

(b) who cannot even with the aid of glasses see the names printed on the official ballot, or

(c) who is so physically handicapped that he cannot do what is needed at that election to turn down the levers or use a write-in slot on a voting machine, or mark a paper ballot, or

(d) who, unless aided by another person, cannot enter a voting booth.

3. Any voter who requires assistance to vote by reason of blindness, disability or inability to read or write may be given assistance by a person of the voter's choice, other than the voter's employer or agent of the employer or officer or agent of the voter's union. A voter entitled to assistance in voting who does not select a particular person may be assisted by two election inspectors not of the same political faith. The inspectors or person assisting a voter shall enter the voting machine or booth with him, help him in the preparation of his ballot and, if necessary, in the return of the voted ballot to the inspectors for deposit in the ballot box. The inspectors shall enter in the remarks space on the registration poll card of an assisted voter or next to the name of such voter



on the computer generated registration list, the name of each officer or person rendering such assistance.

4. An election officer or other person assisting a voter shall not in any manner request or seek to persuade or induce the assisted voter to vote any particular ticket, or for any particular candidate, or for or against any particular ballot proposal, and shall not keep or make any memorandum or entry of anything occurring within the voting booth and shall not, directly or indirectly, reveal to any other person the name of any candidate voted for by such voter, or which ticket he has voted, except when required pursuant to law to give testimony as to such matter in a judicial proceeding.

5. A person other than an inspector, who assists a voter in voting, shall make an oath before entering the booth that he "will not in any manner request, or seek to persuade or induce the voter to vote any particular ticket or for any particular candidate, and that he will not keep or make any memorandum or entry of anything occurring within the booth, and that he will not, directly or indirectly, reveal to any person the name of any candidate voted for by the voter, or which ticket he had voted, or anything occurring within the voting booth, except when required pursuant to law to give testimony as to such a matter in a judicial proceeding."

6. If a voter makes any false representation to obtain assistance in voting, he shall be punishable therefor as prescribed by law.

7. For the instruction of voters, there may be so far as practicable, in each polling place, a mechanically operated model of a portion of the face of the voting machine. Such model, if furnished, shall be located during the election on the inspectors' table or in some other place which the voters must pass to reach the machine. Each voter, before entering the machine, shall, upon request, be instructed regarding its operation and such instruction illustrated on the model and the voter given opportunity personally to operate the model. The voter's attention shall also be called to the facsimile ballot so that the voter can become familiar with the location of the ballot proposals, if any, and the location of the respective offices to be filled at the election. If any voter, after entering the voting machine booth and before the closing of such booth, shall ask for further instructions concerning the manner of voting, two inspectors of opposite political faith shall give such instructions to him. No inspector or other election officer or other person instructing a voter, shall, in any manner, request, suggest or seek to persuade or induce any such voter to vote any particular ticket, or for any particular candidate or for or against any particular ballot proposal. After giving such instructions, the inspectors shall retire and such voter shall then close the booth and vote as in the case of an unassisted voter.

8. In no event shall an inspector or any other person enter a voting machine or booth for the purpose of giving instructions to

a voter, after the voter has closed such booth, except as permitted herein.

9. Any voter requesting a sample ballot shall be furnished one if available and he may take it away from the polling place.

**§ 8-308. Voting; voting machine write-in.** 1. Ballots voted for any person whose name does not appear on the machine as a nominated or designated candidate for public office or party position are referred to in this article as write-in ballots.

2. No write-in ballot shall be voted for any person for any office whose name appears on the machine as a nominated or designated candidate for the office or position in question; any write-in ballot so voted shall not be counted.

3. A write-in ballot must be cast in its appropriate place on the machine, or it shall be void and not counted.

**§ 8-310. Voting; paper ballot, delivery to voter.** If paper ballots are being used, one of the clerks, or if there be no clerks the inspector assigned to the duty of delivering ballots, shall deliver to the voter one paper ballot or set of paper ballots, in the numerical order of the ballot or set, beginning with number one, and shall at the same time announce, loudly and distinctly, the number on the stub or stubs thereof. If the ballots are in sets, they shall be delivered in sets. If a new ballot or set of ballots be lawfully delivered to the same voter, a similar announcement shall be made as to the number of the stub or stubs of each new ballot or set delivered. Each ballot, when delivered, shall be folded in the proper manner for voting, which is: first, by bringing the bottom of the ballot up to the perforated line, and second, by folding both sides to the center or toward the center in such manner that when folded the face of each ballot shall be concealed, and the printed number on the stub and the indorsement on the back of the ballot shall be visible, so that the stub can be removed without removing any other part of the ballot and without exposing any part of the face of the ballot below the stub, and so that when folded the ballot shall not be more than four inches wide. The number on each ballot or set of ballots so delivered, as printed on the stub or stubs, shall be entered forthwith opposite the name of the voter in the proper place in the registration poll record or next to his name on the computer generated registration list. No person other than an inspector or clerk shall deliver to any voter within the guard rail any ballot, and they shall deliver only such ballots as the voter is legally entitled to vote, other than sample ballots.

**§ 8-312. Voting; paper ballots, marking and casting.** 1. On receiving his ballot, the voter forthwith and without leaving the inclosed space shall retire alone, unless he be entitled to assistance in voting, to an unoccupied voting booth and mark

his ballot, using a pen having blue or black ink or a pencil having black lead. He shall not occupy a booth more than five minutes if other voters are waiting to occupy it. If the voter wrongly marks, defaces or tears a ballot or one of a set of ballots, he may successively obtain others, one set at a time, not exceeding three sets in all, upon returning to the inspectors or clerks each set of ballots already received.

2. When the voter shall have prepared his ballot or ballots, he shall leave the booth with each ballot folded so as to conceal the face thereof but to show the indorsement and facsimile of the official signature on the back, and keeping the same so folded, shall proceed at once to the inspector in charge of the ballot box, and shall offer such ballot or ballots to such inspector. If the ballot or ballots are properly folded, and have no mark or tear visible on the outside thereof, except the printed number on the stub or stubs and the printed indorsement on the back, and if such number is the same as that entered in the registration poll record, as the number on the stub of the official ballot or set of ballots last delivered to him, such inspector shall receive such ballot or ballots, and after removing the stub or stubs therefrom in plain view of the voter, and without removing any other part of the ballot, and without unfolding the ballot or in any way exposing any part of the face of the ballot below the stub, shall deposit each ballot in the proper ballot box for the reception of voted ballots of the kind so received, and the stubs in the box for detached stubs.

3. Upon voting, the voter forthwith shall pass outside the guard-rail, unless he is a person authorized to remain for other purposes than voting.

4. When a person shall have received a paper ballot from any clerk, or inspector, as hereinbefore provided, he shall be deemed to have commenced the act of voting, and if, after receiving such official ballot, he shall leave the space inclosed by the guard-rail before the deposit of his ballot in the ballot box, as hereinbefore provided, he shall not be entitled to pass again with the guard-rail for the purpose of voting, or to receive any further ballots.

5. No ballot without the official indorsement shall be allowed to be deposited in the ballot box except for emergency ballots as provided for herein. No person to whom any paper ballot shall be delivered shall leave the space within the guard-rail until after he shall have delivered back all such ballots received by him either to the inspectors or to the clerks.

**§ 8-314. Voting; primary election, missing enrollment record.** If a registered voter marked an enrollment blank, but his enrollment as so indicated was not entered or entered incorrectly, he nevertheless shall be permitted to vote at the primary election, with the party under whose name he marked such blank, if he produces a certificate of the board of elections that he marked an

enrollment blank, specifying the party, and that the entry of his enrollment on the registration poll record was omitted or incorrectly entered by inadvertence or mistake and he is qualified to vote at the primary election in the party set forth in such certificate. In such a case the board of elections shall issue such certificate on demand. The inspectors shall then and there enter the enrollment on the record.

§ 8-316. **Ballots; mutilated or spoiled.** If a ballot is found to be defective or mutilated before it is delivered to the voter, its stub and the stubs of all other ballots in the set shall be detached immediately and placed in the box for stubs, by the clerks, or if there are no clerks by the inspector assigned to the duty of delivering ballots, and all the ballots of that set immediately shall be marked "cancelled", and placed in the box for spoiled and mutilated ballots. If a voter returns a ballot as defective, mutilated, defaced, or wrongly marked, he shall also return all the other ballots of the set, if any, and such clerks or inspector shall likewise remove their stubs, placing all the stubs in the box for stubs and all the ballots of the set in the box for spoiled or mutilated ballots, first marking the ballots "cancelled". In each case, the voter shall receive another ballot or set of ballots, unless not entitled thereto.

#### TITLE IV

##### ABSENTEE VOTING

- Section 8-400. Absentee voting; application for ballot.  
 8-402. Absentee voting; review of application by board of elections.  
 8-404. Absentee voting; hospitalized veterans, special provisions.  
 8-406. Absentee ballots, delivery of.  
 8-407. Voting by residents of nursing homes, residential health care facilities, facilities operated or licensed, or under the jurisdiction of, the department of mental hygiene or hospitals or facilities operated by the Veteran's Administration of the United States.  
 8-408. Repealed.  
 8-410. Absentee voting; method of.  
 8-412. Absentee ballots; deadline for receipt.

§ 8-400. **Absentee voting; application for ballot.** 1. A qualified voter may vote as an absentee voter under this chapter if, on the occurrence of any village election conducted by the board of elections primary election, special election, general election or New York city community school board district or city of Buffalo school district election, he will be:

(a) unavoidably absent from the county of his residence, or, if a resident of the city of New York absent from said city, because his duties, occupation, business, or studies require him to be elsewhere on the day of election; or

(b) absent from such county or city because he is on vacation elsewhere on the day of election; or

(c) unable to appear personally at the polling place of the election district in which he is a qualified voter because of illness or physical disability, whether permanent or temporary, or because he will be or is a patient in a hospital; or

(d) he is a person entitled to a ballot because he is a qualified voter registered as an inmate or patient of a veteran's administration hospital; or

(e) absent from the county of his residence, or if a resident of the city of New York, absent from said city, because of his accompanying a spouse, parent or child who would be entitled to apply for the right to vote by absentee ballot if a qualified voter; or

(f) absent from his voting residence because he is detained in jail awaiting action by a grand jury or awaiting trial, or confined in prison after a conviction for an offense other than a felony, provided that he is qualified to vote in the election district of his residence.

2. A qualified voter desiring to vote at such election as an absentee voter for any reason specified in subdivision one hereof must make application for an absentee ballot on a form to be obtained and filed as provided herein or by letter as provided in paragraph (d) of this subdivision.

(a) Application forms shall be furnished by and may be obtained from any board of elections at any time until the day before such election. Application forms shall also be supplied by the board of inspectors of the election district in which applicant is a qualified voter on all of the days provided for local registration. In addition, application forms shall be supplied upon the request of the person authorized to vote pursuant to this section, any such person's spouse, parent or child, a person residing with the applicant as a member of his household, or the applicant's duly authorized agent. Application forms sent outside of the United States to a country other than Canada or Mexico, shall be sent airmail. Any reference to "board of elections" in the remaining provisions of this section, except with respect to the furnishing and obtaining of applications for absentee ballots, means only the board of elections of the county or city in which the applicant is a qualified voter.

(b) Applications may be filed either with the board of elections or in person with the board of inspectors of the election district in which the applicant is a qualified voter, on one of the days provided for local registration.

(c) All applications must be mailed to the board of elections not later than the seventh day before the election for which a ballot is first requested or delivered to such board not later than the day before such election.

(d) The board of elections shall mail an absentee ballot to every qualified voter otherwise eligible for such a ballot, who requests such an absentee ballot from such board of elections in a letter, which is signed by the voter and received by the board of elections not earlier than the thirtieth day nor later than the seventh day before the election for which the ballot is first requested and which states the address where the voter is registered and the address to which the ballot is to be mailed. The board of elections shall enclose with such ballot a form of application for absentee ballot.

3. The application for an absentee ballot when filed must contain in each instance the following information:

(a) Applicant's full name and residence address, including the street and number, if any, rural delivery route, if any, mailing address if different from the residence address and his town or city and an address to which the ballot shall be mailed.

(b) A statement that the applicant is a qualified and registered voter, and that he does not know of any reason why he is no longer qualified to vote.

(c) A statement, as appropriate, that on the day of such election the applicant expects in good faith to be in one of the following categories:

(i) unavoidably absent from the county of his residence, or if a resident of the city of New York absent from said city, because his duties, occupation, business or studies require him to be elsewhere on such day, and where such duties, occupation, business or studies are not of such a nature as ordinarily to require such absence, a statement briefly describing the special circumstances requiring such absence and the dates when he expects to begin and end such absence; or

(ii) absent from the county of his residence, or if a resident of the city of New York absent from said city, because he will be on vacation elsewhere on such day, the dates upon which he expects to begin and end such vacation, the place or places where he expects to be on such vacation, the name and address of his employer, if any, or if self-employed or retired a statement to such effect; or

(iii) ill or physically disabled; that he has been advised by his medical practitioner or christian science practitioner, giving said practitioner's name and address, that he will not be able to go to his polling place for such election, and whether said illness is permanent or temporary; if he expects to be a patient in a hospital he shall state the name and address of said hospital; or

(iv) entitled to a ballot because he is a qualified voter registered as an inmate or patient of a veteran's administration hospital; or

(v) detained in jail awaiting action by a grand jury or awaiting trial or confined in prison after a conviction for an offense other than a felony and stating the place where he is so detained or confined; or

(vi) absent from the county of his residence, or if a resident of the city of New York absent from said city, because of his accompanying his spouse, parent or child who falls within one of the foregoing categories; a statement that the applicant resides in the same election district as such spouse, parent or child, the name and address of such spouse, parent or child, and, unless the application accompanies the application of such spouse, parent or child, the information as to the status of such spouse, parent or child required by the applicable category.

(d) Such application shall permit the applicant to apply for an absentee ballot for either a primary election or the general election in any year and for those persons who will be continuously absent from their county of residence during the period between the fall primary election and the general election in any year to apply for ballots for both such elections in such year.

4. A voter who claims permanent illness or physical disability may make application for an absentee ballot and the right to receive an absentee ballot for each election thereafter as provided herein without further application, by filing with the board of elections an application which shall contain a statement to be executed by the voter showing the particulars of his illness or disability. Upon filing of such application the board of elections shall investigate the facts stated therein and if satisfied as to the truth thereof, shall cause the registration records of the voter to be marked "Permanently Disabled" and thereafter shall send an absentee ballot for each succeeding primary, special or general election to such voter at his last known address by first class mail with a request to the postal authorities not to forward such ballot but to return it in five days in the event that it cannot be delivered to the addressee. The mailing of such ballot for each election shall continue until such voter's registration is cancelled.

5. The application for an absentee ballot shall contain the following language printed in bold face directly above the signature line: "I CERTIFY THAT THE INFORMATION IN THIS APPLICATION IS TRUE AND CORRECT AND UNDERSTAND THAT THIS APPLICATION WILL BE ACCEPTED FOR ALL PURPOSES AS THE EQUIVALENT OF AN AFFIDAVIT AND, IF IT CONTAINS A MATERIAL FALSE STATEMENT, SHALL SUBJECT ME TO THE SAME PENALTIES AS IF I HAD BEEN DULY SWORN." Such application shall be accepted for all purposes as the equivalent of an affidavit and if it contains a

material false statement shall subject the person signing it to the same penalties as if he had been duly sworn.

6. If a person entitled to an absentee ballot is unable to sign his application because of illness, physical disability or inability to read he shall be excused from signing upon making a statement, in substantially the following form, which shall be witnessed by one person:

“I hereby state that I am unable to sign my application for an absentee ballot without assistance because I am unable to write by reason of my illness or physical disability or because I am unable to read. I have made, or have received assistance in making, my mark in lieu of my signature.”

..... (Mark)  
(Name of Voter)

“I, the undersigned, hereby certify that the above named voter affixed his mark to this application in my presence and I know him to be the person who affixed his mark to said application and understand that this statement will be accepted for all purposes as the equivalent of an affidavit and if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn.”

.....  
(Signature of Witness)  
.....  
(Address of Witness)

Such statement shall be included in the application form furnished by the board of elections.

7. Printed forms of applications for absentee ballots in accordance with the requirements of this section shall be provided by the board of elections. An appropriate number shall be retained by the board of elections for the purpose of furnishing an application form to each qualified voter who applies therefor before the board of elections, either in person or by mail, and an appropriate number shall be delivered to each board of inspectors on registration days with the election supplies, and the board of inspectors shall retain the completed and unused applications and return them to the board of elections with their election supplies and an appropriate number shall be available for distribution to officers of political parties, county clerks, city, town and village clerks, colleges, libraries, hospitals, nursing homes, senior citizens centers and any other convenient distribution source which is approved by the local or state board of elections and which requests such forms.

8. The provisions of this section for absentee voting in primary elections shall not apply to the party positions of members of the ward, town, city or county committee.



9. The state board of elections shall prescribe a standard application form for use under this section. The use of any application form which substantially complies with the provisions of this section shall be acceptable and any application filed on such a form shall be accepted for filing.

**§ 8-402. Absentee voting; review of application by board of elections.** 1. Upon receipt of an application for an absentee ballot the board of elections shall forthwith determine upon such inquiry as it deems proper whether the applicant is qualified to vote and to receive an absentee ballot, and if it finds the applicant is not so qualified it shall reject the application after investigation as hereinafter provided.

2. The county board of elections, whenever it is not satisfied from an examination of an application for an absentee ballot that the applicant is entitled to such a ballot, may order an investigation through any officer or employee of the state or county board of elections, police officer, sheriff or deputy sheriff, or a special investigator appointed by the state board of elections pursuant to the provisions of this chapter and, if it deems necessary, may exercise the powers to issue subpoenas and administer oaths which are conferred upon it by this chapter.

3. An affidavit or a signed statement executed by any person authorized to conduct an investigation pursuant to this section which indicates that the applicant for an absentee ballot meets or fails to meet any of the requirements entitling the applicant to same shall be sufficient authority for a determination by the board as to the applicant's right to an absentee voter's ballot, but shall not preclude the board from making such other determination as it shall deem proper. Such affidavit or statement shall contain sufficient information to permit verification of the information contained in the statement and identification of the source.

4. Any investigation shall be concluded and determination made as to all applicants not later than the day before the election for which a ballot is first requested, or if such ballot is to be sent by mail, such determination shall be made at a time which will afford sufficient time for the transmission of the ballot to the voter, one secular day for the voter to mark such ballot and execute the statement of absentee voter, and time for the return of such ballot to the board of elections by the deadline for its receipt. If the board can not complete its investigation within the time provided for herein, it shall, if it finds the voter to be duly registered, deliver to such applicant an absentee ballot.

5. If the board shall determine that the applicant is not entitled to an absentee ballot it shall immediately notify the applicant, giving him the reason for such rejection.

6. In the case of a primary election, the board shall deliver only the ballot of the party in which the records of the board of

elections show the applicant to be enrolled. In the event a primary election is uncontested in the applicant's election district for all offices or positions except the party position of member of the ward, town, city or county committee, no ballot shall be delivered to such applicant for such election; and the applicant shall be advised why he is not being sent a ballot.

7. The board shall keep a record of applications for absentee ballots as they are received, showing the names and residences of the applicants, and their party enrollment in the case of primary elections, and, as soon as practicable shall, when requested, give to the chairman of each political party or independent body in the county, and shall make available for inspection to any other qualified voter upon request, a complete list of all applicants to whom absentee voters' ballots have been delivered or mailed, containing their names and places of residence as they appear on the registration record, including the election district and ward, if any, and in the city of New York and county of Nassau, the assembly district, and their party enrollment in the case of primary elections.

**§ 8-404. Absentee voting; hospitalized veterans, special provisions.** 1. After entering upon the registration records, the application for registration of an inmate or patient of a veterans' administration hospital as to whom the medical superintendent or medical head of such hospital has attested that he expects that he will not be discharged prior to the day following the next general or special village, primary, special, general or New York city community school board district or city of Buffalo school district election, and the application for registration by the spouse, parent or child of such inmate or patient accompanying or being with him or her, if a qualified voter and a resident of the same election district, the board of elections, without further investigation and without further application by the applicant, shall send to him at such hospital an absentee ballot and shall record in the signature column on the back of his permanent personal registration poll record that such ballot has been sent.

(a) Any voter who is duly registered and whose registration records are marked "Hospitalized Veteran" or "Hospitalized Veteran's Relative" need not thereafter make application for an absentee ballot. Sixty days before each election, the board of elections shall compile and send a list to each veterans' administration hospital of all inmates and patients of veterans' administration hospitals who appear by the records of such board to be "hospitalized veterans" entitled to receive absentee ballots at each such hospital pursuant to the provisions of this section. Each veterans' administration hospital shall no later than fifteen days following the receipt of such list, return it with notations made thereon showing whether the inmate or patient continues to be confined therein or has been discharged therefrom. Upon the receipt of

such returned list from each veterans' administration hospital with the proper notations showing that a "hospitalized veteran" continues to be confined in such hospital, the board of elections, by mail addressed to such "hospitalized veteran" at his last known hospital address and by mail addressed to such "hospitalized veteran's relative" at his last known address shall send an absentee ballot for the ensuing election to such "hospitalized veteran" and such "hospitalized veteran's relative" an absentee ballot in the same manner as provided herein for a qualified voter entitled to an absentee ballot because of permanent disability. The board shall record on the back of his registration poll record in the space reserved for his signature at such election, the fact that such ballot has been sent.

(b) If the returned list from a veterans' administration hospital contains a notation showing that a "hospitalized veteran" is no longer an inmate or patient at the veterans' administration hospital where he is recorded as staying, or if such letter containing an absentee voter's ballot for a "hospitalized veteran" or a "hospitalized veterans' relative" is returned by the post office as undeliverable, the board of elections shall ascertain whether the "hospitalized veteran" or "hospitalized veteran's relative" is residing at the address given on his registration records as his permanent address. If he is residing there, the board shall not send him any further absentee ballots unless he applies therefor in the regular way. If he is not residing at the place of residence given on his registration records but the board ascertains that he has been transferred to another veterans' administration hospital, the board shall cause a central board of registration to make the necessary changes of temporary address on his registration records and shall continue sending him absentee ballots at the veterans' administration hospital where he is staying. If he is not residing at the place of residence given on his registration records and the board cannot ascertain that he has been transferred to another veterans' administration hospital, the board shall cancel his registration. Whenever a registration is cancelled pursuant hereto notice shall be mailed to the veteran or his relative at his permanent residence address and last temporary address.

2. The board of elections shall furnish to each party county chairman in such county a list of the names and residence addresses of the hospitalized veterans and hospitalized veterans' relatives to whom absentee ballots have been sent.

3. Such ballots shall be mailed, voted, returned, counted, and canvassed as provided in this chapter for other absentee voters' ballots.

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

statement is sufficient, it shall, as soon as practicable after it shall have determined his right thereto, mail to him at an address designated by him, or deliver to him, or to any person designated for such purpose in writing by him, at the office of the board, such an absentee voter's ballot or set of ballots and an envelope therefor. If the ballot or ballots are to be sent outside of the United States to a country other than Canada or Mexico, such ballot or ballots shall be sent by air mail. However, if an applicant who is eligible for an absentee ballot is a resident of a facility operated or licensed by, or under the jurisdiction of, the department of mental hygiene, or a resident of a facility defined as a nursing home or residential health care facility pursuant to subdivisions two and three of section two thousand eight hundred one of the public health law, or a resident of a hospital or other facility operated by the Veteran's Administration of the United States, such absentee ballot need not be so mailed or delivered to any such applicant but, may be delivered to the voter in the manner prescribed by section 8-407 of this chapter if such facility is located in the county or city in which such voter is eligible to vote.

**§ 8-407. Voting by residents of nursing homes, residential health care facilities, facilities operated or licensed, or under the jurisdiction of, the department of mental hygiene or hospitals or facilities operated by the Veteran's Administration of the United States.**

1. The board of elections of a county or city in which there is located at least one facility operated or licensed, or under the jurisdiction of, the department of mental hygiene or a facility defined as a nursing home or residential health care facility pursuant to subdivisions two and three of section two thousand eight hundred one of the public health law or a hospital or other facility operated by the Veteran's Administration of the United States may, by resolution adopted at least sixty days before an election, provide that residents of each such facility for which such board has received five or more applications for absentee ballots from voters who are eligible to vote by absentee ballot in such city or county at such election, may vote by absentee ballot only in the manner provided for in this section. Such resolution may, at the discretion of such board, provide that it shall be applicable to all such facilities in such county or city without regard to the number of absentee ballot applications received from the residents of any such facility.

2. Such a board of elections shall appoint, in the same manner as other inspectors, one or more bi-partisan boards of inspectors, each composed of two such inspectors. Such inspectors may be regular employees of such board of elections.

3. Not earlier than thirteen days before or later than the day before such an election such a board of inspectors shall, between the hours of nine o'clock in the morning and five o'clock in the

evening, attend at each such facility for the residents of which the board of elections has custody of five or more absentee ballots or, if the resolution adopted by the board of elections so provides, each such facility for which the board has custody of one or more such absentee ballots, pursuant to the provisions of this chapter.

4. Each such board of inspectors may attend at more than one facility, provided, however, that no such board of inspectors shall be assigned to attend at more facilities than it reasonably can be expected to complete within the time specified by this section.

5. The board of elections shall deliver to each board of inspectors all the absentee ballots in the custody of such board of elections which are addressed to residents of the facilities which such board of inspectors is assigned to attend, together with one or more portable voting booths of a type approved by the state board of elections and such other supplies as such board of inspectors will require to discharge its duties properly.

6. The board of elections, at least twenty days before each such election, or on the day after it shall have received the requisite number of applications for absentee ballots from the residents of any such facility, whichever is later, shall communicate with the superintendent, administrator or director of each such facility to arrange the day and time when the board of inspectors will attend at such facility. The board of elections shall keep a list of the day and time at which the board of inspectors will attend at each such facility as a public record at its office.

7. It shall be the duty of each such superintendent, administrator or director to assist the board of inspectors attending such facility in the discharge of its duties, including, but not limited to making available to such board of inspectors space within such facility suitable for the discharge of its duties.

8. The board of inspectors shall deliver each absentee ballot addressed to a resident of each such facility to such resident. If such resident is physically disabled the inspectors shall, if necessary, deliver the ballot to such voter at his bedside.

9. The board of inspectors shall arrange the portable voting booth or booths provided and effect such safeguards as may be necessary to provide secrecy for the votes cast by such residents.

10. If such a resident is unable to mark his ballot, he may be assisted in marking such ballot by the two members of the board of inspectors or such other person as he may select. If a voter is unable to mark the ballot and unable to communicate how he wishes such ballot marked, such ballot shall not be cast. No person who assists a voter to mark his ballot pursuant to the provisions of this section, shall disclose to any other person how any such ballot was marked.

11. Except as otherwise provided in this section, all ballots cast pursuant to this section shall be cast in the manner provided by this chapter for the casting of absentee ballots.

12. After such ballots have been cast and sealed in the appropriate envelopes, they shall be returned to such inspectors.

13. Upon completion of its duties, the board of inspectors shall forthwith return all such ballots to the board of elections.

14. Any person, political committee or independent body entitled to appoint watchers for the election district in which any such facility is located at the election for which such absentee ballots are cast, shall be entitled to appoint a watcher to attend such board of inspectors at such facility.

15. All ballots cast pursuant to the provisions of this section which are received before the close of the polls on election day by the board of elections charged with the duty of casting and canvassing such ballots, may be delivered to the inspectors of election in the manner prescribed by this chapter or retained at the board of elections and cast and canvassed pursuant to the provisions of section 9-209 of this chapter as such board shall, in its discretion, determine as part of any resolution adopted pursuant to the provisions of subdivision one of this section.

§ 8-410. **Absentee voting; method of.** The absentee voter shall mark an absentee ballot as provided for paper ballots or ballots prepared for counting by ballot counting machines. He shall make no mark or writing whatsoever upon the ballot, except as above prescribed, and shall see that it bears no such mark or writing. He shall make no mark or writing whatsoever on the outside of the ballot. After marking the ballot or ballots he shall fold each such ballot and enclose them in the envelope and seal the envelope. He shall then take and subscribe the oath on the envelope, with blanks properly filled in. The envelope, containing the ballot or ballots, shall then be mailed or delivered to the board of elections of the county or city of his residence.

§ 8-412. **Absentee ballots; deadline for receipt.** 1. The board of elections shall cause all absentee ballots received by it before the close of the polls on election day and all ballots contained in envelopes showing a cancellation mark of the United States postal service, or a foreign country's postal service with a date which is ascertained to be not later than the day before election and received by such board of elections not later than seven days following the day of election to be cast and counted except that the absentee ballot of a voter who requested such ballot by letter, rather than application, shall not be counted unless a valid application form, signed by such voter, is received by the board of elections with such ballot.

2. Absentee ballots received by the board of elections before the close of the polls on election day from voters whose applications were received by such board at least seven days before election day may be delivered to the inspectors of election in the manner

prescribed by this chapter or retained at the board of elections and cast and canvassed pursuant to the provisions of section 9-209 of this chapter as such board shall, in its discretion, determine by resolution adopted at least thirty days before election day. All ballots received by the board of election from voters whose applications were received by such board later than seven days before election day and all ballots received by such board between election day and the seventh day after election day shall be retained at the board and shall be cast and canvassed in the same manner as other ballots retained by such board.

## TITLE V

### CHALLENGING VOTERS

- Section 8-500. Watchers; provision for.  
 8-502. Challenges; generally.  
 8-504. Challenges; of voter at the polling place.  
 8-506. Challenges; absentee, military, special federal and special presidential ballots.  
 8-508. Challenge report; preparation of.  
 8-510. Challenge report; completion of and closing of registration poll ledgers.

§ 8-500. **Watchers; provision for.** 1. At any general, special, town or village election, any party committee or independent body whose candidates are upon the ballot, and at any primary election, any two or more candidates and any political committee may have for each election district three watchers at any one time, not more than one of whom may be within the guard rail at any one time. Watchers shall be appointed by the chairman of any such party committee or independent body or by the candidates.

2. Watchers may be present at the polling place at least fifteen minutes before the unlocking and examination of any voting machine or ballot box at the opening of the polls, until after the signing of the inspectors' returns and proclamation of the result.

3. The appointment of watchers for any election shall be by a certificate in writing issued by the chairman or secretary of the political party or independent body, or the candidates. Such certificate shall be delivered to an inspector at the election district.

4. Each watcher must be a qualified voter of the city or county in which he is to serve.

§ 8-502. **Challenges; generally.** Before his vote is cast at an election any person may be challenged as to his right to vote, or his right to vote by absentee, military, special federal or special presidential ballot. Such challenge may be made by an inspector or clerk, by any duly appointed watcher, or by any registered voter properly in the polling place. An inspector shall challenge every

person offering to vote, whom he shall know or suspect is not entitled to vote in the district, and every person whose name appears on the list of persons to be challenged on election day which is furnished by the board of elections.

§ 8-504. **Challenges; of voter at the polling place.** 1. When an applicant is challenged, an inspector shall administer to him the following oath, which shall be known as "The preliminary oath": "You do solemnly swear (or affirm) that you will make true answers to such questions as may be put to you concerning your qualifications as a voter". If the applicant shall refuse to take such oath he shall not be permitted to vote.

2. If the applicant shall take the preliminary oath, the inspector shall ask the applicant such questions as may pertain to the reason his right to vote at such election in such district was challenged. If any applicant shall refuse to answer fully any questions which may be put to him, he shall not be permitted to vote.

3. After receiving the answers as above specified, of any applicant, the board shall, if it believes the applicant to be qualified or the challenge is withdrawn, permit him to vote. Otherwise, the board shall point out to him the qualifications, if any, in respect of which he shall appear deficient. If, after such deficiencies have been so indicated, the applicant shall persist in his claim to vote, an inspector shall administer to him the following oath, which shall be known as "The Qualification Oath": "You do swear (or affirm) that you are eighteen years of age, that you are a citizen of the United States and that you have been a resident of this state, and of this county (of the city of New York) (village) for thirty days next preceding this election, that you still reside at the same address from which you have been duly registered in this election district, that you have not voted at this election, and that you do not know of any reason why you are not qualified to vote at this election. You do further declare that you are aware that it is a crime to make any false statement. That all the statements you have made to the board have been true and that you understand that a false statement is perjury and you will be guilty of a misdemeanor."

4. If the applicant shall be challenged for the causes stated in section three of article two of the constitution of this state, which would exclude him from the right to vote, such inspector shall administer to him the following additional oath, which shall be known as "The Bribery Oath": "You do swear (or affirm) that you have not received or offered, do not expect to receive, have not paid, offered or promised to pay or contributed, offered or promised to contribute to another, to be paid or used; any money or any other valuable thing as a compensation or reward for the giving or withholding of a vote at this election, and have not made any promise to influence the giving or withholding of any



such vote, and that you have not made, or become directly or indirectly interested in any bet or wager depending upon the result of this election.”

5. If the applicant shall be challenged on the ground of having been convicted of a felony, such inspector shall administer to him the following additional oath, which shall be known as “The Conviction Oath”: “You do swear (or affirm) that you have not been convicted of any felony, or if so convicted, that you have been pardoned, or restored to all the rights of a citizen, or the maximum term of imprisonment to which you were sentenced has expired, or you have been discharged from parole or your sentence has been suspended.”

6. If the applicant shall be challenged on the ground of having been adjudged incompetent, such inspector shall administer to him the following additional oath, which shall be known as “The Incompetency Oath”: “You do swear (or affirm) that you have not been adjudged incompetent by order of competent judicial authority, or if so adjudged, that you have since been adjudged competent which fully warrants your right to vote.”

7. If any person shall refuse to take any oath so tendered he shall not be permitted to vote, but if he shall take the oath or oaths tendered to him he shall be permitted to vote.

8. The inspectors shall enter the challenge date in the space reserved therefor on the back of the voter’s registration poll record and shall make a record of each challenge on the challenge report as required herein. Where registration poll records are not being used, the inspectors shall in the remarks column for the election opposite the name of the voter enter a note of the challenge and shall make a record of each challenge on the challenge report.

**§ 8-506. Challenges; absentee, military, special federal and special presidential ballots.** 1. During the examination of absentee, military, special federal and special presidential voters’ ballot envelopes, any inspector shall, and any watcher or registered voter properly in the polling place may, challenge the casting of any ballot upon the ground or grounds allowed for challenges generally, or that the voter was not entitled to cast an absentee, military, special federal or special presidential ballot, or that the signature on the ballot envelope does not correspond to the signature on the registration poll record or that the voter died before the day of the election.

2. The board of inspectors forthwith shall proceed to determine each challenge. Unless the board by majority vote shall sustain the challenge an inspector shall endorse upon the envelope the nature of the challenge and the words “not sustained”, shall sign such endorsement, and shall proceed to cast the ballot as provided herein. Should the board, by majority vote, sustain such challenge, the reason and the word “sustained” shall be similarly endorsed

upon the envelope and an inspector shall sign such endorsement. The envelope shall not be opened and such envelope shall be returned unopened to the board of elections. If a challenge is sustained after the ballot has been removed from the envelope, but before it has been deposited in the ballot box, such ballot shall be rejected without being unfolded or inspected and shall be returned to the envelope. The board shall immediately enter the reason for sustaining the challenge on such envelope and an inspector shall sign such endorsement.

3. If the board of inspectors determines by majority vote that it lacks sufficient knowledge and information to determine the validity of a challenge, the inspectors shall endorse upon the ballot envelope the words "unable to determine", enter the reason for the challenge in the appropriate section of the challenge report and return the envelope unopened to the board of elections. Such ballots shall be cast and canvassed pursuant to the provisions of section 9-209 of this chapter.

**§ 8-508. Challenge report; preparation of.** 1. The board of elections shall furnish to the board of inspectors of election in each election district on each election day a challenge report. Such report shall be divided into six sections and shall contain the following information and space to insert the information herein required.

2. (a) In the first section of such report the board of elections shall alphabetically list the names, residence addresses and registration serial numbers of all persons whose names appear upon the most recently published list of voters for such district but whose registrations have been cancelled prior to such election. If there are no names in the first section, the board of elections shall enter the words "No Cancellations" across the space reserved for such names. The form shall contain an instruction that these people shall not be allowed to vote except by court order or on a paper ballot which is inserted in an affidavit envelope.

(b) In the second section of such report the board of elections shall alphabetically list the names, residence addresses and registration serial numbers of all registrants against whom investigation and cancellation proceedings shall have been commenced but not completed. If there are no names in the second section the board shall enter the words "No Challenges" across the space reserved for such names. [In lieu of preparing section two of the challenge report, the board may place next to the name of each such registrant on the computer generated registration list, a clear and distinct indication that such registrant is to be challenged, the alphabetically or numerically coded reason for such challenge and a place for the inspectors of election to record the information they are required to enter in such section two.

(c) In the third section of such report the board of elections shall alphabetically list the names of women who have received licenses to marry but who have not heretofore voted under their married names, and the names of persons whose names have been legally changed, based on information received by it. Such names shall be arranged alphabetically in the order of the surnames under which such persons are registered. The name of each woman licensed to marry shall be followed in parentheses by the surname of the man she has been licensed to marry. The name of each person whose name has been legally changed otherwise than by marriage shall be followed in parentheses by his full name as so changed. If there are no names in the third section, the board of elections shall enter the words "No Name Changes" across the space reserved for such names.

(d) Such report form shall also contain spaces in which the board of inspectors of election shall state whether or not each such person named in such report voted. Such spaces shall be divided for such purpose with columns headed by the following titles: Voted by court order; No appearance; Voted without challenge; Voted after challenge; Challenged and did not vote; Voted by affidavit ballot; Voted under changed name; Voted under old name.

(e). Opposite each name the board of elections shall summarize the reason for including the name on such report. Such reason may be alphabetically or numerically coded. The explanation of such code shall be printed on such report. *In lieu of preparing section two of such report, the board may place next to the name of each such registrant on the computer generated registration list, a clear and distinct indication that such registrant is to be challenged, the alphabetically or numerically coded reason for such challenge and a place for the inspectors of election to record the information which they are required to enter in such section two, or provide at the end of such computer generated registration list, a place for the inspectors to enter such information.*

(c) *The third section of such report shall be reserved for the inspectors of election to enter the name, address and registration serial number of each person who claims a change in name together with the new name of each such person. In lieu of preparing section three of the challenge list, the board of elections may provide, next to the name of each voter on the computer generated registration list, a place for the inspectors of election to record the information required to be entered in such section three, or provide at the end of such computer generated registration list, a place for the inspectors of election to enter such information.*

[(f)](d) The fourth section of such report shall be reserved for the board of inspectors to enter the name, address and registration

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[Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.]

serial number of each person, other than a person listed in the first[,] or second [or third] section, who is challenged on the day of election, together with the reason for the challenge. If no voters are challenged, the board of inspectors shall enter the words "No Challenges" across the space reserved for such names. In lieu of preparing section four of the challenge report, the board of elections may provide, next to the name of each voter on the computer generated registration list, a place for the inspectors of election to record the information required to be entered in such section four or *provide at the end of such computer generated registration list, a place for the inspectors of election to enter such information.*

[(g)](e) The fifth section of such report shall be reserved for the board of inspectors to enter the name, address and registration serial number of each voter given assistance, together with the reason the voter was allowed assistance, the name of the person giving such assistance and his address if not an inspector. If no voters are given assistance, the board of inspectors shall enter the words "No Assistance" across the space reserved for such names. In lieu of providing section five of the challenge report, the board of elections may provide, next to the name of each voter on the computer generated registration list, a place for the inspectors of election to record the information required to be entered in such section five or *provide at the end of such computer generated registration list, a place for the inspectors of election to enter such information.*

[(h)] (f) The sixth section of such report shall be reserved for the board of inspectors to enter the name, address and registration serial number of each person who was permitted to vote pursuant to a court order, or to vote on a paper ballot which was inserted in an affidavit envelope, although his registration poll record was missing. If there are no such names, such board shall enter the word "None" across the space provided for such names *In lieu of providing section six of such report, the board of elections may provide, next to the name of each voter on the computer generated registration list, a place for the inspectors of election to record the information required to be entered in such section six, or provide at the end of the computer generated registration list, a place for the inspectors of election to enter such information.*

[(i)](g) At the foot of such report and at the end of any such computer generated registration list shall be printed a certificate that such report contains the names of all persons who were challenged on the day of election, and that each voter so reported as having been challenged took the oaths as required, that such report contains the names of all voters to whom such board gave or allowed assistance and lists the nature of the disability which required such assistance to be given and the names and family relationship, if any, to the voter of the persons by whom such

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[Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.]

assistance was rendered; that each such assisted voter informed such board under oath that he required such assistance and that each person rendering such assistance took the required oath; that such report contains the names of all voters who were permitted to vote although their registration poll records were missing; that the entries made by such board are a true and accurate record of its proceedings with respect to the persons named in such report.

[(j)](h) Upon the return of such report and lists to the board of elections, it shall complete the investigation of voting qualifications of all persons named in the second and fourth sections thereof or for whom entries were placed on such computer generated registration lists in lieu of the preparation of the second and fourth sections of the challenge report, and shall forthwith proceed to cancel the registration of any person who, as noted upon such report, was challenged at such election and refused either to take a challenge oath or to answer any challenge question.

[(k)](i) The state board of elections shall prescribe a form of challenge report for use pursuant to the provisions of this section. Such form may require the insertion of such other information as the state board shall deem appropriate.

[Section amended by chap. 89, Laws of 1992.]

§ 8-510. **Challenge report; completion of and closing of registration poll ledgers.** 1. Immediately after the close of the polls the board of inspectors of election shall verify the entries which it has made on the challenge report or *at the end of the computer generated registration list* by comparing such entries with the information appearing on the registration *poll* records of the affected voters or *the information appearing next to the names of such voters on the computer generated registration list*. If it has made no entries in section four, five or six of such report it shall write across such section the words "No challenges", "No assistance" or "None", as the case may be, as directed in this chapter.

2. After completing such report the inspectors shall sign the certificate at the end of such report.

3. The inspectors shall place such completed report, and each court order, if any, directing that a person be permitted to vote, inside a ledger of registration records or computer generated registration lists between the front cover, and the first registration record and then shall close and seal each ledger of registration records or computer generated registration lists, affix their signature to the seal, lock such ledger in the carrying case furnished for that purpose and enclose the keys in a sealed package or seal such list in the envelope provided for that purpose.

[Subd. 1 amended by chap. 89, Laws of 1992.]

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[Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.]

## ARTICLE 9

## CANVASS OF RESULTS

- Title I. Canvass at polling places.  
 II. Canvass by board of elections.

## TITLE I

## CANVASS AT POLLING PLACES

- Section 9-100. Canvass; required.  
 9-102. Canvass; general provisions for.  
 9-104. Casting of ballot; absentee, military, special federal and special presidential ballots.  
 9-106. Paper ballots, accounting for number used.  
 9-108. Canvass; ballots, verifying number cast.  
 9-110. Canvass; ballots; method of.  
 9-112. Canvass ballots; validity of ballot.  
 9-114. Counting ballots; objections to.  
 9-116. Tallying ballots; generally.  
 9-120. Returns of canvass; generally.  
 9-122. Proclamation of result.  
 9-124. Returns of canvass; procedure after.  
 9-126. Return of canvass; delivery of results to police and unofficial tally of election results.  
 9-128. Canvass; return of.

§ 9-100. **Canvass; required.** At the close of the polls the inspectors of election shall, in the order set forth herein, lock the machine against voting, account for the paper ballots, canvass the machine, cast and canvass all the ballots, canvass and ascertain the total vote and they shall not adjourn until the canvass be fully completed.

§ 9-102. **Canvass; general provisions for.** 1. As soon as the polls of the election are closed, the inspectors of election thereat shall, in the order set forth herein; a.) lock the voting machine against voting; b.) sign a certificate stating the number of voters as shown on the public counters, the number on the seal, the number registered on the protective counter, and that the voting machine is closed and locked; c.) account for the paper ballots used, if any; d.) canvass the machine vote; e.) cast and canvass all the ballots.

2. (a) The inspectors shall canvass the machine vote by opening the counting compartments in the presence of the watchers and all other persons who may be lawfully within the polling place, giving full view of all the counter numbers. The chairman of the board of inspectors shall, under the scrutiny of an inspector of a different political party, in the order of the offices as their titles are arranged on the machine, read and announce in distinct tones

the designating number and letter on each counter, the result as shown by the counter number, and then shall read the votes recorded for each office on the write-in ballots. He shall also in the same manner announce the vote on each ballot proposal. The vote as registered shall be entered on the returns of canvass in ink, by an inspector, other than the chairman, under the scrutiny of an inspector of a different political party, in the space which has the same designating number and letter, after which the figures shall be verified by being called off in the same manner from the counters of the machine by an inspector of opposite political faith from the chairman. The return of canvass, which shall show the total number of votes cast for each office, the number of votes cast for each candidate, as shown on his counter and the number of votes for persons not nominated shall then be filled out. Such return shall be signed by each inspector. The counter compartment of the voting machine shall remain open until the official returns and all other reports have been fully completed and verified by the board of inspectors.

(b) If the machine is provided with a device for printing or photographing candidate and amendment counters, the printed or photographic record produced by the machine shall be the official return of the canvass and the result of the votes as shown thereon shall be proclaimed in the same manner as herein provided and ample opportunity shall be given to any person lawfully present to inspect such printed or photographic record. A printed or photographic record produced by such machine shall include a certificate which the inspectors shall sign, stating that the machine has been locked against voting and sealed; the number of voters as shown on the public counter; the number on the seal; and the number on the protective counter.

(c) If the machine is provided with a removable electronic or computerized device which records the total of the votes cast on such machine, such device shall be removed from the machine after copies of the printed record, sufficient to meet the requirements of this chapter and the regulations of the board of elections, have been produced. After the device is removed from the machine, the inspectors shall sign their names in the place provided on the seal on the outside of such device and then place such device in the envelope or other container provided for its return to the board of elections.

3. (a) During the canvass time any candidate or duly accredited watcher who may desire to be present shall be admitted to the polling place. The proclamation of the result of the votes cast shall be deliberately announced in a distinct voice by the chairman of the board of inspectors who shall read the name of each candidate, with the designating number and letter of his counter, and the vote registered on such counter; also the vote cast for and against each ballot proposal. During such proclamation ample

opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the machine or the numbers on the printed or photographic record and any necessary corrections shall then and there be made by the board, after which the doors of the voting machine shall be closed and locked. The first copy of the printed record for each voting machine which does not have counters shall be posted on the wall of the polling place forthwith provided however, that if only one copy of such printed record can be printed by any such machine at any election, such copy shall be used in preparation of the statement of returns required by this title. Before adjourning, the board shall, with the seal provided therefore, so seal the operating lever of the machine that the voting and counting mechanism will be prevented from operation.

(b) Paper ballots and emergency ballots cast during voting machine breakdowns which have been voted shall then be canvassed and tallied, the vote thereon for each candidate and ballot proposal, announced and added to the vote as recorded on the return of canvass.

(c) Absentee and military, special federal, and special presidential ballots shall then be canvassed and tallied, the vote thereon for each candidate announced and added to the vote as recorded on the statement of canvass and a final proclamation made as to the total vote received by each candidate and ballot proposal.

(d) At a primary election, the ballots of the parties represented on the board of inspectors shall be canvassed before the ballots of other parties are canvassed.

4. All types of ballots, enclosed in properly sealed envelopes respectively, and properly endorsed shall be filed with the original return of canvass.

5. The inspector filing the returns shall deliver to the board or officer from whom received, the keys of the voting machine, enclosed in a sealed envelope having indorsed thereon a certificate of the inspectors stating the number of the machine, the election district, ward or assembly district where it has been used, the number on the seal and the number on the protective counter.

6. The room in which such canvass is made shall be clearly lighted, ingress and egress through the main entrance thereto shall be freely permitted, and such canvass shall be made in plain view of those entitled to be present. The ballots shall at all times be kept on top of the table and in plain view of all persons entitled to examine them, until they have been tied into bundles as elsewhere provided. If requested by any person entitled to be present the inspectors shall, during the canvass of any ballots, exhibit to him the ballot then being canvassed, fully opened and in such a condition that he may fully and carefully read and examine it, but no inspector shall allow any ballot to be taken from his hand or to be touched by any person but an inspector.



**§ 9-104. Casting of ballot; absentee, military, special federal and special presidential ballots.** 1. (a) Before opening the ballot box, or canvassing the paper ballots, any absentee, military, special federal or special presidential voters' ballot envelopes received at the polling place shall be examined by the inspectors.

(b) If a person whose name is on an envelope as a voter has already voted in person at such election, or if his name and residence as stated on the envelope are not on a registration poll record, or the computer generated list of registered voters or the list of special presidential voters, or if there is no name on the envelope, or if the envelope is not sealed, such envelope shall be laid aside unopened and returned unopened to the board of elections with the other returns of the election.

(c) If there is more than one ballot envelope executed by the same voter, the one bearing the earlier date of execution shall be accepted and the other rejected. If it cannot be determined which envelope bears the earlier date, then all such envelopes shall be rejected.

(d) If such person is found to be registered and has not voted in person, an inspector shall compare the signature, if any, on each envelope with the signature, if any, on the registration poll record, or the computer generated list of registered voters or the list of special presidential voters, of the person of the same name who registered from the same address. If the signatures are found to correspond, such inspector shall certify thereto by signing his initials in the "Inspector's Initials" column on the last blank line of the spaces reserved for the voter's signature on the back of his registration poll record, or on the computer generated list of registered voters or in the "remarks" column as appropriate.

(e) If such person is found to be registered and has not voted in person, and if no challenge is made, or if a challenge made is not sustained, the envelope shall be opened, the ballot or ballots withdrawn without unfolding, and the ballot or ballots and stubs, if any, deposited in the proper ballot box or boxes, or envelopes, provided however that, in the case of a primary election, the stub, if any, shall be removed and the ballot and stub, if any, deposited in the box only if the ballot is of the party with which the voter is enrolled according to the entry on the back of his registration poll record or next to his name on the computer generated registration list; if not, the ballot shall be rejected without inspection or unfolding and shall be returned to the envelope which shall be endorsed "not enrolled" and returned to the board of elections with the unopened envelopes, if any. At the time of the deposit of such ballot or ballots in the box or envelopes, the inspectors shall enter the words "absentee vote" or "military vote" in the space reserved for the voter's signature on the aforesaid last blank line or list or in the "remarks" column as appropriate, and shall

enter the year and month of the election on the same line in the spaces provided therefor.

2. As each envelope is opened, if one or more of the different kinds of ballots to be voted at the election are not found therein, the clerks, or inspectors, shall make a memorandum showing what ballot or ballots are missing. If a ballot envelope shall contain more than one ballot for the same offices, all the ballots in such envelope shall be rejected. When the casting of such ballots shall have been completed the clerks or inspectors shall ascertain the number of such ballots of each kind which have been deposited in the ballot box by deducting from the number of envelopes opened the number of missing ballots, and shall make a return thereof in duplicate. The number of absentee voters' ballots deposited in the ballot box shall be added to the number of other ballots deposited in the ballot box, in order to determine the number of all ballots of each kind to be accounted for in the ballot box.

§ 9-106. **Paper ballots; accounting for number used.** At the close of the polls and before any boxes or envelope containing voted ballots are opened, the clerks, or if there be no clerks, two inspectors representing different parties designated by the chairman, shall make up in duplicate in ink the ballot returns, which shall account for all of the paper ballots furnished to the election district, except the absentee, military and special presidential ballots accounted for pursuant hereto. They shall count and verify the number of each kind of unused ballots and enter it upon the ballot returns. They shall then open the box or envelope, for ballots cancelled before delivery and spoiled and returned by voters, separate them into their several kinds, count all ballots of each kind and enter the several results upon the ballot returns. They shall make the additions and subtractions called for by the returns and prove their figures. If adhesive pasters have been used for any office or party position, the return for the ballots for which the pasters were supplied shall contain a memorandum showing the number of pasters received, the number affixed to ballots and the number unused and returned. Such clerks or inspectors shall then tie securely in a separate package each kind of ballot and each kind of stub, counted as above provided, and shall plainly label, seal and return the same to the box from which it was taken, and securely lock and seal the box. Such clerks or inspectors shall also securely tie all unused ballots in a sealed package. They shall also enter on the ballot return, the number of emergency ballots, if any, delivered to voters. They shall then sign such ballot returns.

§ 9-108. **Canvass; ballots, verifying number cast.** 1. The board of inspectors, at the beginning of the canvass, shall count the ballots found in each ballot box without unfolding them, except so far as to ascertain that each ballot is single, and shall compare

the number of ballots found in each box with the number shown by the registration poll records, and the ballot returns to have been deposited therein.

2. If the ballots found in any box shall be more than the number of ballots so shown to have been deposited therein, such ballots shall all be replaced, without being unfolded, in the box from which they were taken, and shall be thoroughly mingled therein, and one of the inspectors shall, with his back to the box, publicly draw out as many ballots as shall be equal to such excess and, without unfolding them forthwith shall enclose them in an envelope which he shall then and there seal and endorse "excess ballots from the box for ballots for the general election, presidential electors, or party ballots or otherwise", as the case may be, and shall sign his name thereto, and place such envelope in the box for defective or spoiled ballots.

3. If two or more ballots shall be found in a ballot box so folded together as to present the appearance of a single ballot, and if the whole number of ballots in such box exceeds the whole number of ballots so shown to have been deposited therein, those ballots, or enough of them to reduce the ballots to the proper number, selected without examination of any voting mark thereon, shall be similarly removed as excess ballots.

4. If, however, there lawfully be more than one ballot box for the reception of ballots, no ballot found in the wrong ballot box shall for that reason be rejected, but it shall be placed in its proper box by the inspectors upon the count of the ballots before the canvass, and counted in the same manner as if it was found in the proper ballot box, if such ballot shall not, together with the ballots found in the proper ballot box, make a total of more ballots than are shown to have been deposited in such box.

5. No ballot that is not an official ballot prepared for the election shall be counted except for those ballots voted in accordance with the provisions for emergency ballots.

§ 9-110. **Canvass; ballots; method of.** The method of canvassing ballots other than ballots upon ballot proposals shall be as follows: The inspectors shall unfold each ballot of the kind then to be canvassed and shall place all such ballots upon the table in one pile face down. The chairman then shall take up each ballot in order, turn it face up and announce loudly and distinctly the vote registered on each section, in the order of the sections upon the ballot, or that the ballot is void or the section blank, as the case may be. If more than one person is to be elected to the same office or party position the chairman, if the ballot is void or the ballot or section is wholly blank, shall announce as many void or blank votes as there are persons to be elected to the office or party position. On a primary ballot a "section," as the term is used above, shall mean the space occupied by the title

of an office or party position, names of candidates therefore and the voting squares therewith. The canvass of each ballot must be completed before the next ballot is taken up except that in canvassing the ballots at a general election in an even numbered year the votes upon the first section of each ballot shall be canvassed first, and when the canvass of such section on each such ballot is completed the ballot shall be placed in a new pile. When the tallies of the votes on the first section of all such ballots are proven, and the results announced, the inspectors' returns of the vote thereon shall be filled out. The remaining sections of each such ballot shall then be canvassed, the canvass of each ballot to be completed before the next ballot is taken up.

§ 9-112. **Canvass ballots; validity of ballot.** 1. The whole ballot is void if the voter (a) does any act extrinsic to the ballot such as enclosing any paper or other article in the folded ballot or (b) defaces or tears the ballot except that a ballot card which is in perforated sections shall not be void because it has been separated into sections or (c) makes any erasure thereon or (d) makes any mark thereon other than a cross X mark or a check ✓ mark in a voting square, or filling in the voting square, or punching a hole in the voting square of a ballot intended to be counted by machine or (e) writes, other than in the space provided, a name for the purpose of voting; except that an erasure or a mark other than a valid mark made in a voting square shall not make the ballot void, but shall render it blank as to the office, party position or ballot proposal in connection with which it is made. No ballot shall be declared void or partially blank because a mark thereon is irregular in form. The term "voting square" shall include the voting space provided for a voter to mark his vote for a candidate or ballot proposal.

2. A cross X mark or a check ✓ mark, made by the voter, in a voting square at the left of a candidate's name, or the voter's filling in such voting square, or punching a hole in the voting square of a ballot intended to be counted by machine, shall be counted as a vote for such candidate.

3. A vote shall be counted for a person whose name is written in under the title of an office or party position only if such name is written by the voter upon the ballot in the proper space provided therefor and only if such name is not printed under the title of such office or position. A voting mark before or after such written in name shall not invalidate the vote.

4. If, in the case of a candidate whose name appears on the ballot more than once for the same office, the voter shall make a cross X mark or a check ✓ mark in each of two or more voting squares before the candidate's name, or fill in such voting squares or punch out the hole in two or more voting squares of a ballot intended to be counted by machine, only the first vote shall be

counted for such candidate. If such vote was cast for the office of governor, such vote shall not be recorded in the tally sheet or returns in a separate place on the tally sheet as a vote not for any particular party or independent body.

5. If a voter makes a cross X mark or a check ✓ mark in a voting square following the word "Yes" or the word "No", before a ballot proposal, or fills in such square, or punches out the hole in a voting square of a ballot intended to be counted by machine, such mark shall be counted in the affirmative or negative, as so indicated.

6. If the voter marks more names than there are persons to be elected or nominated for an office, or elected to a party position, or makes a mark in a place or manner not herein provided for, or if for any reason it is impossible to determine the voter's choice of a candidate or candidates for an office or party position or his vote upon a ballot proposal, his vote shall not be counted for such office as position or upon the ballot proposal, but shall be returned as a blank vote thereon.

§ 9-114. **Counting ballots; objections to.** 1. If objections be made to the counting of any ballot or as to any section of any such ballot, the board of inspectors shall forthwith and before canvassing any other ballot or section thereof, rule upon the objection. If the objection be continued after this ruling, the chairman shall write in ink upon the back of the ballot a memorandum of the ruling and objection. The memorandum of the ruling shall be in the words "Counted void", or "Counted blank", or "Counted for (naming the candidate or candidates or the presidential ticket)", or, in the case of a ballot proposal "Counted for Proposal No. . . . .", or "Counted against Proposal No. . . . .", as the case may be. The memorandum of the objection shall be in the words "Objected to", followed by a brief statement of the nature of the objection, the name and address of the challenger and the signature of the chairman.

2. Any ballot to which objection is not taken but which is wholly blank or is void shall be indorsed in ink by the chairman of the board of inspectors with the words "Wholly blank" or "Void", as the case may be, and signed by the chairman.

3. When all the ballots of any one kind shall have been canvassed, the inspectors shall ascertain the total number of wholly blank and void ballots and the number of ballots as to which any objection was taken and shall enter such numbers in the place provided therefor in the inspectors' returns of such canvass.

§ 9-116. **Tallying ballots; generally.** 1. As each vote for any office or position, or upon any ballot proposal, is announced, a clerk, or, if there be no clerks, an inspector, under the scrutiny of a clerk or inspector of opposite political faith immediately shall

tally it in black ink, with a downward stroke from right to left upon the official tally sheet. Each such clerk or inspector, as he tallies a vote, shall announce clearly the name of the person for whom he tallies it, or that he tallies the vote blank or void as the case may be, or, in the case of a ballot proposal, that he tallies the vote "yes" or "no". When the name of a person voted for is not printed on the tally sheet, such clerks or inspectors shall write it in full thereon in ink in the place provided therefor.

2. When all the votes upon the same office, position or ballot proposal shall have been canvassed the tally thereof shall be verified by adding together all the votes tallied thereupon. Whenever the total number of votes tallied (including blank and void votes) for any office or party position, divided by the number of persons to be nominated or elected thereto, or tallied for any ballot proposal, does not exactly equal the number of ballots cast (including blank and void ballots), a recanvass must be made immediately in order to correct the error.

In applying this section to a primary election the term "ballots" means the ballots of the party whose tallied votes for an office or party position are counted as above provided. Upon a recanvass the clerks or inspectors must keep the tally in ink from left to right across the previous tally marks.

3. When the errors if any have been corrected such clerks or inspectors shall indicate the last tally opposite each name by forthwith drawing in ink a long horizontal line immediately after the last tally mark opposite such name. Such tally sheets having thus been prepared, verified and closed, such clerks or inspectors shall sign their initials on each sheet, in any blank space thereof.

[Sect. 9-118 REPEALED by chap. 13, Laws of 1988.]

**§ 9-120. Returns of canvass; generally.** 1. Upon completing the canvass, the inspectors shall prepare their returns of the canvass. They shall use therefor the printed form supplied to them and, at an election which was not conducted on a voting machine which produces a printed or photographic record, they shall carefully insert thereon, in ink, the appropriate names, words and figures according to the directions printed in the form provided by this chapter. The printed or photographic record produced by the voting machine and the tally sheets for any office, party position or ballot proposal, if separate from the statement of return, shall be securely attached by the chairman to such statement of returns. A printed or photographic record or a tally sheet, when so annexed, or forming part of the same paper as the return, shall be treated as part of the return. The inspectors, and clerks, if any, shall subscribe in ink the certificate at the end of the set of returns. Each set of returns shall be securely sealed in an envelope properly endorsed on the outside by the inspectors. At an election at which voting machines are not used, the ballot boxes, if any, supplied

by the board of elections, may when securely locked be used instead of sealed envelopes.

2. The form for the return or returns of the canvass shall be printed in a form approved by the state board of elections.

§ 9-122. **Proclamation of result.** Upon the completion of the canvass and of the returns of the canvass, the chairman of the board of inspectors shall make public oral proclamation of the whole number of votes cast at the election at the polling place for all candidates for each office, or, if it be a primary election, the whole number of party votes of each party so cast for all candidates for each office or party position; upon each ballot proposal, if any; the whole number of votes given for each person, with the title of the office or party position for which he was named on the ballot; and the whole number of votes given, respectively, for and against each such ballot proposal, if any.

§ 9-124. **Returns of canvass, procedure after.** 1. After the returns of the canvass are made out and signed, the inspectors shall enclose the protested, void and wholly blank ballots and the ballots cast by persons whose registration poll records are not in the ledger or whose names are not on the computer generated registration list in a separate sealed envelope or envelopes and endorsed thereon a certificate signed by each of them stating the number of the district and the number of ballots contained in such envelope or envelopes. The inspectors shall then tie up and seal the other voted ballots and return them to the ballot box which contained them and securely lock and seal the box, except that at elections in which voting machines are used, absentee and military, special federal, special presidential and emergency ballots and stubs, if any, shall be sealed in the envelope or envelopes provided therefor.

2. Each box or envelope containing the ballots and stubs, if any, shall be deposited by an inspector designated for that purpose with the officer or board from whom or which the board of inspectors received it, together with the separate sealed package of unused ballots. In the city of New York, every box or envelope containing any ballots or stubs and the package of unused ballots shall be delivered at the polling place, at the conclusion of the canvass, to the police or peace officer, who shall deposit them with the board of elections.

3. The books, returns and other papers enumerated below shall be disposed of as follows, except as otherwise provided:

(a) In a city or town, except the city of New York and in a village in which elections are conducted by the board of elections, the registration poll records or computer generated registration

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[Matter in italics is new.]

*lists*, the returns with tally sheets annexed, the absentee and military, special federal, special presidential and emergency ballots, stubs and ballot envelopes, the challenge records and the package of protested, void and wholly blank ballots shall be filed with the board of elections, and the flag shall be returned to it.

(b) Records and supplies to be filed with a city, town or village clerk shall be so filed or delivered immediately after the completion of the returns of the canvass, by an inspector designated by the board of inspectors. Returns, papers and registration poll records *or computer generated registration lists* to be filed with the board of elections shall be so filed by the chairman of the board of inspectors within twenty-four hours after the completion of such returns. The person receiving such returns in the board of elections shall give to the person delivering the returns a receipt stating therein the date and hour of delivery, the name of the person making the delivery, and to whom said returns were delivered and shall keep a duplicate of said receipt on file in the office of the board of elections.

(c) The county legislative body of any county in the state except the counties comprising the city of New York may, by a resolution, ordinance or act as required, provide that all returns, papers, registration poll records *or computer generated registration lists*, books, records, documents, and other election supplies and materials shall be filed by the chairman of the board of inspectors of elections in a city or town and in a village in which elections are conducted by the board of elections, with the city, town or village clerk of such city, town or village in the county within eighteen hours after the closing of the polls at any primary, general, special or village election and the city, town or village clerk upon receiving such returns, papers, registers *or lists*, books, records, documents, and other election supplies and materials shall give to the person making the delivery, a receipt stating therein the date and hour of the delivery and the name of such person. Within twenty-four hours after the closing of the polls at any primary, general, special or village election the city, town or village clerk shall file all returns, papers, registration poll records *or computer generated registration lists*, books, records, documents and other election supplies and materials filed with him by the inspectors of the election districts of the city, town or village, with the board of elections of the county and the board of elections shall give to the city, town or village clerk a receipt therefor stating therein the date and hour of the delivery and the name of the person making the delivery and to whom it was made, and shall keep a duplicate of said receipt on file in the office of the board of elections.

(d) In the city of New York the board of inspectors, shall deliver to the police or peace officer at the polling place the registration

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[Matter in *italics* is new.]



poll records, challenge report, records, keys, the flag, other election supplies, the returns of the canvass and the absentee and military, special federal, special presidential and emergency ballots, stubs and ballot envelopes. The police or peace officer shall file the returns, the package of void, protested and wholly blank ballots, if any, and the absentee and military, special federal, special presidential and emergency ballots, stubs and ballot envelopes, if any, within twenty-four hours after the close of the polls, in the office of the board of elections or its branch office within the borough, as the case may be.

[Section amended by chap. 91, Laws of 1992.]

**§ 9-126. Return of canvass; delivery of results to police and unofficial tally of election results.** 1. In an election district of a city and of the county of Nassau, the chairman of the board of inspectors, upon the completion of the return of canvass, and the announcement thereof in a primary or general election, shall deliver to the police officer on duty at the polling place a statement signed by the board of inspectors stating the number of votes received by each person voted for and the number of votes cast for and the number of votes cast against each ballot proposal. Such officer forthwith shall convey the statement to the stationhouse of the police precinct in which such place of canvass is located, and shall deliver it inviolate to the officer in command thereof, who shall immediately transmit by telegraph, telephone or messenger, the contents of such statement to the officer commanding the police department of such city or county who shall immediately make the contents of such statement available for the press. In the city of New York and the county of Nassau the chairman of the board of inspectors in each election district shall make two copies of the statement hereinbefore provided for, which shall be taken to the police station, whence one such copy shall be transmitted without delay to police headquarters, or such other location as may be designated by the officer commanding the police department, where it shall be made immediately available to the press for purposes of tabulation. The other copy shall be transmitted within twenty-four hours to the board of elections. All statements made pursuant to this section shall be preserved for six months by the police and shall be presumptive evidence of the result of such canvass.

2. (a) In an election district outside of a city, except in the county of Nassau, the chairman of the board of inspectors, upon completion of the return of canvass and the announcement thereof, in a general or primary election, shall immediately communicate such results by telephone, or delivery, to the county board of elections. Such results shall include the number of votes received by each person voted for and the number of votes cast for and against each ballot proposal.

(b) The county board of elections shall remain open after the close of the polls and shall receive and tabulate the voting results from throughout the county as they are received. The board shall post running totals in a public place as the results become known to it.

(c) The results made public pursuant to this section are to be released as the unofficial tally and shall not be admissible in evidence in any action or proceeding contesting the result of any election.

(d) Any police department of a city outside the city of New York and the county of Nassau receiving statements as provided in subdivision one of this section shall immediately communicate the contents thereof to the county board of elections at a location designated by it. In lieu of requiring the delivery of statements to the police in cities outside of the city of New York and the county of Nassau as provided in subdivision one of this section, a county board of elections may require the chairman of the board of inspectors in each election district within such a city to make a return of the vote pursuant to the provisions of this subdivision.

3. (a) The board of elections of counties in which voting machines which have removable electronic or computerized devices which record the total of the votes cast on such machines are used, may establish procedures by which such devices may be used after the close of the polls to provide the unofficial tally of results required by this section.

(b) Such procedures may include: the installation, at the board of elections or at town or city halls, police stations, sheriff's offices or other public buildings, of machines which record and transmit the totals recorded in such devices to the board of elections or directly to a representative of the press; the delivery of the devices from the polling places to such locations and the removal of such devices, by at least two clerks or other agents of such board of elections of opposite political parties, from the containers or envelopes in which they were sealed at the polling places and the insertion of such devices into such machines.

(c) The board of elections shall provide containers, at all such locations other than the offices of such board, into which all such devices shall be placed by the clerks or other agents of such board of elections after they are removed from such machines. Such containers shall be sealed by such clerks or agents who shall also enter on a certificate which shall be printed on each such container, the total number of such devices placed in such container and the election districts from which such devices came. Such clerks shall also sign such certificate in the places provided.

(d) Such containers shall be delivered to the board of elections by the public officials in whose offices such machines were installed within twenty-four hours after the closing of the polls and the board of elections shall give such officials a receipt therefor which states therein the date and hour of delivery, the name of the

person making the delivery and the name of the person to whom such delivery was made. The board of elections shall keep a duplicate of such receipt on file at the office of such board.

(e) The cost of installing such machines at locations other than the board of elections and the cost of transmitting the results from such machines may be paid by the board of elections or by a representative of the press. If such results are transmitted from a location other than the board of elections directly to a representative of the press, such cost shall be paid by such representative of the press.

§ 9-128. **Canvass; return of.** 1. Returns of the canvass shall be printed in a form approved by the state board of elections. When voting machines are used the designating number and letter on the counter for each candidate shall be printed next to the candidate's name on the statements of canvass. The form of such return, for a general election, also shall provide for the entry of the number of votes for each candidate, or upon each ballot proposal, cast by absentee and military, special federal, special presidential and emergency ballots, the number of such votes cast by machine and the total number of such votes, cast by such ballots and by machine together.

2. One set of returns shall be used, in each such election district. Tally sheets shall be provided and used in each district for votes on paper, absentee and military, special federal, special presidential and emergency ballots cast during voting machine breakdowns, and the state board of elections shall devise a form of tally sheet to be used for that purpose, with provision for making the tallies as to all offices, or all ballot proposals, on one sheet.

## TITLE II

### CANVASS BY BOARD OF ELECTIONS

- Section 9-200. Canvass of primary returns by board of elections; notices to delegates; certificates.
- 9-202. Canvass of primary returns by state board of elections; convention rolls.
- 9-204. County boards of canvassers.
- 9-206. Canvass of election district returns of general and special elections.
- 9-208. Provisions of recanvass of vote in every election district in the state; procedure in case of discrepancy.
- 9-209. Canvass of ballots cast by voters with registration poll records missing on days of election.
- 9-210. Statements of canvass by canvassing boards.
- 9-212. Determination by county canvassing boards.

- 9-214. Transmission of statements of canvassing boards to state board of elections and secretary of state.
- 9-216. Canvass of statements of general and special elections by state board of canvassers.
- 9-218. Proceedings by boards of canvassers to carry into effect a court order.
- 9-220. Record in office of secretary of state of county officers elected.

**§ 9-200. Canvass of primary returns by board of elections; notices to delegates; certificates.** 1. The board of elections shall canvass the returns of primary elections filed with it. It shall canvass first the votes of the delegates and alternates to judicial district conventions and complete such canvass at the earliest time possible. It shall complete the canvass otherwise within nine days from the day upon which the primary election is held. Upon the completion of the canvass the board shall make and file in its office tabulated statements, signed by the members of such board or a majority thereof, of the number of votes cast for all the candidates for nomination to each public office or for election to each party position, and the number of votes cast for each such candidate. The candidate receiving the highest number of votes for nomination for a public office or for election to a party position voted for wholly within the political unit for which such board is acting, shall be the nominee of his party for such office or elected to such party position and the board, if requested by a candidate elected to a party position, shall furnish to him a certificate of election.

2. The board forthwith upon the completion of the canvass for members of a state committee and delegates and alternates to a national, state or judicial district convention, shall transmit to the state board of elections a certificate stating the name and residence of each member of a state committee and delegate and alternate elected from a district wholly within the jurisdiction of such board, except that, in respect to a judicial district convention in the first, second, eleventh and twelfth judicial districts, the board of elections, instead of transmitting such certificate, shall compile the roll of the convention and transmit it to the chairman or secretary of the committee which, by party rules, is empowered to fix the time and place of the convention. The board of elections shall send by mail to each delegate and alternate elected a notice of his election. The certificate or roll of the convention shall list the delegates and alternates elected at a primary in the order of the votes received by each delegate or alternate, with the delegate or alternate receiving the highest number of votes listed first. Tie votes shall be indicated in a manner prescribed by the state board of elections. If there shall have been no contested election for alternates, the names of the alternates shall appear on the cer-

tificate or roll in the order in which their names appeared on the petition which designated them.

3. The board forthwith, upon the completion of the canvass, shall file with the state board of elections a certified copy of its tabulated statement of the votes cast for each nomination or party position in a district extending beyond the political unit for which the board is acting.

4. The state board of elections, upon the request of the chairman of the state committee of any political party, shall furnish to him a list of the duly elected members of the state committee of such party.

5. There shall be included in the official compilation of the canvass of the returns, the names of the persons who shall have been nominated for public office or elected to party position without balloting, and in each such case the word "uncontested" shall be placed in such compilation wherever the vote cast for such a candidate is required to be stated.

**§ 9-202. Canvass of primary returns by state board of elections; convention rolls.** The state board of elections upon receipt by it from boards of elections of the tabulated statements of votes at a primary election required to be filed with it shall proceed forthwith to canvass such statements. Upon the completion of the canvass it shall make, certify and file in its office tabulated statements of the number of votes cast for all the candidates for nomination to each public office or for election to each party position, and the number of votes cast for each such candidate. The candidate receiving the highest number of votes shall be the nominee of his party for such office or shall be elected to such party position, as the case may be, and the board, if requested, shall furnish to the elected candidates a certificate of election. From such certified statements of the votes for delegates and alternates elected to a [national,] state or judicial district convention of any party, other than a judicial district convention in the first, second, eleventh and twelfth judicial districts, the state board shall forthwith compile the roll of each such convention in duplicate and transmit it, if for a [national or] state convention, to the chairman and secretary of the state committee of the party, and if for a judicial district convention, to the chairman and secretary of the committee which, by party rules, is empowered to fix the time and place of the convention. The roll of the convention shall list the candidates elected at a primary in the order of the votes received by each candidate together with the number of votes received by each such candidate. If there shall have been no contested election for alternates, the names of the alternates shall appear on the roll in the order in which their names appear on the petition which designated them. *The state*

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*board of elections shall transmit copies of the certified statements of the votes for delegates and alternates to a national convention of a party to the chairman and secretary of the state committee of such party.*

[Section amended by chap. 218, Laws of 1992.]

§ 9-204. **County boards of canvassers.** The board of elections of each county or city shall be the county board of canvassers of such county, or each county within such city. Such board also shall be the city board of canvassers of any city or cities within the county for a city election. Such board shall also be the board of canvassers of the towns of the county. Such board shall also be the board of canvassers of villages in which village elections are conducted by the board of elections. The secretary of the board of elections, or, if he is absent, or unable to act, a member or chief clerk designated by the board shall be the secretary of the canvassing board. Each canvassing board shall meet at the place where it usually meets in other capacities on the day following the election, but its duties may be performed in any or all of the offices of the board of elections.

§ 9-206. **Canvass of election district returns of general and special elections.** The canvassing board shall canvass the votes cast within the county for state, county, city and town offices; also the vote cast on any ballot proposal. The canvass by the county board of canvassers relating to the offices of president and vice president of the United States, governor, lieutenant-governor, state comptroller, attorney-general, United States senator, member of the house of representatives, member of the state senate, member of the assembly and any ballot proposal shall show in each election district the total number of persons voting at such election, the number of votes cast for each candidate, the number of unrecorded or blank votes for each of the above-mentioned offices and each ballot proposal. Write-in votes cast for president or vice president for persons who were not certified by the state board of elections as write-in candidates for such offices shall not be canvassed for such candidates but such votes shall be canvassed as void votes. If, during the canvass, there shall clearly appear to be any omission or clerical mistake in the return for any district filed with the board of elections, the canvassing board may summon the election officers before the board, and such officers shall meet forthwith and make any necessary correction, in order that their canvass may be correctly stated, but they shall not alter any decision theretofore made by them.

§ 9-208. **Provisions for recanvass of vote in every election district in the state; procedure in case of discrepancy.** 1. Within fifteen days after each general, special or primary election, and within seven days after every village election con-

ducted by the board of elections at which voting machines are used, the board of elections, or a bipartisan committee of or appointed by said board, shall in each county using voting machines, make a record of the number on the seal and the number on the protective counter, of each voting machine used in each election district in such general, special or primary election, shall open the counter compartment of each of such machine, and, without unlocking such machine against voting, shall recanvass the vote cast thereon or, if the machine is provided with a device for printing or photographing the counters, such board or committee shall recanvass such printed or photographic record or, if the machine is provided with a removable electronic or computerized device which records the vote cast on such machine and from which a printed copy of such vote may be made mechanically or electronically and also a device for printing or photographing such vote directly from the voting machine, such board or committee shall recanvass the vote by comparing the vote on the printed copy of the canvass made from such removable device with the printed or photographed copy of the canvass made directly from the voting machine at the close of the polls. No person who was a candidate at such election shall be appointed to membership on the committee. The said board or committee shall during such time, make a recanvass of any absentee and military, special federal, special presidential, emergency and write-in ballots which were canvassed at polling places on election night and delivered to the board of elections by the person filing returns. Before making such canvass the board of elections, with respect to each election district to be recanvassed, shall give notice in writing to the voting machine custodian thereof, to the state and county chairman of each party or independent body which shall have nominated candidates for the said general or special election or nominated or elected candidates at the said primary election and to each individual candidate whose name appears on said machine, of the time and place where such canvass is to be made; and the state and county chairman of each such party or independent body and each such individual candidate may send a representative to be present at such recanvass. Each candidate whose name appears on said machine, or his representative, shall have the right personally to examine and make a copy of the vote recorded on such machine and ballots.

2. If upon such recanvass, it shall be found that the original canvass of the returns has been incorrectly made from any machine or machines or upon the result of any absentee and military, special federal, special presidential, emergency or alleged write-in ballot, a statement in writing shall be prepared giving in detail for each such machine or total of such ballots or alleged write-in ballots cast, the result of the recanvass, and such statement shall be witnessed by the persons required to be present and shall be filed with the board of elections. Such recanvass of votes made

pursuant hereto shall thereupon supersede the returns filed by the inspectors of election of the election district in which the canvass was made.

3. If upon such recanvass, it shall be found that a discrepancy still remains unaccounted for, the board of elections, or the committee thereof, with the assistance of the custodian of the machine, shall unlock the voting and counting mechanism of the machine and shall proceed thoroughly to examine and test the machine to determine and reveal the true cause or causes, if any, of the discrepancy in the returns from such machine. Before testing, the counters shall be reset at zero and each counter shall be operated at least one hundred times. After the completion of such examination and test, the custodian shall then and there prepare a statement in writing giving in detail the result thereof, and such statement shall be witnessed by the persons required to be present and shall be filed in the office of the board of elections.

**§ 9-209. Canvass of ballots cast by voters with registration poll records missing on days of election.** Before completing the canvass of votes cast in any primary, general, special, or other election at which voters are required to sign their registration poll records before voting, the board of elections shall proceed in the manner hereinafter prescribed to cast and canvass any absentee, military, special presidential, special federal or other special ballots which were not cast and canvassed at the polling place and any ballots voted by voters whose registration poll records were missing on the day of such election or whose registration poll records did not show them to be enrolled in the party in which they claimed to be enrolled. Each such ballot shall be retained in the original envelope containing the voter's affidavit and signature, in which it is delivered to the board of elections until such time as it is to be cast and canvassed.

1. a. The board of elections shall designate itself or such of its employees as it shall deem appropriate as a set of poll clerks to cast and canvass such ballots, and fix a time and place for their meeting for such purpose, provided that such meeting shall be no more than ten days after a general election and no more than eight days after a special or primary election at which such ballots are voted. The board may designate additional sets of poll clerks and if it designates more than one such set shall apportion among all such sets the election districts from which such ballots have been received, provided that all such ballots from a single election district shall be assigned to a single set of clerks, and that each such set shall be divided equally between representatives of the two major political parties. Each such set of clerks shall be deemed a central board of inspectors for purposes of this section.

b. At least five days prior to the time fixed for such meeting, the board shall send notice by first class mail to each candidate,



political party, and independent body entitled to have had watchers present at the polls in any election district in the board's jurisdiction. Such notice shall state the time and place fixed by the board for such canvass.

c. Each such candidate, political party, and independent body shall be entitled to appoint such number of watchers to attend upon each central board of inspectors as such candidate, political party, or independent body was entitled to appoint at such election in any one election district for which such central board of inspectors is designated to act.

2. a. Upon assembling at the time and place fixed for such meeting, each central board of inspectors shall cast and canvass the envelopes and the ballots therein contained as nearly as practicable in the manner provided by this chapter for a board of inspectors to consider, cast, and canvass absentee ballot envelopes and ballots at the polling place.

b. 1. Such board of inspectors shall also cast and canvass any federal write-in ballots validly cast by a military or special federal voter for the offices of president and vice-president, United States senator and representative in congress.

2. If such a federal write-in ballot contains the name of a person or persons in the space provided for a vote for any office, such ballot shall be counted as a vote for such person or persons. A vote for a person who is the candidate of a party or independent body either for president or vice-president shall be deemed to be a vote for both the candidates of such party or independent body for such offices. If such a ballot contains the name of a party or independent body in the space provided for a vote for any office, such ballot shall be deemed to be a vote for the candidate or candidates, if any, of such party or independent body for such office. In the case of the offices of president and vice-president a vote cast for a candidate, either directly or by writing in the name of a party or independent body, shall also be deemed to be votes for the electors supporting such candidate. Any abbreviation, misspelling or other minor variation in the form of the name of a candidate or a party or independent body shall be disregarded in determining the validity of the ballot, if the intention can be ascertained.

c. The following provisions shall apply to casting and canvassing of all such ballots which are counted by machine and all other provisions of this chapter with respect to casting and canvassing such ballots which are not inconsistent with this paragraph shall be applicable to such ballots.

1. Such ballots shall be counted by placing them, arranged by election district, in the counting machine.

2. Such ballots may be separated into sections before being placed in the counting machine.

3. Any write-in ballots and any ballots which cannot be counted by the machine shall be counted manually subject to all the applicable provisions of this chapter with respect to counting of absentee ballots.

4. The record of the vote counted by machine for each candidate and for and against each ballot proposal, printed by election district, shall be preserved in the same manner and for the same period as the returns of canvass for the election.

d. Any person lawfully present may object to the refusal to cast or canvass any ballot on the grounds that the voter is a properly qualified voter of the election district, or in the case of a party primary duly enrolled in such party, or to the casting or canvassing of any ballot on the grounds that the voter is not a properly qualified voter of the election district, or in the case of a party primary not duly enrolled in such party, or otherwise not entitled to cast such ballot. When any such objection is made, the central board of inspectors shall forthwith proceed to determine such objection and reject or cast such ballot according to such determination. *If the board cannot agree as to the validity of the ballot it shall set the ballot aside, unopened, for a period of three days at which time the ballot envelope shall be opened and the vote counted unless otherwise directed by an order of the court.*

e. Upon completing the casting and canvassing of ballots as hereinabove provided for any election district, the central board of inspectors shall thereupon, as nearly as practicable in the manner provided in this chapter for absentee ballots, verify the number of ballots so cast, tally the votes so cast, add such tally to the previous tally of all votes cast in such election district, and announce the result.

[Para. d. of subd. 2 amended by chap. 79, Laws of 1992.]

**§ 9-210. Statements of canvass by canvassing boards.** Upon the completion of the canvass the canvassing board shall make statements thereof, showing separately the result for each office and ballot proposal. Each such statement shall set forth, in words written out at length, all votes cast for all candidates for each office; the name of each candidate; the number of votes so cast for each, and, in the case of a candidate who was nominated by two or more parties or independent bodies, the number, separately stated, of votes cast for him as the candidate of each party or independent body by which he was nominated; and all votes so cast upon any ballot proposal, and all the votes so cast in favor of and against the same respectively. Such statements shall show the total number of unrecorded or blank votes and the total number of votes cast for each office and each ballot proposal.

[Matter in *italics* is new.]

Such statements shall be certified as correct over the signatures of the members of the board, or a majority of them, and such statements together with any tabulation sheets showing the vote by election districts from which such statements were made, shall be filed in the office of the board of elections. The separate statement relating to electors of president and vice-president shall be so filed immediately upon the making, signing and certification thereof. To facilitate its work, the board of elections may cause copies of such tabulation sheets to be printed in pamphlet form.

**§ 9-212. Determinations by county canvassing boards.** 1. The canvassing board shall determine each person elected by the greatest number of votes to each county office, and each person elected by the greatest number of votes to each city, town or village office of a city, town or village of which it is the board of canvassers. The canvassing board shall also determine whether any ballot proposal submitted only to the voters of the county, or only to the voters of a city, town or village of which it is the board of canvassers, as the case may be, has by the greater number of votes been adopted or rejected.

2. All such determinations shall be in writing and signed by the members of the canvassing board or a majority of them and filed and recorded in the office of the board of elections. Except in the city of New York and in the counties of Nassau, Orange and Westchester, the board of elections shall cause a copy of such determinations, and of the statements filed in its office upon which such determinations were based, to be published once in each of the newspapers designated to publish election notices and the official canvass. The statement of canvass to be published, however, shall not give the vote by election districts but shall contain only the total vote for a person, or the total vote for and the total vote against a ballot proposal, cast within the county, or within the portion thereof, if any, in which an office is filled or ballot proposal is decided by the voters if the canvass of the vote thereon devolves upon the county board of canvassers. Such total shall be expressed in arabic numerals.

3. The board of elections shall prepare and forthwith transmit to each person determined by the canvassing board to have been elected a certified statement, naming the office to which such canvassing board has declared him elected.

**§ 9-214. Transmission of statements of canvassing boards to state board of elections and secretary of state.** The board of elections shall transmit by mail or cause to be delivered personally to the state board of elections, a certified copy of the statement of the canvassing board relating to the offices of electors of president and vice-president of the United States, United States senator, representatives in congress and state offices, including members of the state senate and assembly, and to the votes cast

on any ballot proposal submitted to all the voters of the state, within twenty-five days after the election. If any certified copy shall not be received by the state board on or before the twenty-fifth day following a general election, or a special election, it shall dispatch a special messenger to obtain such certified copy, and the board of elections, immediately upon demand of such messenger at its office, shall make and deliver a certified copy to such messenger who shall deliver it forthwith to the state board.

The board of elections shall transmit to the secretary of state within twenty-five days after a general election, and within ten days after a special election, a list of the names and residences of all persons determined by the canvassing board to be elected to any county office.

The board of elections shall transmit to the state board, on or before the tenth day of December following an election for governor, a certified tabulated statement, by election districts, of the official canvass of the votes cast for candidates for governor, to include, in the case of a candidate who was nominated by two or more parties or independent bodies, a separate statement of the number of votes cast for him as the candidate of each party or independent body by which he was nominated and if the county contains more than one assembly district or parts of more than one assembly district, a statement of the number of votes cast for governor by assembly district.

**§ 9-216. Canvass of statements of general and special elections by state board of canvassers.** 1. The state board of elections shall be the state board of canvassers. The records of the state board of canvassers shall be kept in the custody of the state board of elections, which shall assign a deputy or other assistant to act as the clerk of said board of canvassers.

2. The state board of canvassers shall canvass the certified copies of the statements of the county board of canvassers of each county. They shall canvass first the statements, if any, for the offices of president and vice-president and next the statements, if any, for the office of member of the state senate, and next the statements, if any, for the office of member of the state assembly. Three members of the board shall constitute a quorum. The state board of canvassers shall meet on or before the fifteenth day, or, in a year when electors of president and vice-president are chosen on or before the first Monday after the first Wednesday, of December next after each general election, and within forty days after each special election, to canvass such statements. The board may adjourn from day to day, not exceeding a term of five days. If any member of the board shall dissent from a decision of the board or shall protest against any of the proceedings of the board as irregular, he shall state such dissent or protest in a writing signed by him

setting forth his reasons and file it in the office of the state board of elections.

3. Upon the completion of the canvass the board shall make separate tabulated statements, signed by the members of the board or a majority thereof, of the number of votes cast for all the candidates for each office voted for, the number of votes cast for each of such candidates, the number of votes cast in each county for each of them and if the voters of any one district of the state voted for any such candidate, the name and number of such district, the determination of the board as to the persons elected to each office, the number of votes cast upon each ballot proposal, the number of votes cast in favor of and against each respectively, and the determination of the board as to whether it was adopted or rejected.

4. Such tabulated statements shall be filed and recorded in the office of the state board of elections. Thereupon, the state board of elections shall transmit a certified copy of each such statement of votes cast for candidates for any office to the person shown thereby to have been elected to such office. The state board of elections shall prepare a general certificate under the seal of the state and attested by the members of the state board of elections, addressed to the house of representatives of the United States, of the due election of all persons chosen at that election as representatives of this state in congress, and shall transmit the same to the house of representatives. If any person so chosen at such election shall have been elected to fill a vacancy in the office of representative in congress, the statement of the state board of elections shall so specify.

**§ 9-218. Proceedings by boards of canvassers to carry into effect a court order.** 1. Upon the re-convening of the state board of canvassers or any county board of canvassers, or of the board of elections of the city of New York as a county or city board of canvassers, by order of a court of competent jurisdiction, for the purpose of correcting an error or of performing a duty imposed by law or by an order of the court granted pursuant to law, the meeting for that purpose shall be deemed a continuance of its regular session, and any new or corrected statement, determination or certificate which is made to give effect to the order shall stand in lieu of the original statement, determination or certificate.

2. When a new or corrected statement or certificate, to give effect to an order of the court, shall vary from the original statement or certificate respecting the votes cast for an office for which the state board of canvassers is required to canvass statements made by county boards, the board of elections forthwith shall transmit certified copies of the new or corrected statement or certificates to the state board of elections. The state board of canvassers shall

meet within five days after such a certified copy has been received by the state board of elections. From such certified copy, such board shall make a new statement as to the votes for such office cast in the state or political subdivision in which such office is filled, and shall determine and declare what person or persons whose votes are affected by such new or corrected statement have been, by the greatest number of votes, duly elected to the office or offices. The state board of canvassers and the state board of elections shall, respectively, have the same powers and duties in respect to new or corrected statements that they have in respect to original statements.

§ 9-220. **Record in office of secretary of state of county officers elected.** The secretary of state shall enter in a book to be kept in his office, the names of the respective county officers elected in this state, specifying the counties for which they were severally elected, and their places of residence, the offices to which they were elected, and their terms of office.

## ARTICLE 10

## VOTING BY MEMBERS OF ARMED FORCES

- Section 10-102. Military voters; definitions.  
10-104. Military voters; right to vote.  
10-106. Military voters; registration and application for ballots.  
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10-116. Military ballots; determination of candidates thereon.  
10-118. Military voting; costs of.  
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10-122. Military voter; absentee ballot, right to.  
10-124. Military voting; state board of elections, regulatory powers.  
10-126. Military voting, applicability of general provisions.

§ 10-102. **Military voters; definitions.** As used in this article the following terms have the following meanings.

1. "Military service" means the military service of the state, or of the United States, including the army, navy, marine corps, air force, coast guard and all components thereof, and the coast and geodetic survey, the public health service, the national guard when in the service of the United States pursuant to call as provided by law, and the cadets or midshipmen of the United States Military Academy, United States Naval Academy, United States Air Force Academy and United States Coast Guard Academy.

2. "Military voter" means a qualified voter of the state of New York who is in the actual military service, as defined in the preceding paragraph of this section, and by reason of such military service is absent from his election district of residence on the day of registration or election, or a voter who is discharged from such military service within thirty days of an election and the spouse, parent and child of such voter accompanying or being with him or her, if a qualified voter and a resident of the same election district.

3. "Military ballot" means the ballot prepared, printed and supplied for use by the military voter for a general or primary election or any special election called by the governor.

4. "Military address" means the mailing address of a military voter other than his residence address in his election district.

5. "Appropriate board of elections" means the board of elections in whose jurisdiction the military voter resides as a qualified voter.

§ 10-104. **Military voters; right to vote.** A military voter of this state shall be entitled to vote as fully as if he were present at his polling place and to register and vote in the manner hereinafter provided except that the provisions of this article for absentee voting in primary elections shall not apply to the party positions of members of the ward, town, city or county committee.

§ 10-106. **Military voters; registration and application for ballots.** 1. On or before the thirty-fifth day preceding an election the names and addresses of all military voters who have filed applications for military ballots by such day and who were not already registered shall be registered by the board of elections in the election district of residence of such military voter as hereinafter provided.

2. Such board of elections shall cause such military voter to be registered in the manner provided by this chapter, and in the space designated "other remarks" shall be entered the military address of such voter *or such military address shall be entered into the computer files from which the computer generated registration list is prepared.* Such registration poll records shall be stamped or marked conspicuously with the legend "Military Voter" *or the records of such military voters in such computer files shall be coded in a manner which distinguishes such voters from the other voters in such files.* The foregoing provisions of this subdivision as to entry of the military address may be altered by the state board of elections to such extent as may be necessary to the security and safety of the United States. A military voter shall not be required to register personally. An application for a military ballot shall constitute permanent personal registration and a military voter shall be deemed registered under the rules and regulations prevailing under permanent personal registration upon the filing of his application and the entering of his name in the appropriate registration records.

4. Not earlier than the ninetieth or later than the seventy-fifth day before each general election, each county or city board of elections shall send to each person who is registered as a military voter and to every other military voter in such county or city for whom it has a military address, an application for a military ballot for such general election in a form prescribed by the state board of elections, which shall include a place for such military voter to enroll in a party, on a postcard bearing the return address of such board of elections.

5. The state board of elections shall forward to the appropriate board of elections all applications for military ballots received by

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it. An application from a military voter not previously registered must be received by the appropriate board of elections not later than ten days before a general or special election or twenty-five days before a primary election in order to entitle the applicant to vote at such election. An application from a military voter who is already registered must be received at least seven days before an election in order to entitle the applicant to vote at such election; except that an application from such a military voter who delivers his application to the board of elections in person, must be received not later than the day before the election.

6. The board of elections shall immediately add to such registration records the name and residence and military address of every military voter, who was not previously registered, pursuant to this chapter, from whom it receives a valid application for a military ballot. If a valid application for a military ballot is received by a board of elections from a person already registered, other than as a military voter, from the residence address set forth in such application, such board shall mark the registration records of such voter in the same manner as the registration records of other military voters.

7. The board of elections in each year shall cause a list of names, residence addresses and, for a primary election, party enrollments of military voters appearing on such registration poll records to be prepared not later than seven days preceding an election. One copy shall be kept at the office of the board of elections for public inspection. One copy shall be transmitted to the division not later than December first following the election. The board shall transmit one copy to the chairman of each political party in the county, upon written request.

7-a. If a federal post card application form is received from a person who is qualified to vote as a military voter but who has not previously registered pursuant to the provisions of this article, such federal post card application form shall be treated in all respects as an application for registration and enrollment as a military voter and for a military ballot pursuant to the provisions of this article. If such a federal post card application form is received from a person already registered as a military voter pursuant to the provisions of this article, such application shall be treated in all respects as an application for a military ballot pursuant to the provisions of this article.

[Subs. 8 and 9 REPEALED by chap. 451, Laws of 1985.]

10. A qualified voter who shall have been inducted into or who shall have enlisted in the military service and who shall not have taken his oath of allegiance prior to thirty days preceding a general or special election, or the spouse, parent or child residing in the same election district as, and accompanying such voter may register before the board of elections of his county of residence, on or before the tenth day preceding such election provided he shall on

or before the day of such election, actually be in the military service. Such voter shall then receive a military ballot. Such registration record shall be stamped with the legend "military voter".

11. A board of elections may send to any spouse, parent, or adult child, brother or sister of a military voter serving outside of the continental limits of the United States, an application for a military ballot, in a form prescribed by the state board of elections. Such application shall be on a postcard addressed to the appropriate board of elections and shall include the statement "I understand that this application will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn". Such application may be signed by the spouse, parent or adult child, brother or sister of such military voter. Upon receipt of such an application from such a relative of a military voter, the board of elections shall mail a military ballot to such military voter together with an application for a military ballot and instructions that such application must be completed and returned together with the envelope containing the military ballot. No ballot sent to a military voter upon the application of a relative of such military voter shall be cast or canvassed unless a completed application for military ballot signed by such military voter is received with such ballot.

12. If the board of elections receives notice from a military voter that such voter has left the military service and is residing at his residence address, such board shall cross out or otherwise obliterate the "Military Voter" legend on such voter's registration records and thereafter treat such records in the manner provided by this chapter for regularly registered voters.

[Subd. 3 REPEALED by chap. 290, Laws of 1991.]

[Subd. 2 amended by chap. 91, Laws of 1992.]

**§ 10-108. Military voters; distribution of ballot to.**

1. Ballots for military voters shall be mailed or otherwise distributed by the board of elections thirty-two days before a general election to each military voter who applies for a ballot for such election, who applied for a ballot for a primary or special election in such year or who registered as a military voter after the previous general election, and twenty-five days before a New York City community school board district or city of Buffalo school district election to each military voter who has applied for a ballot for such election and thirty-two days before a primary election, fourteen days before a village election conducted by the board of elections and twelve days before a special election to each military voter who applied for a military ballot for the previous general election, who registered as a military voter after such previous general election or who applies for a military ballot for such primary or special election. Ballots shall also be mailed to any qualified

military voter who is already registered and who requests such military ballot from such board of elections in a letter, which is signed by the voter and received by the board of elections not earlier than the sixtieth day nor later than the seventh day before the election for which the ballot is requested and which states the address where the voter is registered and the address to which the ballot is to be mailed. The board of elections shall enclose with such ballot a form of application for military ballot. In the case of a primary election, the board shall deliver only the ballot of the party with which the military voter is enrolled according to the military voter's registration records. In the event a primary election is uncontested in the military voter's election district for all offices or positions except the party position of member of the ward, town, city or county committee, no ballot shall be delivered to such military voter for such election; and the military voter shall be advised of the reason why he will not receive a ballot.

2. In the event that the board of elections of any county shall not mail or otherwise distribute ballots to the military voters of such county by the date required by this section, such board shall notify the state board of elections in writing of the facts and reasons for such non-compliance.

3. Thereafter, ballots shall be so distributed to persons whose names and military addresses are added to the registration poll ledgers as military voters, except that the military ballots may be delivered by hand to military voters who personally file an application with the board of elections of their county of residence. The military ballot shall be delivered to such military voter together with a ballot envelope and a second envelope addressed to the appropriate board of elections on which is printed "Official Election Balloting Material—Via Air Mail".

**§ 10-109. Military voters; cancellation of registration.**

1. Voters registered pursuant to this article shall be eligible to vote in every election in which military voters are eligible to vote which is held more than ten days after the date of the receipt of their applications for such registration provided such voters vote in a general election, special election, village election conducted by the board of elections or primary election at least once in each four calendar years.

2. The board of elections shall not later than the third week in January of each year following a year in which electors of president and vice president of the United States are elected, cancel the registration of all military voters who were registered throughout the five preceding calendar years and who did not cast a ballot in any general, special or primary election or village election conducted by the board of elections, during such five calendar years and remove from the files of military voters the registration poll ledger cards and central file registration records of all such

cancelled military voters or remove the names of such voters from the computer files from which the computer generated registration lists are prepared.

3. If any ballot, application form or other mail sent to a military voter at his military address by the board of elections is returned by the post office as undeliverable, the board of elections shall ascertain whether the military voter is residing at the address given on his registration records as his permanent address. If he is residing at such address, the board shall not send him any further military ballots unless he applies for them in the regular way, giving a new military address. If such military voter is not residing at such permanent address, the board of elections shall forthwith cancel his registration. However, if such a voter notifies the board of elections not later than the seventh day before the first election held after such move, in which such voter would be eligible to vote, that he has moved to a new military address, his registration and enrollment shall be reinstated.

4. The board of elections shall process and preserve the records of such cancelled registrations, including the original applications for such registrations, in the same manner and for the same period of time as the records of other voters registered under permanent personal registration.

5. A military voter whose registration is cancelled shall be eligible to reregister in the manner provided by this article.

6. Upon cancelling the registration of a military voter, the board of elections shall forthwith notify such voter at his last military address and at his permanent residence address of the fact of the cancellation, the reason therefor, and of his right to reregister pursuant to this article.

[Subd. 2 amended by chap. 91, Laws of 1992.]

§ 10-112. **Military voter; voting.** 1. The military voter shall mark the military ballot provided for in this article in the same manner as an absentee ballot. After marking the ballot, he shall fold such ballot and enclose it in the ballot envelope bearing the military voter's statement and seal the envelope. He shall then sign the statement, with the blanks properly filled in. The envelope containing the ballot shall then be inserted in the envelope addressed to the appropriate board of elections, which shall be mailed or otherwise delivered to such board of elections of his county of residence.

2. Such ballot, to be cast and counted, shall be enclosed and sealed in the ballot envelope bearing the voter's statement, signed by the voter and must be received by such board not later than the close of polls on election day, except that ballots contained in envelopes showing a cancellation mark of the United States

[Matter in *italics* is new.]

postal service, or a foreign country's postal service with a date which is ascertained to be not later than the day before election, shall be cast and counted if received by the board of elections not later than seven days following the day of election.

**§ 10-114. Military ballots; examination and forwarding of ballot envelopes.** 1. The appropriate board of elections shall examine each ballot envelope received unopened, to determine its validity regarding the voter's signature, oath, voting residence and any other requirements and it shall resolve whether or not each ballot envelope complies with this article.

2. a. The board of elections shall thereafter process such ballots in the manner provided for herein for absentee ballots provided, however, that federal write-in ballots shall not be sent to the polls, but shall be retained at the board.

b. A federal write-in ballot shall be cast and canvassed only if an application for a military ballot for such military voter was received at least thirty days before election day, if the federal write-in ballot was submitted from outside the United States, if such ballot is received not later than seven days following the day of the election and if the military ballot sent to the voter is not received by such date. If such a federal write-in ballot is received after election day, the envelope in which it is received must contain a cancellation mark of the United States postal service or a foreign country's postal service with a date which is ascertained to be not later than the day before election day.

**§ 10-116. Military ballots; determination of candidates thereon.** The state board of elections and the county boards of elections shall determine, three days before the first day for distribution of military ballots, the names of all candidates duly nominated for public office and the amendments, referenda, propositions and questions to be voted for on such ballots. If at a later date the nomination of any candidate named on a military ballot is found invalid, the ballot shall still be valid, but no vote cast for any such candidate on such ballot shall be counted at the election. The failure of the county board of elections to include the name of any candidate or any amendment, referendum, proposition or question on the military ballot shall in no way affect the validity of the election with respect to the office for which the nomination was made or the validity of the military ballot as to any other matter.

**§ 10-118. Military voting; costs of.** The cost of printing, mailing, return postage, and all other costs and expenses incurred in connection with the administration of this article (other than those of the state board of elections), shall be a county charge, and in the city of New York, shall be a city charge, and shall be

appropriated and paid in the same manner as all other election costs.

§ 10-122. **Military voter; absentee ballot, right to.** Any military voter may vote by absentee ballot rather than military ballot provided that he complies with the provisions of this chapter relating thereto:

§ 10-124. **Military voting; state board of elections; regulatory powers.** The state board of elections is hereby authorized to take such steps and do such things as, in its opinion, are necessary to make effective the provisions of any other legislation, in order to utilize fully any federal or other facilities in the distribution of military ballots. The state board of elections shall have power to adopt and promulgate orders or regulations adopting, with respect to the military voters of this state, the provisions of that legislation.

§ 10-126. **Military voting; applicability of general provisions.** The general provisions of this chapter shall apply to this article, except as they are inconsistent herewith. The provisions of this article shall be liberally construed for the purpose of providing military voters the opportunity to vote. The state board of elections shall have the power to adopt and promulgate regulations to effectuate the provisions of this article.

## ARTICLE 11

SPECIAL PRESIDENTIAL AND SPECIAL FEDERAL VOTERS  
AND SPECIAL BALLOTS

- Title I. Special presidential voters.  
 II. Special federal voters.  
 III. Special ballots.

## TITLE I

## SPECIAL PRESIDENTIAL VOTERS

- Section 11-102. Special presidential voters; change of residence; special qualifications.  
 11-104. Registration and application for special presidential ballot.  
 11-106. Processing of applications by board of elections.  
 11-108. Special presidential voters, lists.  
 11-110. Special presidential ballots; deadline for receipt.  
 11-112. Application of other provisions.

§ 11-102. **Special presidential voters; change of residence; special qualifications.** Any person who shall change his residence from this state to another state or from one county or city of this state to another such county or city, after the thirtieth day next preceding any presidential election or any person who shall change his residence within any county or city of this state after the tenth day next preceding any presidential election shall be entitled to vote for president and vice president of the United States in such election, provided, however, that such person may not vote for any candidate for any other office or any question to be voted for at such election, and provided further that

a. Such person was duly qualified and registered to vote in this state immediately prior to such change of residence;

b. Such person is neither qualified nor able to qualify to vote for such electors either in the state, or in the county or city of this state, or at the residence within the county or city of this state to which such person has removed; and

c. Such person has applied for special ballot for president and vice president, as provided by this article.

§ 11-104. **Registration and application for special presidential ballot.** 1. a. A person who, pursuant to the provisions of this title is qualified to vote for president and vice president of the United States may apply to the board of elections of his county of residence next preceding the place of his current residence for a special ballot for president and vice president. Such applications must be mailed to such board of elections not later than

the seventh day before the election or delivered to such board not later than the day of such election.

b. Insofar as the provisions of this chapter providing for voting in person or by absentee ballot do not conflict with any provision of this section, such provisions apply to a person authorized to vote under this article. In the case of any such conflict, the provision of this section shall prevail and such other provision of this chapter shall not apply.

2. a. A form of application for a special ballot under this section shall be furnished by the board of elections to the applicant who shall request such form within the time prescribed therefor. In addition, application forms shall be supplied to the applicant's spouse, parent or child, a person residing with the applicant as a member of his household, or the applicant's duly authorized agent.

b. The board of elections shall mail a special presidential ballot to every qualified voter otherwise eligible for such a ballot, who requests such a special presidential ballot from such board of elections in a letter, which is signed by the voter and received by the board of elections not earlier than the thirtieth day nor later than the seventh day before the election and which states the address where the voter is registered and the address to which the voter has moved and the date of such move. The board of elections shall enclose with such ballot a form of application for special presidential ballot.

c. The application shall be made and signed by the applicant at the places thereon provided for such purpose and he shall set forth therein all of the facts required to establish his qualifications to register and vote under this article.

d. The form for use under subdivision one of this section shall be of a distinctive color and in the form prescribed by the state board of elections.

**§ 11-106. Processing of applications by board of elections.** 1. The application forms shall contain a detachable portion for the applicant's signature, which portion shall be gummed on the back for pasting in the list of special presidential voters, or, in lieu thereof, the board of elections may cause to be made, under its supervisions, a photostatic copy of the applicant's signature as it appears on his application, and in such case a photostatic copy of the applicant's signature shall be pasted in the list of special presidential voters in its proper place.

2. Upon receipt of the application, the board of elections shall determine upon such inquiry as it deems proper whether the applicant has answered all the questions contained in the application and whether the applicant is legally qualified to receive and vote a special presidential ballot, and, if it finds he is not so qualified, shall reject the application and shall notify the applicant of such rejection and give the reason or reasons therefor. All



investigations by the board of elections shall be concluded and all determinations made not later than the sixth day before election.

3. If the board of elections shall determine that the applicant making the application provided for in this section is qualified to receive and vote a special presidential ballot, it shall, as soon as practicable after it shall have so determined, mail to him at the residence address shown in his application, or deliver to him, or to any person designated by him in writing for such purpose, at the office of the board, such a special presidential ballot and an envelope therefor.

4. The board of elections shall keep a register of the persons who have made and signed applications for special presidential ballots and of the applicants who have been determined to be qualified. The board shall keep open to public inspection such register of applicants with their names, addresses and application dates and shall give to the chairman of each political party in the county a complete list of applicants for special presidential ballots, containing their names and places of residence, including the election district and ward, if any, and, in the city of New York and the county of Nassau, the assembly district.

5. The board of elections shall file each original application filed with it and shall maintain an alphabetical index thereof for a period of three years after the election.

§ 11-108. **Special presidential voters lists.** Prior to each general election at which presidential electors are to be elected, each board of elections shall prepare for each election district within its jurisdiction a list containing the names, alphabetically arranged, and the addresses of all persons whom the board of elections has determined to be qualified as special presidential voters in such election district, which list shall contain a column headed "remarks". Such list shall be designated "List of Special Presidential Voters" and shall include a photostatic copy or duplicate of the signature of each person on such list. In those counties in which special presidential ballots are delivered to the boards of inspectors to be counted, such lists of special presidential voters shall be delivered to such boards of inspectors with the election supplies.

§ 11-110. **Special presidential ballots; deadline for receipt.** 1. To be counted, any ballot cast under the provisions of this article must be received by the appropriate board of elections not later than the close of the polls on election day except that all ballots contained in envelopes showing a cancellation mark of the United States postal service, or a foreign country's postal service with a date which is ascertained to be not later than the day before election, shall be cast and counted if received by the

board of elections not later than seven days following the day of election.

2. Special presidential ballots received by the board of elections before the close of the polls on election day may be delivered to the inspectors of election in the manner prescribed by this chapter for absentee ballots or retained by the board of elections and cast and canvassed pursuant to the provisions of section 9-209 of this chapter as such board shall, in its discretion, determine by resolution adopted at least thirty days before election day. All ballots received by the board of elections between election day and the seventh day after election day shall be retained at the board and shall be cast and canvassed in the same manner as other ballots retained by such board.

§ 11-112. **Application of other provisions.** 1. Except as otherwise provided in this title, special presidential ballots shall be furnished, mailed, voted, returned, counted, canvassed and preserved as elsewhere provided in this chapter for absentee voters' ballots.

2. All the provisions of this chapter relating to crimes against the elective franchise shall be deemed to apply with respect to and in connection with the operation of this title.

3. The general provisions of this chapter shall apply with respect to this title except as they are inconsistent with this title, and the provisions of this title shall be construed liberally for the purposes herein expressed or intended.

## TITLE II

## SPECIAL FEDERAL VOTERS

- Section 11-200. Special federal voters; qualifications.  
 11-202. Registration and enrollment of special federal voters and application for special federal ballot.  
 11-204. Processing of applications by board of elections.  
 11-206. Special federal voters; preparation of registration poll records and central file registration records.  
 11-208. Special federal voters; cancellation of registration.  
 11-210. Special federal voters; distribution of applications for ballots.  
 11-212. Special federal ballots; delivery to polling place.  
 11-214. Use of airmail.  
 11-216. Forwarding of applications and ballots.  
 11-218. Application of other provisions.

§ 11-200. **Special federal voters, qualifications.** 1. Every citizen of the United States now residing outside the United States whose last domicile in the United States immediately prior to his departure from the United States was in the state of New York, shall be entitled to vote from such last domicile, as a special federal voter in all primary, special and general elections for the public offices or party positions of president and vice-president of the United States, United States senator, representative in congress and delegates and alternate delegates to a national convention, provided such citizen, at the time of such departure from the United States, could have met all the present qualifications of this chapter to vote in federal elections from such last domicile, except the qualification with respect to minimum voting age, even though such citizen does not now maintain a place of abode or domicile in the state of New York, and provided further that such citizen does not maintain a place of abode or domicile, is not registered to vote and is not voting in any other election district, state, territory or possession of the United States and provided further that such citizen has a valid passport or card of identity and registration issued under the authority of the secretary of state of the United States.

2. Every person registered pursuant to this title shall continue to be eligible to vote in all elections in which special federal voters are eligible to vote except that in order to vote at a primary election of a party, a voter registered pursuant to this title must have been so registered and enrolled in such party before the previous general election; or, if such voter was not registered in New York state for the previous general election, such voter must

so register and enroll in such party not later than [sixty] *twenty-five* days before such primary; or, if such voter was registered in New York state for the last general election, such voter must have had the same party enrollment with such registration as such voter sets forth on his application for registration and enrollment as a special federal voter[; or, such voter must register and enroll specially pursuant to the provisions of this chapter].

3. A special federal voter who moves from one address outside the United States to another address outside the United States shall not have to reregister provided he notifies the board of elections of such new address not later than the seventh day before the first election held after such move, in which such voter would be eligible to vote.

[Subd. 2 amended by chap. 473, Laws of 1992.]

**§ 11-202. Registration and enrollment of special federal voters and application for special federal ballot.** 1. a. A person, who, pursuant to this title, is qualified to vote as a special federal voter may, by application received by the state board of elections or any local board of elections on or before the twenty-fifth day next preceding any election in which such person would be entitled to vote or the last day of local registration for such election, whichever is later, apply to the board of elections of the county in which he resided in person or by personal application by mail for registration and enrollment as a special federal voter. An application for registration and enrollment pursuant to this article shall be treated as an application for a special federal ballot for every election in which the applicant would be eligible to vote which is held during the calendar year in which such application is received.

b. A person who, pursuant to the provisions of this title, is already registered as a special federal voter, may by application received by the state board of elections or any local board of elections apply to the board of elections of the county in which he is so registered in person or by mail for a special federal ballot. Such an application shall entitle such a voter to receive a ballot for every election in which such voter is entitled to vote which is held during the calendar year in which such application is received and on or after the seventh day after receipt of such application.

c. Insofar as the provisions of this chapter providing for permanent personal registration and enrollment, and enrollment by mail or special enrollment, and voting in person or by absentee ballot do not conflict with any provision of this title, such provisions shall apply to a person authorized to register and vote under this title; in the case of any such conflict, the provision of this title shall prevail and such other provision of this chapter

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[Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.]

shall not apply. For the purposes of this title, any person eligible pursuant to the provisions of this chapter to vote by absentee ballot shall be eligible for absentee registration and enrollment.

2. a. A form of application for registration and enrollment as a special federal voter and for a special federal ballot or a form of application for a special federal ballot by persons registered pursuant to this title shall be furnished by the board of elections to the applicant who shall request such form within the time limited therefor. The application shall be made and signed by the applicant at the places thereon provided for such purpose and such applicant shall set forth therein all of the facts required to establish his qualifications to register and vote under this title.

b. The forms for use under this section shall be of a distinctive color and substantially in the form prescribed by the state board of elections and shall elicit all the information which may be necessary to determine eligibility to register and vote pursuant to the provisions of this title.

**§ 11-204. Processing of applications by board of elections.** 1. The registration application forms shall contain detachable portions for the applicant's signature. Such portions shall be gummed on the back for pasting on the registration poll records and central file registration records. In lieu of such gummed portions the board of elections may cause to be made, under its supervision, photostatic copies of the applicant's signature as it appears on his application. In such case, photostatic copies of the applicant's signature shall be pasted in the proper places upon such registration poll records and central file registration records.

2. Upon receipt of an application, the board of elections shall determine upon such inquiry as it deems proper whether the applicant has answered all the questions contained in the application and whether the applicant is legally qualified to receive and vote a special federal ballot. If it finds he is not so qualified, the board shall reject the application and shall notify the applicant of such rejection and give the reason or reasons therefor. All investigations by the board of elections shall be concluded and all determinations made not later than the twentieth day before election.

3. If a federal post card application form is received from a person who is qualified to vote as a special federal voter but who has not previously registered pursuant to the provisions of this title, such federal post card application form shall be treated in all respects as an application for registration and enrollment and a special federal ballot pursuant to the provisions of this title. If such a federal post card application form is received from a person already registered as a special federal voter pursuant to the provisions of this title, such application shall be treated in all respects

as an application for a special federal ballot pursuant to the provisions of this title.

4. If the board of elections shall determine that the applicant making the application provided for in this section is qualified to receive and vote a special federal ballot, it shall, as soon as practicable after it shall have so determined, or not later than thirty-two days before each general or primary election and twelve days before each special election in which such applicant is qualified to vote, or three days after receipt of such an application, whichever is later, mail to him at the residence address outside the United States shown in his application, a special federal ballot and an envelope therefor. The board of elections shall also mail a special federal ballot to every qualified special federal voter who is already registered and who requests such special federal ballot from such board of elections in a letter, which is signed by the voter and received by the board of elections not earlier than the thirtieth day nor later than the seventh day before the election for which the ballot is first requested and which states the address where the voter is registered and the address to which the ballot is to be mailed. The board of elections shall enclose with such ballot a form of application for special federal ballot.

5. The board of elections shall keep a list of the persons who have made and signed applications for special federal ballots and of the applicants who have been determined to be qualified. The board shall keep open to public inspection such list of applicants with their names, addresses, party enrollments, and application dates and shall give to the chairman of each political party in the county fifteen days before each election, a complete list of special federal voters eligible to vote in such election. Such list shall contain the names, party enrollments for a primary election and places of previous residence including the election district and ward, if any, and, in the city of New York and the county of Nassau, the assembly district of all such voters.

**§ 11-206. Special federal voters; preparation of registration poll records and central file registration records.**

1. The board of elections shall prepare a registration poll record and a central file registration record for each voter registered pursuant to this title *or shall enter the name of each such voter into the computer files from which the computer generated registration list is prepared.* Each such registration record shall be endorsed on both the front and rear with the endorsement "special federal voter". *The records of special federal voters in such computer files shall be coded in a mann[r] which distinguishes such voters from the other voters in such files.*

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[Matter in *italics* is new.]

3. The central file registration records of special federal voters shall be maintained in a separate file at the appropriate office of the board of elections.

4. The registration poll records of special federal voters shall be filed, in alphabetical order, by election district. At each election at which *the ballots of special federal voters are [eligible to vote] delivered to the inspectors of election in each election district*, the registration poll records of all [such] *special federal voters eligible to vote at such election shall be delivered to [the] such inspectors of election [in each election district] together with the other registration poll records or the names of such voters shall be included on the computer generated registration list*. Such records shall be delivered either in a separate poll ledger or a separate, clearly marked section, of the main poll ledger *or in a separate, clearly marked, section of the computer generated registration list* as the board of elections shall determine.

[Section amended by chap. 91, Laws of 1992.]

**§ 11-208. Special federal voters; cancellation of registration.** 1. Voters registered pursuant to this title shall be eligible to vote in every election in which special federal voters are eligible to vote which is held on or after the thirtieth day after receipt of their applications for such registration.

2. Not later than the third week in January after each quadrennial election for electors of president and vice president of the United States, the board of elections shall cancel the registration of all special federal voters who failed to vote in at least one general, special or primary election in the previous five calendar years, and remove from the files of special federal voters the registration poll ledger cards and central file registration records of all such cancelled voters *or remove the names of such voters from the computer files from which the computer generated registration lists are prepared*.

3. The board of elections shall forthwith cancel the registration of a voter registered pursuant to this title if any ballot, application form or other mail sent to him at his address outside the United States by such board is returned by the post office as undeliverable. However, if such a voter notifies the board of elections, not later than the seventh day before the first election held after such cancellation, in which such voter would be eligible to vote, that he has moved to a new address outside the United States, his registration and enrollment shall be reinstated.

4. The board of elections shall process and preserve the records of such cancelled registrations, including the original applications for such registrations, in the same manner and for the same period

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[Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.]

of time as the records of other voters registered under permanent personal registration.

5. A special federal voter whose registration is cancelled shall be eligible to reregister in the manner provided by this title.

6. Upon cancelling the registration of a special federal voter, the board of elections shall forthwith notify such voter at his last address outside the United States of the fact of the cancellation, the reason therefor, and of his right to reregister pursuant to this title.

[Subd. 2 amended by chap. 91, Laws of 1992.]

**§ 11-210. Special federal voters; distribution of applications for ballots.** 1. Not earlier than sixty or later than forty days before each general or primary election in which special federal voters are eligible to vote, the board of elections shall mail to each voter who is eligible to vote in such election and who was registered pursuant to this title for the previous election at which such voters were eligible to vote, the application for a special federal ballot provided for by this title.

2. If a special election for representative in congress is called by proclamation of the governor, such an application shall be mailed to each voter registered pursuant to this title, who is eligible to vote in such special election, not later than three days after the issuance of the proclamation for such special election.

**§ 11-212. Special federal ballots; delivery to polling place.** 1. All special federal ballots received by the board of elections before noon on the day before election day shall be delivered to the election district in which the voter is registered in the same manner as absentee ballots.

2. a. All such ballots received by the board of elections before the close of the polls on election day may be delivered to such election districts in the manner prescribed by this chapter for absentee ballots, or retained by the board of elections and cast and canvassed pursuant to section 9-209 of this chapter as the board of elections, in its discretion, shall determine by resolution adopted at least thirty days before election day. All ballots contained in envelopes showing a cancellation mark of the United States postal service, or a foreign country's postal service with a date which is ascertained to be not later than the day before election, shall be cast and counted if received by the board of elections not later than seven days following the day of election except that the special federal ballot of a voter who requested such ballot by letter, rather than application, shall not be counted unless a valid application form, signed by such voter, is received by the board of elections with such ballot. All ballots received by the board of elections between election day and the seventh day after election day shall be retained at the board and shall be cast



and canvassed in the same manner as other ballots retained by such board.

b. Federal write-in ballots shall not be delivered to such election districts but shall be retained at the board of elections. Such ballots shall be cast and canvassed only if an application for a special federal ballot was received from the special federal voter at least thirty days before election day, if the federal write-in ballot was submitted from outside the United States, if such ballot is received by the board of elections not later than seven days following the day of election and if the special federal ballot which was sent to the voter is not received by the board of elections by such date. If such a federal write-in ballot is received after election day, the envelope in which it is received must contain a cancellation mark of the United States postal service or a foreign country's postal service with a date which is ascertained to be not later than the day before election day.

§ 11-214. **Use of airmail.** All ballots, applications, notices or other mail sent, pursuant to the provisions of this title, to addresses outside the United States, Canada or Mexico, shall be sent by airmail.

§ 11-216. **Forwarding of applications and ballots.** 1. If the state board of elections receives any applications, requests for applications or ballots from persons who are or may be eligible to vote pursuant to this title, it shall forthwith forward such applications or ballots to the board of elections in whose jurisdiction such persons are or may be so eligible.

2. If a board of elections receives any applications, requests for applications or ballots from persons who are or may be eligible to vote, pursuant to this title, from an address in the jurisdiction of another board of elections, the board receiving such applications or ballots shall forthwith mail them by first class mail to the board of elections in whose jurisdiction such persons are or may be so eligible.

§ 11-218. **Application of other provisions.** 1. Except as otherwise provided in this title, special federal ballots shall be furnished, mailed, voted, returned, counted, canvassed and preserved as elsewhere provided in this chapter for absentee voters' ballots.

2. Except as otherwise provided in this title, all the provisions of this chapter with respect to registration, enrollment, special enrollment, correction of enrollment and change of enrollment shall be deemed to apply with respect to and in connection with the operation of this title.

3. All the provisions of this chapter relating to crimes against the elective franchise shall be deemed to apply with respect to and in connection with the operation of this title.

4. The general provisions of this chapter shall apply with respect to this title except as they are inconsistent with this title, and the provisions of this title shall be construed liberally for the purposes herein expressed or intended.

### TITLE III

#### SPECIAL BALLOTS

- Section 11-300. Special ballots on account of religious scruples.  
11-302. Special ballots for board of election employees.  
11-304. Special ballots; method of casting and counting.

§ 11-300. **Special ballots on account of religious scruples.** A voter may deliver to the inspectors of election of the election district in which he is registered, or to the board of elections, at any time during the period in which an application for absentee ballot may be so delivered pursuant to the provisions of this chapter, a written statement of religious scruples against voting at a polling place located in a premises used for religious purposes. In the event the polling place for any such voter's election district shall be located in a premises used for religious purposes, the board of elections shall permit such voter to cast a special ballot, at an office of such board of elections, not earlier than one week before the election and not later than the close of the polls on election day. Such ballots may be delivered to the inspectors of election in the manner prescribed by this chapter for absentee ballots or retained at the board of elections and cast and canvassed pursuant to the provisions of section 9-209 of this chapter as such board shall, in its discretion, determine by resolution adopted at least thirty days before election day.

§ 11-302. **Special ballots for board of election employees.** A person who is an employee of the board of elections or who has been appointed to serve as an inspector of elections, poll clerk or election coordinator at a polling place other than the one at which he is registered to vote, may deliver to the inspectors of election of the election district in which he is registered, or to the board of elections, at any time during the period in which an application for an absentee ballot may be so delivered pursuant to the provisions of this chapter, a written statement that he will be unable to appear at the polling place for such election district on the day of an election because his duties as an employee of such board or as an inspector, poll clerk or election coordinator require him to be elsewhere. The board of elections shall permit such voter to cast a special ballot at an office of such board of elections not earlier than one week before the election and not

later than the close of the polls on election day. Such ballots may be delivered to the inspectors of election in the manner prescribed by this chapter for absentee ballots or retained at the board of elections and cast and canvassed pursuant to the provisions of section 9-209 of this chapter as such board shall, in its discretion, determine by resolution adopted at least thirty days before election day.

**§ 11-304. Special ballots; method of casting and counting.** All ballots cast in any election district pursuant to the provisions of this title shall be cast and canvassed together with, and in the same manner as, any absentee ballots cast in such election district.

ARTICLE 12

PRESIDENTIAL ELECTORS AND FEDERAL ELECTED OFFICERS

- Title    I. Presidential and vice presidential electors.  
          II. United States senators.  
          III. Representatives in congress.

TITLE I

PRESIDENTIAL AND VICE PRESIDENTIAL ELECTORS

- Section 12-100. Electors of president and vice president.  
          12-102. Lists of electors; state board of elections to furnish.  
          12-104. Electoral college; meeting and organization.  
          12-106. Electoral college; vote of the electors.  
          12-108. Electoral college; certificate of vote, how distributed.  
          12-110. Electors; compensation.

§ 12-100. **Electors of president and vice president.** At the general election in November preceding the time fixed by law of the United States for the choice of president and vice president of the United States, as many electors of president and vice president of the United States shall be elected, as this state shall be entitled to. Each vote cast for the candidates of any party or independent body for president and vice president of the United States and each vote cast for any write-in candidates for such offices shall be deemed to be cast for the candidates for elector of such party or independent body or the candidates for elector named in the certificate of candidacy of such write-in candidates.

§ 12-102. **Lists of electors; state board of elections to furnish.** The state board of elections shall prepare seven lists, containing both the names of the persons who are elected as electors and a canvass of the votes cast for each candidate for elector, together with a certificate of determination thereon by the state board of canvassers; procure to the same the signature of the governor; cause to be affixed thereto the seal of the state, and in behalf of the governor, send one copy of such certified list to the administrator of general services of the United States by registered mail and deliver the six other copies thus signed and sealed to the president of the college of electors immediately after his election.

§ 12-104. **Electoral college; meeting and organization.** The electors shall convene at the state capitol upon notice from, and at a place fixed by the secretary of state on the first Monday after the second Wednesday in December next following their election. Those of them who shall be assembled at twelve

o'clock noon of that day shall immediately at that hour fill, by majority vote, all vacancies in the electoral college occasioned by the death, refusal to serve, or neglect to attend at that hour, of any elector, or any vacancies occasioned by an equal number of votes having been given for two or more candidates. The electoral college being thus completed, they shall then choose a president and one or more secretaries from their own body.

**§ 12-106. Electoral college; vote of the electors.** Immediately after the organization of the electoral college, the electors shall then and there vote by ballot for president and vice president, but no elector shall vote for more than one person who is a resident of this state. They shall name in separate ballots the persons voted for as president and vice president. They shall make and sign six certificates of all the votes given by them, each of which certificates shall contain two distinct lists, one with the votes for president and one with the votes for vice president. There shall be annexed to each of the certificates one of the lists of electors which shall have been furnished to them by the state board of elections. They shall seal up the certificates so made and certify upon each that the lists of all the votes of this state given for president and vice president are contained therein.

**§ 12-108. Electoral college; certificate of vote, how distributed.** The president of the electoral college shall distribute certificates so made with the lists attached thereto in the following manner.

1. Forthwith, and before the fourth Wednesday in the said month of December, forward one certificate to the president of the United States senate at the seat of the federal government by registered mail.

2. Forthwith, and before the fourth Wednesday in the said month of December deliver two certificates to the state board of elections, one of which shall be held by it subject to the order of the president of the United States senate and the other shall be preserved for one year and shall be a part of the public records of the board and be open to public inspection.

3. On the following day forward two certificates to the administrator of general services at the seat of the federal government by registered mail.

4. Forthwith, and before the fourth Wednesday in the said month of December, deliver the other certificates to the chief judge of the United States District Court of the northern district of the state of New York.

**§ 12-110. Electors; compensation.** Every elector of the state who shall attend at any meeting of the electoral college and give his vote at the time and place appointed by law, shall be entitled

to receive for his attendance at such election, the sum of fifteen dollars per day, together with thirteen cents per mile each way from his place of residence by the most usual traveled route, to the place of meeting of such electors, to be audited by the comptroller upon the certificate of the secretary of state.

## TITLE II

### UNITED STATES SENATORS

Section 12-200. United States senators; election of.

§ 12-200. **United States senators; election of.** At the general election next preceding the expiration of the term of office of a United States senator from this state, a United States senator shall be elected by the people for a full term of six years. Elections to fill a vacancy for an unexpired term shall be held as provided in the public officers law.

## TITLE III

### REPRESENTATIVES IN CONGRESS

Section 12-300. Representatives in congress; election of.

§ 12-300. **Representatives in congress; election of.** Representatives in the house of representatives of the congress of the United States shall be chosen in the several congressional districts at the general election held in every even-numbered year. Elections to fill a vacancy for an unexpired term shall be held as provided in the public officers law.

## ARTICLE 13

## \*ANNUAL POLITICAL CALENDAR

[\* 1992 political calendar derived from permanent law and chap. 135, Laws of 1992.]

## ARTICLE 14

## CAMPAIGN RECEIPTS AND EXPENDITURES

- Section 14-100. Definitions.
- 14-102. Statements of campaign receipts and expenditures by political committee.
- 14-104. Statements of campaign receipts, contributions, transfers and expenditures by and to candidates.
- 14-106. Political advertisements and literature.
- 14-108. Time for filing statements.
- 14-110. Place for filing statements.
- 14-112. Limitation of amounts to be expended by or for candidates.
- 14-114. Contribution and receipt limitations.
- 14-116. Political contributions by certain organizations.
- 14-118. Treasurer and depository of political committee; filing of name and address.
- 14-120. Campaign contribution to be under true name of contributor.
- 14-122. Accounting to treasurer or candidate; vouchers.
- 14-124. Exceptions.
- 14-126. Violations; penalties.
- 14-128. Disposition of anonymous contributions.
- 14-130. Campaign funds for personal use.

§ 14-100. **Definitions.** As used in this article: 1. "political committee" means any corporation aiding or promoting and any committee, political club or combination of one or more persons operating or co-operating to aid or to promote the success or defeat of a political party or principle, or of any ballot proposal; or to aid or take part in the election or defeat of a candidate for public office or to aid or take part in the election or defeat of a candidate for nomination at a primary election or convention, including all proceedings prior to such primary election, or of a candidate for any party position voted for at a primary election, or to aid or defeat the nomination by petition of an independent candidate for public office; but nothing in this article shall apply to any committee or organization for the discussion or advancement of political questions or principles without connection with any vote or to a national committee organized for the election of presidential or vice-presidential candidates; provided, however, that a person or corporation making a contribution or contributions to a can-

didate or a political committee which has filed pursuant to section 14-118 shall not, by that fact alone, be deemed to be a political committee as herein defined.

2. "party committee" means any committee provided for in the rules of the political party in accordance with section two-one hundred of this chapter, other than a constituted committee.

3. "constituted committee" means a state committee, a county committee or a duly constituted subcommittee of a county committee;

4. "duly constituted subcommittee of a county committee" means, outside the city of New York, a city, town or village committee, and, within the city of New York, an assembly district committee, which consists of all county committee members from the city, town, village or assembly district, as the case may be, and only such members;

5. "non-candidate expenditures" means expenditures made by a party committee or a constituted committee to maintain a permanent headquarters and staff and carry on ordinary party activities not promoting the candidacy of specific candidates;

6. "district" means the entire state or any part thereof, as the case may be;

7. "candidate" means an individual who seeks nomination for election, or election to any public office or party position to be voted for at a primary, general or special or New York city community school district election or election for trustee of the Long Island Power Authority, whether or not the public office or party position has been specifically identified at such time and whether or not such individual is nominated or elected, and, for purposes of this subdivision, an individual shall be deemed to seek nomination for election, or election, to an office or position, if he has (1) taken the action necessary to qualify himself for nomination for election, or election, or (2) received contributions or made expenditures, given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to any office or position at any time whether in the year in which such contributions or expenditures are made or at any other time; and

8. "legislative leader" means any of the following: the speaker of the assembly; the minority leader of the assembly; the temporary president of the senate and the minority leader of the senate.

9. "contribution" means:



(1) any gift, subscription, outstanding loan (to the extent provided for in section 14-114 of this chapter), advance, or deposit of money or any thing of value, made in connection with the nomination for election, or election, of any candidate, or made to promote the success or defeat of a political party or principle, or of any ballot proposal,

(2) any funds received by a political committee from another political committee to the extent such funds do not constitute a transfer,

(3) any payment, by any person other than a candidate or a political committee authorized by the candidate, made in connection with the nomination for election or election of any candidate, or any payment made to promote the success or defeat of a political party or principle, or of any ballot proposal including but not limited to compensation for the personal services of any individual which are rendered in connection with a candidate's election or nomination without charge; provided however, that none of the foregoing shall be deemed a contribution if it is made, taken or performed by a candidate or his spouse or by a person or a political committee independent of the candidate or his agents or authorized political committees. For purposes of this article, the term "independent of the candidate or his agents or authorized political committees" shall mean that the candidate or his agents or authorized political committees did not authorize, request, suggest, foster or cooperate in any such activity; and provided further, that the term contribution shall not include:

(A) the value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee,

(B) the use of real or personal property and the cost of invitations, food and beverages voluntarily provided by an individual to a candidate or political committee on the individual's residential premises for candidate-related activities to the extent such services do not exceed five hundred dollars in value, and

(C) the travel expenses of any individual who on his own behalf volunteers his personal services to any candidate or political committee to the extent such expenses are unreimbursed and do not exceed five hundred dollars in value.

10. "transfer" means any exchange of funds or any thing of value between political committees authorized by the same candidate and taking part solely in his campaign, or any exchange of funds between a party or constituted committee and a candidate or any of his authorized political committees.

11. "election" means all general, special and primary elections, but shall not include elections provided for pursuant to the education law, special district elections, fire district elections or library district elections.

§ 14-102. **Statements of campaign receipts, contributions, transfers and expenditures to and by political committees.** 1. The treasurer of every political committee which, or any officer, member or agent of any such committee who, in connection with any election, receives or expends any money or other valuable thing or incurs any liability to pay money or its equivalent shall file statements sworn, or subscribed and bearing a form notice that false statements made therein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law, at the times prescribed by this article setting forth all the receipts, contributions to and the expenditures by and liabilities of the committee, and of its officers, members and agents in its behalf. Such statements shall include the dollar amount of any receipt, contribution or transfer, or the fair market value of any receipt, contribution or transfer, which is other than of money, the name and address of the transferor, contributor or person from whom received, and if the transferor, contributor or person is a political committee; the name of and the political unit represented by the committee, the date of its receipt, the dollar amount of every expenditure, the name and address of the person to whom it was made or the name of and the political unit represented by the committee to which it was made and the date thereof, and shall state clearly the purpose of such expenditure. Any statement reporting a loan shall have attached to it a copy of the evidence of indebtedness. Expenditures in sums under fifty dollars need not be specifically accounted for by separate items in said statements, and receipts and contributions aggregating not more than ninety-nine dollars, from any one contributor need not be specifically accounted for by separate items in said statements, provided however, that such expenditures, receipts and contributions shall be subject to the other provisions of section 14-118 of this article.

2. Notwithstanding the provisions of subdivision one hereof, if the expenditures made and liabilities incurred in any calendar year by any political committee for the purpose of aiding or promoting the success or defeat of one or more ballot proposals are less than five thousand dollars and less than fifty percent of all the expenditures made and liabilities incurred by such committee in such year, then such committee shall be required to report only those contributions which are made to such committee exclusively for the purpose of aiding or promoting the success or defeat of such proposal or proposals, but such committee shall be required to report all expenditures made and liabilities incurred for such purposes. Nothing contained in this subdivision shall be construed to relieve any political committee aiding or promoting the success or defeat of a candidate from any of the reporting requirements imposed by this article.

3. The state board of elections shall promulgate regulations with respect to the accounting methods to be applied in preparing the

statements required by the provisions of this article and shall provide forms suitable for such statements.

**§ 14-104. Statements of campaign receipts, contributions, transfers and expenditures by and to candidates.** Any candidate for election to public office, or for nomination for public office at a contested primary election or convention, or for election to a party position at a primary election, shall file statements sworn, or subscribed and bearing a form notice that false statements made therein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law, at the times prescribed by this article setting forth the particulars specified by section fourteen-hundred two, as to all moneys or other valuable things, paid, given, expended or promised by him to aid his own nomination or election, or to promote the success or defeat of a political party, or to aid or influence the nomination or election or the defeat of any other candidate to be voted for at the election or primary election or at a convention, including contributions to political committees, officers, members or agents thereof, and transfers, receipts and contributions to him to be used for any of the purposes above specified, or in lieu thereof, any such candidate may file such a sworn statement at the first filing period, on a form prescribed by the state board of elections that such candidate has made no such expenditures and does not intend to make any such expenditures, except through a political committee authorized by such candidate pursuant to this article. A committee authorized by such a candidate may fulfill all of the filing requirements of this act on behalf of such candidate.

**§ 14-106. Political advertisements and literature.** The statements required to be filed under the provisions of this article next succeeding a primary, general or special election shall be accompanied by a facsimile or copy of all advertisements, pamphlets, circulars, flyers, brochures, letterheads and other printed matter purchased or produced and a schedule of all radio or television time, and scripts used therein, purchased in connection with such election by or under the authority of the person filing the statement or the committee or the person on whose behalf it is filed, as the case may be. Such facsimiles, copies, schedules and scripts shall be preserved by the officer with whom or the board with which it is required to be filed for a period of one year from the date of filing thereof.

**§ 14-108. Time for filing statements.** 1. The statements required by this article shall be filed at such times as the state board of elections, by rule or regulation, shall specify; provided, however, that in no event shall the board provide for fewer than three filings in the aggregate in connection with any primary, general or special election, or in connection with a question to be

voted on and two of said filings shall be before any such election, including one such filing not less than thirty days nor more than forty-five days prior to such election and one such filing not less than eleven days nor more than fifteen days prior to such election. In addition, the board shall provide that every political committee which has filed a statement of treasurer and depository shall make at least one filing every six months between the time such statement of treasurer and depository is filed and the time such committee goes out of business. If any candidate or committee shall be required by the provisions of this section, or by rule or regulation hereunder, to effect two filings within a period of five days, the state board of elections may, by rule or regulation, waive the requirement of filing the earlier of such statements. If a statement filed by a candidate or committee after the election to which it pertains is not a final statement showing satisfaction of all liabilities and disposition of all assets, such candidate or committee shall file such additional statements as the board shall, by rule or regulation provide until such a final statement is filed.

2. Each statement shall cover the period up to and including the fourth day next preceding the day specified for the filing thereof; provided, however, that any contribution in excess of one thousand dollars, if received after the close of the period to be covered in the last statement filed before any primary, general or special election but before such election, shall be reported, in the same manner as other contributions, within twenty-four hours after receipt.

3. Each statement shall be preserved by the officer with whom or the board with which it is required to be filed for a period of five years from the date of filing thereof.

4. Each statement shall constitute a part of the public records of such officer or board and shall be open to public inspection.

5. The state board of elections or other board of elections, as the case may be, shall notify each person required to file statements in accordance with this article of such person's failure to timely file. Such notice shall be in writing and mailed to the last known residence or business address of such person by certified mail, return receipt requested. Failure to file within five days of receipt of such notice shall constitute prima facie evidence of a willful failure to file. A copy of any such notice sent by a board of elections other than the state board of elections shall be sent by such other board to the state board.

6. A statement shall be deemed properly filed when deposited in an established post-office within the prescribed time, duly stamped, certified and directed to the officer with whom or to the board with which the statement is required to be filed, but in the event it is not received, a duplicate of such statement shall be promptly filed upon notice by such officer or such board of its non-receipt.

§ 14-110. **Place for filing statements.** The places for filing the statements required by this article shall be determined by rule or regulation of the state board of elections; provided, however, that the statements of a candidate for election to the office of governor, lieutenant governor, attorney general, comptroller, member of the legislature, delegate to a constitutional convention, justice of the supreme court or for nomination for any such office at a primary election and of any committee aiding or taking part in the designation, nomination, election or defeat of candidates for one or more of such offices or promoting the success or defeat of a question to be voted on by the voters of the entire state shall be filed with the state board of elections and in such other places as the state board of elections may, by rule or regulation provide.

§ 14-112. **Political committee authorization statement.** Any political committee aiding or taking part in the election or nomination of any candidate, other than by making contributions, shall file, in the office in which the statements of such committee are to be filed pursuant to this article, either a sworn verified statement by the treasurer of such committee that the candidate has authorized the political committee to aid or take part in his election or that the candidate has not authorized the committee to aid or take part in his election.

§ 14-114. **Contribution and receipt limitations.** 1. The following limitations apply to all contributions to candidates for election to any public office or for nomination for any such office, or for election to any party positions, and to all contributions to political committees working directly or indirectly with any candidate to aid or participate in such candidate's nomination or election, other than any contributions to any party committee or constituted committee:

a. In any election [for any party position to be voted on by the voters enrolled in a party in the entire state, and in any election] for a public office to be voted on by the voters of the entire state, or for nomination to any such office, no contributor may make a contribution to any candidate or political committee, and no candidate or political committee may accept any contribution from any contributor, which is in the aggregate amount greater than: (i) in the case of any [election for party position or for] nomination to public office, the product of the total number of enrolled voters in the candidate's party in the state multiplied by \$.005, *but such amount shall be not less than four thousand dollars nor more than twelve thousand dollars as increased or decreased by the cost of living adjustment described in paragraph c of this subdivision*, and (ii) in the case of any election to a public office, [the product of the total number of registered voters in the state multiplied by

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[Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.]

\$.005] *twenty-five thousand dollars as increased or decreased by the cost of living adjustment described in paragraph c of this subdivision*; provided however, that the maximum amount which may be so contributed or accepted, in the aggregate, from any candidate's child, parent, grandparent, brother and sister, and the spouse of any such persons, shall not exceed in the case of any [election for party position or for] nomination to public office an amount equivalent to the product of the number of enrolled voters in the candidate's party in the state multiplied by \$.025, and in the case of any election for a public office, an amount equivalent to the product of the number of registered voters in the state multiplied by \$.025.

b. In any other election for party position or for election to a public office or for nomination for any such office, no contributor may make a contribution to any candidate or political committee and no candidate or political committee may accept any contribution from any contributor, which is in the aggregate amount greater than: (i) in the case of any election for party position, or for nomination to public office, the product of the total number of enrolled voters in the candidate's party in the district in which he is a candidate multiplied by \$.05, and (ii) in the case of any election for a public office, the product of the total number of registered voters in the district multiplied by \$.05, or in the case of [an election or] a nomination for state senator, four thousand dollars[, whichever is greater, or] *as increased or decreased by the cost of living adjustment described in paragraph c of this subdivision*; in the case of an election for state senator, *six thousand two hundred fifty dollars as increased or decreased by the cost of living adjustment described in paragraph c of this subdivision*; in the case of an election or nomination for a member of the assembly, twenty-five hundred dollars[, whichever is greater,] *as increased or decreased by the cost of living adjustment described in paragraph c of this subdivision*; but in no event shall any such maximum exceed fifty thousand dollars or be less than one thousand dollars; provided however, that the maximum amount which may be so contributed or accepted, in the aggregate, from any candidate's child, parent, grandparent, brother and sister, and the spouse of any such persons, shall not exceed in the case of any election for party position or nomination for public office an amount equivalent to the number of enrolled voters in the candidate's party in the district in which he is a candidate multiplied by \$.25 and in the case of any election to public office, an amount equivalent to the number of registered voters in the district multiplied by \$.25; or twelve hundred fifty dollars, whichever is greater, or in the case of a nomination or election of a state senator, twenty thousand dollars, whichever is greater, or in the case of a nomination or election of a member of the assembly twelve thousand five hundred dollars, whichever

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[Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.]

is greater, but in no event shall any such maximum exceed one hundred thousand dollars.

[Paras. a and b as amended above by chap. 79, Laws of 1992 take effect January 1, 1993.]

b. In any other election for party position or for election to a public office or for nomination for any such office, no contributor may make a contribution to any candidate or political committee and no candidate or political committee may accept any contribution from any contributor, which is in the aggregate amount greater than: (i) in the case of any election for party position, or for nomination to public office, the product of the total number of enrolled voters in the candidate's party in the district in which he is a candidate multiplied by \$.05, and (ii) in the case of any election for a public office, the product of the total number of registered voters in the district multiplied by \$.05, [or] *however in the case of a nomination within the city of New York for the office of mayor, president of the council or comptroller, such amount shall be not less than four thousand dollars nor more than twelve thousand dollars as increased or decreased by the cost of living adjustment described in paragraph c of this subdivision; in the case of an election within the city of New York for the office of mayor, president of the council or comptroller, twenty-five thousand dollars as increased or decreased by the cost of living adjustment described in paragraph c of this subdivision; in the case of a nomination for state senator, four thousand dollars as increased or decreased by the cost of living adjustment described in paragraph c of this subdivision; in the case of an election for state senator, six thousand two hundred fifty dollars as increased or decreased by the cost of living adjustment described in paragraph c of this subdivision; in the case of an election or nomination for a member of the assembly, twenty-five hundred dollars as increased or decreased by the cost of living adjustment described in paragraph c of this subdivision; but in no event shall any such maximum exceed fifty thousand dollars or be less than one thousand dollars; provided however, that the maximum amount which may be so contributed or accepted, in the aggregate, from any candidate's child, parent, grandparent, brother and sister, and the spouse of any such persons, shall not exceed in the case of any election for party position or nomination for public office an amount equivalent to the number of enrolled voters in the candidate's party in the district in which he is a candidate multiplied by \$.25 and in the case of any election to public office, an amount equivalent to the number of registered voters in the district multiplied by \$.25; or twelve hundred fifty dollars, whichever is greater, or in the case of a nomination or election of a state senator, twenty thousand dollars, whichever is greater, or in the case of a nomination or election of a member of the assembly twelve thousand five hundred dollars, whichever*

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[Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.]

is greater, but in no event shall any such maximum exceed one hundred thousand dollars.

[Para. b as amended above by chap. 79, Laws of 1992 takes effect January 1, 1994.]

*c. At the beginning of each fourth calendar year, commencing in nineteen hundred ninety-five, the state board shall determine the percentage of the difference between the most recent available monthly consumer price index for all urban consumers published by the United States bureau of labor statistics and such consumer price index published for the same month four years previously. The amount of each contribution limit fixed in this subdivision shall be adjusted by the amount of such percentage difference to the closest one hundred dollars by the state board which, not later than the first day of February in each such year, shall issue a regulation publishing the amount of each such contribution limit. Each contribution limit as so adjusted shall be the contribution limit in effect for any election held before the next such adjustment.*

[Para. c added by chap. 79, Laws of 1992. Takes effect January 1, 1993.]

2. For purposes of this section, contributions other than of money shall be evaluated at their fair market value. The state board of elections shall promulgate regulations, consistent with law, governing the manner of computing fair market value.

3. As used in this section the term "contributor" shall not include a party committee supporting the candidate of such party or a constituted committee supporting the candidate of such party.

4. For purposes of this section, a portion of every contribution to a party committee, expended as other than non-candidate expenditures, and a portion of every contribution to a political committee authorized to support more than one candidate, shall be deemed contributed to every candidate supported by such committee. That portion shall be determined by allocating the contributions received by the committee among all the candidates supported by the committee in accordance with any formula based upon reasonable standards established by the committee. The statements filed by such committee in accordance with this article shall set forth, in addition to the other information required to be set forth, the total amount received by the committee from each contributor on behalf of all such candidates and the amount of each such contribution allocated to each candidate by dollar amount and percentage. Nothing in this subdivision shall require allocating contributions expended on non-candidate expenditures to candidates.

5. No constituted committee may expend, in any twelve month period terminating on the day of a general election, other than as non-candidate expenditures, any portion of any individual contribution which exceeds, in the case of a state committee, one-

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[Matter in italics is new.]



half of one cent for each registered voter in the state, or, in the case of any other constituted committee, the greater of one cent for each registered voter in the district in which the committee is organized or five hundred dollars. The number of such voters shall be determined as of the date of such general election or as of the date of the general election in whichever of the preceding four years shall result in the greatest number.

6. a. A loan made to a candidate or political committee, other than a constituted committee, by any person, firm, association or corporation other than in the regular course of the lender's business shall be deemed, to the extent not repaid by the date of the primary, general or special election, as the case may be, a contribution by such person, firm, association or corporation.

b. A loan made to a candidate or political committee, other than a constituted committee, by any person, firm, association or corporation in the regular course of the lender's business shall be deemed, to the extent not repaid by the date of the primary, general or special election, as the case may be, a contribution by the obligor on the loan and by any other person endorsing, co-signing, guaranteeing, collateralizing or otherwise providing security for the loan.

7. For the purpose of this section, the number of registered or enrolled voters shall be determined as of the date of the general, special or primary election, as the case may be or as of the date of the general election in any of the preceding four years, whichever date shall result in the greatest number and candidates running jointly for the offices of governor and lieutenant governor in a general or special election shall be deemed to be one candidate.

8. Except as may otherwise be provided for a candidate and his family, no person may contribute, loan or guarantee in excess of one hundred fifty thousand dollars within the state in connection with the nomination or election of persons to state and local public offices and party positions within the state of New York in any one calendar year. For the purposes of this subdivision "loan" or "guarantee" shall mean a loan or guarantee which is not repaid or discharged in the calendar year in which it is made.

9. a. No person, corporation, joint-stock association or partnership who or which is an applicant or bidder in a matter before the board of estimate of the city of New York which requires such board to exercise its responsibility or authority pursuant to section sixty-seven of the New York city charter, no person who owns more than five percent of the outstanding stock, or who is an officer of any corporation or joint-stock association which is such an applicant or bidder and no person who is a partner in any partnership or other entity which is such an applicant or bidder may, during the period beginning six months before and ending twelve months after official consideration by the board of estimate of an application, petition, bid or request by such applicant

or bidder, make a contribution or loan in excess of three thousand dollars to any candidate who is an incumbent member of such board of estimate, any person who is a candidate for any such public office and any political committee authorized by such public official or such candidate pursuant to section 14-112 of this article to aid or take part in his election or any party or constituted committee in the city of New York of any party which has nominated any such public official or candidate for any such office and no such public official, candidate, party committee constituted committee or political committee may accept any such contributions or loans which aggregate more than three thousand dollars.

b. Any such person, corporation, joint-stock association or partnership which has made a contribution or loan in excess of three thousand dollars during the six months before any such official consideration by the board of estimate, shall forthwith, upon such official consideration, inform the secretary of the board of estimate of such contribution and inform the public official, candidate, party committee, constituted committee or political committee authorized by such public official or such candidate pursuant to section 14-112 of this article to aid or take part in his election to which such contribution or loan was made of such official consideration by such board of estimate.

c. Any such public official, candidate, party committee, constituted committee or political committee authorized by such public official or such candidate pursuant to section 14-112 of this article to aid or take part in his election shall return to the contributor, any contributions or loan which is prohibited by this subdivision, forthwith, upon becoming aware through information received from the contributor, the board of elections, the City Record or the board of estimate, that such contribution was so prohibited. However, if at the time of such official consideration, such public official or candidate or the public official or candidate supported by such committee is no longer a member of the board of estimate and/or no longer a candidate for such a public office, such contribution or loan shall not be required to be returned by such public official, candidate or committee pursuant to the provisions of this subdivision.

d. The secretary of the board of estimate shall prepare each month and file with the board of elections of the city of New York, a list of all such persons, corporations, joint-stock associations and partnerships which are applicants or bidders in any such matter before such board. Such list shall also be promptly published in the City Record.

*10. a. No contributor may make a contribution to a party or constituted committee and no such committee may accept a contribution from any contributor which, in the aggregate, is greater than sixty-two thousand five hundred dollars per annum.*

*b. At the beginning of each fourth calendar year, commencing in nineteen hundred ninety-five, the state board shall determine the percentage of the difference between the most recent available monthly consumer price index for all urban consumers published by the United States bureau of labor statistics and such consumer price index published for the same month four years previously. The amount of such contribution limit fixed in paragraph a of this subdivision shall be adjusted by the amount of such percentage difference to the closest one hundred dollars by the state board which, not later than the first day of February in each such year, shall issue a regulation publishing the amount of such contribution limit. Such contribution limit as so adjusted shall be the contribution limit in effect for any election held before the next such adjustment.*

[Subd. 10. added by chap. 79, Laws of 1992. Takes effect January 1, 1993.]

**§ 14-116. Political contributions by certain organizations.** 1. No corporation or joint-stock association doing business in this state, except a corporation or association organized or maintained for political purposes only, shall directly or indirectly pay or use or offer, consent or agree to pay or use any money or property for or in aid of any political party, committee or organization, or for, or in aid of, any corporation, joint-stock or other association organized or maintained for political purposes, or for, or in aid of, any candidate for political office or for nomination for such office, or for any political purpose whatever, or for the reimbursement or indemnification of any person for moneys or property so used. Any officer, director, stock-holder, attorney or agent of any corporation or joint-stock association which violates any of the provisions of this section, who participates in, aids, abets or advises or consents to any such violations, and any person who solicits or knowingly receives any money or property in violation of this section, shall be guilty of a misdemeanor.

2. Notwithstanding the provisions of subdivision one of this section, any corporation or an organization financially supported in whole or in part, by such corporation may make expenditures, including contributions, not otherwise prohibited by law, for political purposes, in an amount not to exceed five thousand dollars in the aggregate in any calendar year; provided that no public utility shall use revenues received from the rendition of public service within the state for contributions for political purposes unless such cost is charged to the shareholders of such a public service corporation.

**§ 14-118. Treasurer and depository of political committee; filing of name and address.** 1. Every political committee shall have a treasurer and a depository, and shall cause the treasurer to keep detailed, bound accounts of all receipts, transfers, loans,

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[Matter in *italics* is new.]

liabilities, contributions and expenditures, made by the committee or any of its officers, members or agents acting under its authority or in its behalf. All such accounts shall be retained by a treasurer for a period of five years from the date of the filing of the final statement with respect to the election, primary election or convention to which they pertain. No officer, member or agent of any political committee shall receive any receipt, transfer or contribution, or make any expenditure or incur any liability until the committee shall have chosen a treasurer and depository and filed their names in accordance with this subdivision. There shall be filed in the office in which the committee is required to file its statements under section 14-110 of this article, within five days after the choice of a treasurer and depository, a statement giving the name and address of the treasurer chosen, the name and address of any person authorized to sign checks by such treasurer, the name and address of the depository chosen and the candidate or candidates or ballot proposal or proposals the success or defeat of which the committee is to aid or take part; provided, however, that such statements shall not be required of a constituted committee and provided further that a political committee which makes no expenditures, to aid or take part in the election or defeat of a candidate, other than in the form of contributions, shall not be required to list the candidates being supported or opposed by such committee. Such statement shall be signed by the treasurer and all other persons authorized to sign checks. Any change in the information required in any statement shall be reported, in an amended statement filed in the same manner and in the same office as an original statement filed under this section, within two days after it occurs. Only a banking organization authorized to do business in this state may be designated a depository hereunder.

2. No candidate, political committee, or agent thereof may receive from any one person an aggregate amount greater than one hundred dollars except in the form of a check, draft or other instrument payable to the candidate, political committee or treasurer and signed or endorsed by the donor; except that such a candidate, political committee or agent may receive contributions in amounts greater than one hundred dollars which are made by credit card, provided that such candidate, political committee or agent preserves, together with the other accounts which such candidate, committee or agent is required to preserve pursuant to the provisions of this article, a copy of the document which was submitted to secure payment of the funds so contributed. All such checks, drafts or other instruments shall be deposited in the account of the candidate or committee in the designated depository. No candidate or political committee shall expend an amount in excess of one hundred dollars except by check drawn on the depository and signed by the candidate or person authorized to sign checks by him or in the case of a political committee, the treasurer or a person authorized to sign checks by him.

3. Every candidate who receives or expends any money or other valuable thing or incurs any liability to pay money or its equivalent shall keep and retain detailed, bound accounts as provided in subdivision a of this section.

**§ 14-120. Campaign contribution to be under true name of contributor.** 1. No person shall in any name except his own, directly or indirectly, make a payment or a promise of payment to a candidate or political committee or to any officer or member thereof, or to any person acting under its authority or in its behalf or on behalf of any candidate, nor shall any such committee or any such person or candidate knowingly receive a payment or promise of payment, or enter or cause the same to be entered in the accounts or records of such committee, in any name other than that of the person or persons by whom it is made.

2. *Notwithstanding subdivision one of this section, a partnership, as defined in section ten of the partnership law, may be considered a separate entity for the purposes of this section, and as such may make contributions in the name of said partnership without attributing such contributions to the individual members of the partnership provided that any such contribution made by a partnership to a candidate or to a political committee, shall not exceed, twenty-five hundred dollars. In the event that such partnership contribution to any such candidate or political committee exceeds twenty-five hundred dollars, the aggregate amount of such contribution shall be attributed to each partner whose share of the contribution exceeds ninety-nine dollars.*

[Section amended by chap. 79, Laws of 1992.]

**§ 14-122. Accounting to treasurer or candidate; vouchers.** 1. Whoever, acting as an officer, member or agent of a political committee, or as an agent of a candidate for election to public office, or for nomination for public office at a primary election or convention, or for election to party position at a primary election, receives any receipt, contribution or transfer, or makes any expenditure or incurs any liability, shall, within three days after demand and in any event within fourteen days after any such receipt, transfer, contribution, expenditure, or liability, give to the treasurer of such committee, or to such candidate if an agent authorized by him a detailed account of the same, with all vouchers required by this article, which shall be a part of the accounts and files of such treasurer or such candidate.

2. Every payment required to be accounted for, unless the total expense payable to any one person be not in excess of ten dollars; shall be vouched for by a receipted bill stating the particulars of expense.

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[Matter in *italics* is new.]

§ 14-124. **Exceptions.** 1. This article shall not apply to any person, association or corporation engaged in the publication or distribution of any newspaper or other publication issued at regular intervals in respect to the ordinary conduct of such business.

2. The filing requirements and the expenditure, contribution and receipt limits of this article shall not apply to any candidate or committee who or which engages exclusively in activities on account of which, pursuant to the laws of the United States, there is required to be filed a statement or report of the campaign receipts, expenditures and liabilities of such candidate or committee with an office or officers of the government of the United States, provided a copy of each such statement or report is filed in the office of the state board of elections.

2-a. The provisions of sections 14-102, 14-112 and subdivision one of section 14-118 of this article shall not apply to a political committee supporting or opposing candidates for state or local office which, pursuant to the laws of the United States, is required to file a statement or report of the campaign receipts, expenditures and liabilities of such committee with an office or officer of the government of the United States, provided that such committee makes no expenditures to aid or take part in the election or defeat of a candidate for state or local office other than in the form of contributions which do not exceed in the aggregate one thousand dollars in any calendar year, and provided further, that a copy of the federal report which lists such contributions is filed with the appropriate board of elections at the same time that it is filed with the federal filing office or officer.

3. The contribution and receipt limits of this article shall not apply to monies received and expenditures made by a party committee or constituted committee to maintain a permanent headquarters and staff and carry on ordinary activities which are not for the express purpose of promoting the candidacy of specific candidates.

4. No candidate and no political committee taking part solely in his campaign and authorized to do so by him in accordance with this article and no committee involved solely in promoting the success or defeat of a ballot proposal shall be required to file a statement required by sections 14-102 and 14-104 of this article if at the close of the reporting period for which such statement would be required neither the aggregate receipts nor the aggregate expenditures by and on behalf of such candidate or to promote the success or defeat of such proposal, by such candidate or such political committee or committees exceed one thousand dollars and such candidate or such committee files, on the filing date otherwise provided, a statement, sworn or subscribed and bearing a form notice that false statements made therein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal

law, stating that each of such aggregate receipts and aggregate expenditures does not exceed one thousand dollars.

5. The provisions of sections 14-104 and 14-112, and subdivision a of section 14-118 shall not apply to any candidate for member of a county committee of a political party or any candidate for delegate or alternate delegate to a judicial district convention if the campaign expenditures made by or on behalf of such candidate do not exceed fifty dollars.

6. The provisions of sections 14-102, 14-104, and 14-118 respectively, of this article shall not apply to a candidate or a committee taking part solely in his campaign and authorized to do so by him in accordance with the provisions of this article in a campaign for election to public office or to a committee involved solely in promoting the success or defeat of a ballot proposal in a city, town or village having a population of less than ten thousand, as shown by the latest federal or state census or enumeration, unless the aggregate receipts of said candidate and his authorized committees or the committees promoting the success or defeat of a proposal or the aggregate expenditures made by such candidate and his authorized committees or the committees promoting the success or defeat of a proposal exceed one thousand dollars.

7. No candidate who is unopposed in a primary election and no political committee authorized by him pursuant to the provisions of this article and taking part solely in his campaign shall be required to file the two statements of receipts, expenditures and contributions required by this article to be filed immediately prior to such uncontested primary election, provided that all the information which would be required to be filed in such statements for a candidate for election to public office shall be contained in the first statement required to be filed in connection with the ensuing general election.

8. A political committee formed solely to promote the success or defeat of any ballot proposal submitted to vote at a public election is exempt from filing statements required by this article until that committee has received or expended an amount in excess of one hundred dollars.

**§ 14-126. Violations; penalties.** 1. Any person who fails to file a statement required to be filed by this article shall be subject to a civil penalty, not in excess of one hundred dollars, to be recoverable in a special proceeding or civil action to be brought by the state board of elections or other board of elections.

2. Any person who knowingly and willfully fails to file a statement required to be filed by this article within ten days after the date provided for filing such statement or any person who knowingly and willfully violates any other provision of this article shall be guilty of a misdemeanor.

3. Any person who knowingly and willfully contributes, accepts or aids or participates in the acceptance of a contribution in an amount exceeding an applicable maximum specified in this article shall be guilty of a misdemeanor.

4. Any person who shall, acting on behalf of a candidate or political committee, knowingly and willfully solicit, organize or coordinate the formation of activities of one or more unauthorized committees, make expenditures in connection with the nomination for election or election of any candidate, or solicit any person to make any such expenditures, for the purpose of evading the contribution limitations of this article, shall be guilty of a class E felony.

§ 14-128. **Disposition of anonymous contributions.** Any anonymous contributions received by a campaign treasurer, political committee or agency thereof shall not be used or expended, but the same shall be paid over to the comptroller of the state of New York for deposit in the general treasury of the state unless, before the date for filing statements and reports as herein provided, the identity of such anonymous contributor shall become known, and, in such event the anonymous contribution shall be returned to such contributor or retained and properly reported as a contribution from such contributor.

§ 14-130. **Campaign funds for personal use.** Contributions received by a candidate or a political committee may be expended for any lawful purpose. Such funds shall not be converted by any person to a personal use which is unrelated to a political campaign or the holding of a public office or party position.



## ARTICLE 15

## VILLAGE ELECTIONS

- Section 15-100. Application of article.  
 15-102. Definitions.  
 15-104. General village election.  
 15-106. Special village elections for officers.  
 15-108. Designation and nomination of candidates.  
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 15-132. Votes upon propositions to be by ballot or voting machine.  
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 15-138. Judicial review of matters relating to village elections.

§ 15-100. **Application of article.** This article applies to all general and special village elections for officers and all the provisions of this chapter, not inconsistent with this article, shall apply to all village elections except that if a village has adopted a resolution pursuant to paragraph c of subdivision one of section 15-104 of this article, the other provisions of this chapter governing the conduct of elections and proceedings relating thereto, including the manner and times for making nominations and proceedings relating to absentee voting, and the provisions of this article not inconsistent with other provisions of this chapter shall apply to such elections.

§ 15-102. **Definitions.** The terms used in this article shall have the meaning herein defined unless other meaning is clearly apparent in language or context:

1. "General village election" means the annual or biennial election for village officers.
2. "Special village election" means any election of village officers, other than, the general village election.

3. "Village election" means and includes both general and special village elections for officers.

4. "Publish" means that any notice or resolution required to be published by a village shall be so printed within the time required in the law requiring publication in the official newspaper of the village, or if none, one of general circulation within the village.

5. "Village primary" means any election held by a political party for the purpose of nominating candidates for elective village offices.

§ 15-104. **General village election.** 1. a. The general village election shall be held on the third Tuesday in March except in any village which presently elects, or hereafter adopts a proposition to elect, its officers on a date other than the third Tuesday in March.

b. In any village in which the general village election, or a special village election for officers pursuant to this chapter, is scheduled to be held on the third Tuesday of March, for any year in which the seventeenth day of March shall fall on such Tuesday, the board of trustees of such village may provide, by the resolution prescribed by paragraph a of subdivision three of this section, that such election shall be held on the eighteenth day of March. Any provision of a resolution adopted pursuant to this subdivision shall not otherwise alter the political calendar for any such election, which shall continue to be computed from the third Tuesday of March. Notwithstanding the provisions of subdivision five of this section, any provision of a resolution adopted pursuant to this subdivision shall be effective only if such provision is specifically published as provided by this section.

c. The board of trustees of a village may adopt a resolution, subject to a permissive referendum as provided in article nine of the village law, providing that village elections shall be conducted by the board of elections. The board of trustees of a village which has adopted such a resolution and which is wholly in one county may also adopt a resolution providing that village elections shall occur on the day of the general election provided that all the election districts contained within such village are wholly within such village. Upon approval of such a resolution by the board of trustees and, if requested by petition, approval by a vote of the qualified voters of the village, the county board of elections shall conduct all village elections including in those cases in which such village elections are held on the day of the general election, primary elections, if any. Such resolution shall be effective for all elections in such village held more than six months after such resolution is adopted, provided however, that a resolution providing that village elections shall occur on the day of the general election, shall be effective for such elections in such village for which the primary election is held more than six months after such resolution is adopted.

d. In any village which adopts a local law which provides for run-off elections pursuant to the provisions of this chapter, such a village must elect its officers on the first Tuesday of the month in which it chooses to hold such election.

2. A proposition changing the date of the general village election shall not become effective until the next election regularly scheduled to be held more than one hundred twenty days following its adoption. Upon the adoption of such a proposition, the term of any village officer elected at the election at which such proposition is adopted or less than one hundred twenty-one days thereafter, and the term of any village officer whose successor is scheduled to be selected more than one hundred twenty days thereafter shall be extended until the date fixed as a result of such proposition for his successor to take office.

3. a. The village clerk of a village shall, at least four months prior to the general village election publish a notice designating the office or offices to be filled at such election and the term or terms thereof. In the event of a special village election to fill a vacancy as provided in this article, such notice shall be published at least sixty days prior to such date of the special election.

b. The board of trustees of a village shall, at least sixty days before any village election conducted by either the village clerk or the board of elections on a date other than the date of the general election, adopt a resolution which shall state:

(1) the polling place in each election district

(2) the hours during which the polls shall be open, which shall include at least the hours from noon to nine o'clock in the evening.

c. The village clerk shall publish, at least ten days prior to any village election, a notice which shall state:

(1) the polling place in each election district

(2) the hours during which the polls shall be open

(3) the names and addresses of all those who have been duly nominated in accordance with the provisions of this chapter for village office by certificate or petition of nomination duly filed with the village clerk and the office and term of such office for which they have been so nominated

(4) an abstract of any proposition to be voted upon.

4. In addition to such publication, a copy of such notice shall be posted in at least six conspicuous public places within the village and at each polling place at least one day before the village election.

5. The failure of the village to publish and post all required information shall not invalidate the election provided, however, that a vote on a proposition shall be void if the required notice of election is not given.

**§ 15-106. Special village elections for officers.** 1. a. In a village where the rules of any party require that any nomination of candidates for village office by such party be made at a primary election, pursuant to this article;

(1) Special village elections shall be held on the third Tuesday of the month preceding the end of the current official year in which no general village election is regularly scheduled, to fill a vacancy or vacancies in an office or offices occurring:

(a) More than one hundred five days prior to such Tuesday;

(b) Less than seventy-five days prior to the third Tuesday of the month preceding the end of the preceding official year;

(2) Such primary election shall be waived, such party nomination or nominations made by the party caucus, and special village elections for officers held:

(a) On the third Tuesday of the month preceding the end of the current official year in which no general village election is regularly scheduled, to fill a vacancy or vacancies in an office or offices occurring between seventy-five and one hundred five days, inclusive, prior to such Tuesday;

(b) On a Tuesday as soon as practicable:

(i) Whenever the day fixed by law for a general village election shall have passed and no election shall have been held thereon, but in no event on a day less than sixty-one nor more than ninety-five days after the day on which the official call for such special election is made by the board of trustees of the village, whether such official call is made before or after the day fixed by law for such general village election;

(ii) Whenever the day fixed by law for a general village election shall have passed and any office or offices which should have been filled at such election shall have been omitted from the ballot therefor, but in no event on a day less than sixty-one nor more than ninety-five days after the day on which the official call for such special election is made by the board of trustees of the village, whether such official call is made before or after the day fixed by law for such general village election; or

(iii) Whenever vacancies the village's board of trustees constitute a majority of the seats thereof, but in no event less than sixty-one nor more than ninety-five days after the day on which such vacancies first constitute such majority.

b. In any other village, special village elections shall be held;

(1) On the third Tuesday of the month preceding the end of the current official year in which no general village election is regularly scheduled to fill a vacancy or vacancies in an office or offices occurring:

(a) At least seventy-five days prior to such Tuesday;

(b) Less than seventy-five days prior to the third Tuesday of the month preceding the end of the preceding official year;

(2) On a Tuesday as soon as practicable:

(a) Whenever the day fixed by law for a general village election shall have passed and no election shall have been held thereon, but in no event on a day less than sixty-one nor more than ninety-five days after the day on which the official call for such election is made by the board of trustees of the village, whether such official call for such special election is made before or after the day fixed by law for such general village election;

(b) Whenever the day fixed by law for a general village election shall have passed and any office or offices which should have been filled at such election shall have been omitted from the ballot therefor, but in no event on a day less than sixty-one nor more than ninety-five days after the day on which the official call for such special election is made by the board of trustees of the village, whether such official call is made before or after the day fixed by law for such general village election; or

(c) Whenever vacancies in the village's board of trustees constitute a majority of the seats thereof, but in no event on a day less than sixty-one nor more than ninety-five days after the day on which such vacancies first constitute such majority.

2. Any officer elected at any such special village election shall fill the office to which elected for the remainder of the current term of such office, and shall enter upon the duties of such office at the end of the current official year, except that such officer shall enter upon the duties of such office immediately whenever:

a. such office is then vacant or becomes vacant prior to the end of the current official year; or

b. such special election is held after the end of any official year during which a general village election was scheduled to be held but was not held; or

c. such special election is held after the end of any official year to fill a vacancy in an office that was to be filled at the preceding general election but was omitted from the ballot therefor.

3. Except as herein otherwise provided, no such election shall be held either in the month of, or in the month prior to, a regularly scheduled general village election.

4. Notice of a special village election for officers shall be given in the same manner as for a general village election. If the offices of all trustees and mayor are vacant the notice shall be given by the village clerk. If the office of village clerk is also vacant the election shall be held at the call of, and noticed by, at least twenty-five residents qualified to vote for village office.

§ 15-108. **Designation and nomination of candidates.** 1. Nominations of candidates for elective village offices shall be made as provided in this section.

2. a. Party nominations of candidates for village offices in any county shall be made at a party caucus or, if the rules of the county committee, heretofore or hereafter adopted consistent with the provisions of this chapter so provide, at a primary election. If the rules of the county committee of any political party provide that party nominations for village offices of that party in any or all villages in the county shall be made at a village primary election, such primary election shall be held forty-nine days prior to the date of the village election. In the event there is no village committee with a chairman, the chairman of the county committee or such other person or body as the rules of such committee may provide, shall designate an enrolled member of the party who is a qualified voter of the village as the village election chairman. Such village chairman shall have general party responsibility for the conduct of the village caucus or primary election. For the purposes of this section, a village shall be deemed to be located within a county for the purposes of county political organization if more than fifty percent of the population of the village as shown by the last federal decennial, or special census resides in that portion of the village located in that county. Such nomination shall be made not more than fifty-six, nor less than forty-nine days prior to the date of the village election.

b. A notice of any village primary held for making party nominations of candidates for village offices to be filled at a village election shall be given by the proper party authorities by publication at least once in each of the two weeks preceding the primary in at least one newspaper of general circulation within the village.

c. A notice of any party caucus held for making party nominations for village offices for village elections shall be given by the proper party authorities either by newspaper publication thereof once within the village at least one week and not more than two weeks preceding the caucus, or by posting such notice in six public places in the village at least ten days preceding the caucus.

d. The notice shall specify the time and place or places, and the purpose of such caucus or primary, including the offices for which candidates will be nominated thereat. For such village primary or caucus there shall be one or more polling places in each subdivision from which a candidate is nominated. There shall be a chairman and a secretary and tellers for each such village primary or caucus, who shall be appointed by the appropriate party officials. No person shall participate in such primary or caucus who is not a resident of the village and an enrolled voter of the party conducting the primary or caucus. At any primary or caucus in which nominees are chosen by vote of the people in attendance, the person eligible and receiving the highest number of votes for an office shall be deemed nominated. Such village primary or caucus shall not be conducted at any expense to the village.

e. Any party nomination made at any such caucus or village primary shall be evidenced by the filing with the village clerk of a certificate of nomination in the form prescribed by this chapter, as provided in subdivision seven of this section. There shall be filed, together with such certificate, a list of enrolled members of the party who have participated in such caucus or primary. Such list shall be certified by the presiding officer or secretary of such caucus or primary.

3. a. Party designations for elective village offices shall be made on a designating petition which shall be on white paper containing the signatures in ink of residents of the village who are registered to vote with the appropriate county board of elections at the time of signing and who are enrolled in such political party. The sheets of such a petition shall be numbered consecutively, beginning with number one, at the foot of each sheet. Such petition must set forth in each instance the correct date of signing, the full name of the signer, his present address, the ward if any, the village election district, and a committee to fill vacancies consisting of at least three qualified voters of the village enrolled in such party and their residence within the village. A signer need not himself fill in the date, residence, ward or election district. Each sheet of such petition must be in substantially the following form and shall contain all the information required therein:

**PARTY DESIGNATING PETITION**

I, the undersigned do hereby state that I am a registered voter of the Village of ..... and a duly enrolled voter of the ..... party and entitled to vote at the next primary election of such party, that my place of residence is truly stated opposite my signature hereto, and I hereby designate the following named persons as candidates for nomination of such party for the public offices to be voted for at the primary election to be held on the ..... day of ..... 19 .... as hereinafter specified.

Name of Candidate	Public Office	Term	Residence
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....

I do hereby appoint (insert names and addresses of at least three persons, all of whom shall be enrolled voters of said party) as a committee to fill vacancies in accordance with the provisions of the election law.

IN WITNESS WHEREOF, I have hereunto set my hand, the day and year placed opposite my signature.

Date	Name	Residence	Village Election District (if any)
.....	.....	.....	.....
.....	.....	.....	.....

I ..... (name of witness) state: I am a duly qualified voter of the State of New York; and an enrolled voter of the ..... party and now reside in the ..... election district of the Village of ..... County of ..... State of New York at ..... (residence address and post office address if not identical) therein. Each of the persons whose names are subscribed to this petition sheet containing ..... signatures, subscribed his name in my presence.

I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn.

.....  
Date ..... Signature of Witness  
Page no. ....

b. Notwithstanding any other provision of law, the number of signatures required on a designating petition shall be five percent of the number of enrolled voters of the party residing in the village. For the purpose of determining the number of enrolled voters of a party residing in the village, the clerk shall be furnished with an official certified list of all such enrolled party voters residing in the village by the county board of elections of the county in which all or part of the village is located. Such list shall be filed in the village clerk's office and shall be available upon request for inspection by any interested person.

4. Independent nominations for elective village offices shall be made by a petition which shall be on white paper containing the signatures in ink of residents of the village who are registered with the appropriate county board of elections at the time of signing or who are residents of the village who were on the list of registered voters for the last village election in such village. The sheets of such a petition shall be numbered consecutively beginning with number one at the foot of each sheet. Such petition must set forth in each instance the correct date of signing, the full name of the signer, his present address, the ward if any, the village election district, and a committee to fill vacancies consisting of at least three persons qualified to vote in the village election and their residence within the village. A signer need not himself fill in the date, residence, ward or election district. Each sheet of



such petition must be in substantially the following form and shall contain all the information required therein.

**VILLAGE INDEPENDENT NOMINATING PETITION**

I, the undersigned, do hereby state that I am a registered voter of the Village of . . . . ., that my present place of residence is truly stated opposite my signature, and I do hereby nominate the following named person (or persons) as a candidate (or as candidates) for public office to be voted for at the election to be held on the . . . . day of . . . . ., 19. . . . ., and that I select the name . . . . . (fill in name) as the name of the independent body making the nomination (or nominations) and . . . . (fill in emblem) as the emblem of such body.

Name of Candidate	Public Office	Term	Residence
.....	.....	.....	.....
.....	.....	.....	.....

I do hereby appoint

Name	Residence
.....	.....
.....	.....

as a committee to fill vacancies in accordance with the provisions of the election law.

IN WITNESS WHEREOF, I have signed this petition on the day and year stated before my signature.

Date	Signature	Residence	Village Election District (if any)
.....	.....	.....	.....
.....	.....	.....	.....

**STATEMENT OF WITNESS**

I, . . . . . state that I am a duly qualified voter and now reside at . . . . . (residence address, also post office address if not identical) in the . . . . . election district of the Village of . . . . . in the State of New York in the County of . . . . . Each of the voters whose names are subscribed to this petition sheet containing . . . . . (fill in number) signatures, subscribed his name in my presence.

I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false

statement, shall subject me to the same penalties as if I had been duly sworn.

Date ..... Signature of Witness

5. The name selected for the independent body making the nomination shall be in the English language and shall not include the name or part of the name, or an abbreviation of the name or of part of the name, of a then existing party. The name and emblem shown upon such petition shall conform to the requirements of this chapter, relating to party names and party emblems. If such a petition shall not show an emblem, or the petition shall fail to select a name for such independent body, the village clerk shall select an emblem or name, or both to distinguish the candidates nominated thereby.

6. An independent nominating petition for a village office must be signed by at least one hundred voters in villages containing a population of five thousand or more; by at least seventy-five voters in villages containing a population of three thousand and less than five thousand; and by at least fifty voters in villages containing a population of one thousand and less than three thousand; and in villages containing a population of less than one thousand by voters numbering at least five per centum of the number of voters at the last regular village election. For the purposes of this section, the population of a village shall be determined by the last federal decennial or local special population census federally supervised pursuant to section twenty of the general municipal law.

7. a. A certificate of party nomination for an office to be filled at the time of a general or special village election for offices shall be filed not earlier than fifty-four days not later than forty-seven days preceding the election.

b. A certificate of acceptance or declination of a party nomination for an office to be filled at the time of a general or special village election shall be filed not later than forty-four days prior to such election.

c. A certificate to fill a vacancy caused by declination of a party nomination for an office to be filled at the time of a general or special village election shall be filed not later than forty-one days prior to such election.

d. Party designating petitions for a village primary election shall be filed in the office of the village clerk not earlier than twenty-two days nor later than fifteen days prior to the primary election. Upon such a filing, the village clerk shall immediately notify the village election chairman of such party and the person or persons designated in such petition of the fact of such filing and that such petition may be inspected in his office.

e. A written declination of a party designation must be filed in the office of the village clerk within three days of the date of the filing of the designating petition. Upon the filing of such decli-

nation, the village clerk shall, within one day notify the committee to fill vacancies named in the petition. A certificate to fill the vacancy caused by a declination or any other reason must be filed with the village clerk within three days after the date of the notice to the committee to fill vacancies and shall have appended thereto the written consent of the person or persons designated.

8. a. An independent nominating petition for an office to be filled at the time of a general or special village election shall be filed not earlier than thirty-five days nor later than twenty-eight days preceding the election.

b. A certificate of acceptance or declination of an independent nomination for an office to be filled at the time of a general or special village election shall be filed not later than twenty-five days prior to such election.

c. A certificate to fill a vacancy caused by a declination of an independent nomination for an office to be filled at the time of a general or special village election for offices shall be filed not later than twenty-two days prior to such election, and shall have appended thereto the written consent of the person or persons nominated.

9. Any village resident who is a registered voter of the village and, in the case of a designating petition, an enrolled member of the party filing the petition, may sign an independent nominating petition or a designating petition providing that: (a) such signature was not made more than six weeks prior to the last day to file such petition; (b) he has not signed more than one petition designating or nominating a candidate for mayor or village justice. If he has signed more than one such petition, only the earliest signature for each such office shall be valid; (c) he has not signed more than one petition designating or nominating a candidate for each vacancy which exists for the office of village trustee or village justice if the village has provided for two such justices. If he has signed more than one such petition for each such vacancy, only the earlier signatures shall be valid; or (d) he does not vote at a primary election or party caucus where a candidate was nominated for the same office for each such vacancy.

10. A written objection to an independent nominating petition, designating petition or certificate of nomination shall be filed in the office of the village clerk no later than one day following the last date upon which such petition or certificate may be filed or within one day after such petition or certificate is received by the village clerk, if such petition or certificate is mailed as provided by law, whichever is later. Written specifications of the grounds of the objections shall be filed with the village clerk within two days after the filing of the written objection. A failure to file such written specifications shall render the original objection null and void. Upon receipt of such written specification, the village clerk shall forthwith notify each candidate named in the petition or

certificate and shall notify the county board of elections of the county in which the village is located. For purposes of this section, a village shall be deemed to be located within a county if more than fifty percent of the population of the village as shown by the last federal decennial or special census resides in that portion of the village located in that county. Upon receipt of the written specifications as herein required, the county board of elections shall immediately take all steps necessary and consistent with this chapter to render a determination on the questions raised in such objections and specifications. When a determination has been made by the county board of elections that the petition is sufficient or insufficient, it shall immediately notify the village clerk and each candidate named in the petition or certificate, and, if such determination was made on objection, the objector.

§ 15-110. **Election districts.** 1. A village shall constitute a single election district for village elections. However, if at a general village election the number of votes cast exceeds eight hundred, the board of trustees, by resolution adopted before the next general village election, may divide such village into election districts each containing not more than eight hundred qualified voters for village offices.

2. Following the establishment of two or more such districts, the number thereof or their boundaries or both may be enlarged, diminished, increased or decreased from year to year by resolution of the board of trustees; provided, however, that, if there is more than one district, no such district shall contain more than eight hundred qualified voters.

3. If village election districts are coterminous with election districts established for general elections other than general village elections, the limitations as to the number of qualified voters set forth in subdivisions one and two of this section shall not be applicable.

4. For the purposes of this section, the number of qualified voters in each election district of a village shall be the average of the number of persons who voted in such district in the three preceding general village elections.

5. Any resolution adopted pursuant to the authority of this section shall be adopted at least one hundred twenty days prior to the general village election; shall specify the boundaries of each election district created or altered; and shall be posted and published with the notice of such election as required.

§ 15-112. **Registers and poll-books; how used.** For any village election where permanent personal registration records are not used, all copies of the register in the polling place shall be referred to, if necessary, to determine the persons entitled to vote; but at any such election, including a primary election, ballot

numbers shall be entered and other election entries made in only two copies of the register, which shall include the copy used for taking signatures; provided, however, that if the election be one for which poll-books are required to be provided, ballot numbers shall be entered and other entries made in the two poll-books instead of the registers. The signatures of voters taken at the election or at a primary election shall be made or identification numbers entered, in one of the copies of the register having, when the election opens, an unused signature column, if there be any such copy, and otherwise in one of the poll-books, to be known as the signature poll-book.

§ 15-114. **Number of voting machines.** Any village that uses voting machines for village elections shall provide one voting machine for each eight hundred or fraction thereof of qualified voters in each election district, as such voters are defined in section 15-110 of this article.

§ 15-116. **Inspectors of election.** The board of trustees shall, by resolution at least forty days prior to a general village election appoint two or four inspectors of election for each village election district. Such resolution shall fix the compensation of the inspectors and designate a chairman. In addition, the board of trustees may provide for alternative inspectors who shall assume the office of inspector upon the inability or refusal of an inspector to assume or perform his duties and for any clerical help which they may deem necessary. Such clerical help shall perform their duties under direction and control of the inspectors of election. It shall be the duty of the inspectors of election to preside at all village elections in the district for which they were appointed until their successors are appointed. If at any general village election, both major political parties nominate a candidate or candidates for elective village office then at the next village election following the election for which the nominations are made the inspectors of election shall be appointed equally from enrolled members of such parties. Such equal representation shall be required only as long as such parties nominate a candidate or candidates for elective village office. In those elections in which both such political parties do not nominate candidates, any qualified person may serve as an inspector of election.

2. In Nassau county, appointments as inspectors of election for village elections shall be equally divided between the major political parties. All such inspectors shall be residents of the village in which they serve. Such inspectors shall be appointed from among those persons appointed as inspectors pursuant to the provisions of section 3-502 of this chapter. If the number of inspectors appointed pursuant to such section 3-502 who are eligible and willing to serve in any village is insufficient to fill all the positions

in such village, then additional inspectors shall be appointed in the manner so prescribed by such section 3-502.

3. Inspectors of election for village elections shall prior to the assumption of their duties file a constitutional oath of office with the village clerk.

4. If the board of trustees of any village appoints four inspectors of election for each village election district, they may also determine that two of the four inspectors of election shall serve on registration day or days.

**§ 15-118. Registration of voters.** 1. In a village election conducted by the board of elections pursuant to a resolution adopted as provided in paragraph c of subdivision one of section 15-104 of this article *or a village which has adopted a resolution providing that there shall not be any registration day for village elections pursuant to subdivision three of this section*, only those persons registered to vote with the board of elections shall be eligible to vote. If such election is held on a date other than the date of the general election, only those persons registered to vote with the board of elections on the tenth day before such election shall be eligible to vote.

2. In any other village election, those persons registered to vote with the board of elections on the [fourteenth] *tenth* day before such election and those persons whose names are placed on the village register pursuant to the provisions of *subdivision seven* of this section shall be eligible to vote.

3. *The board of trustees of a village may adopt a resolution providing that there shall not be any village registration day for village elections. Such resolution shall be effective for all elections in such village which are held more than sixty days after such resolution is adopted and shall remain in effect until the board of trustees adopts a resolution providing that there shall be a village registration day for village elections held more than sixty days after adoption of such a resolution.*

4. *In villages in which there is a village registration day*, the board of trustees shall post in each election district and publish a resolution at least ten days prior to registration day which resolution shall be adopted at least twenty days before registration day which shall designate:

(a) The dates prior to registration day on which the inspectors of election shall meet to commence the preparation of the register.

(b) The place in each district where such meetings, registration and election shall be held.

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[Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.]

(c) The hours for such meetings, registration and election; but in no event shall the hours for registration be less than the hours from noon until [nine] *five* o'clock in the [evening] *afternoon*.

[4.] 5. Registration day shall be held on the tenth day prior to the general village election except in those villages which provide, by resolution adopted at least thirty-seven days prior to the date of the first election for which it shall be effective, for an additional day of registration to be held on the twelfth day prior to the general village election. Such resolution shall remain in effect for subsequent general village elections unless amended, modified or repealed.

[5.] 6. The board of trustees of any village, by resolution or ordinance, subject to permissive referendum, may determine that personal registration shall be required for village elections.

[6.] 7. (a) The register for the general village election shall be prepared in each village election district by the inspectors of election thereof [on the days prior to registration day, if any, designated therefor, on the registration day and] at the times and place designated by the resolution of the board of trustees. *Such register must be completed not later than the fourth day before the village election.* In preparing such register the inspectors of election shall comply with the following procedure.

[(a)] (b) In *all* villages wherein personal registration is not required, they shall adopt, use or copy from, the registration lists certified and supplied by the county board of elections the names appearing thereon of all persons, residing in the village and qualified to vote at such forthcoming general village election. [At such time] *In addition, if there is a village registration day in the village,* they shall add thereto the names of all persons known to them who then are or who will at the time of such election be qualified to vote [thereat. On registration day such register shall be completed by adding thereto] *and* the names of all persons [known or] proven to their satisfaction *on the registration day* to be then, or at the time of such election, qualified to vote.

[(b)] (c) In villages wherein personal registration is required, they shall follow the same procedure set forth in paragraph [(a)] (b) above, except that no names shall be added to the register other than the names of persons personally appearing before them *on the registration day, if any,* and [providing] *proving* to their satisfaction to be then, or at the time of the election, qualified to vote.

[(c)] (d) The register for each village election district shall include, as a minimum, space for the name of the voter, his address within the village and a space for his or her signature to be signed by the voter on election day. In villages wherein personal registration is required, such register shall also contain a space for the

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[Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.]

signature of the voter to be signed by such voter on registration day. [If the register shall contain only spaces for the name, address and signature of the voter, the] *The* village clerk shall furnish a printed certificate to be signed by a voter who appears personally before the inspectors of election on registration day [and whose name does not already appear on the register.] Such certificate shall contain a statement that the person possesses all the necessary qualifications for voting in village elections. Such certificate shall be accepted for all purposes as the equivalent of an affidavit and if it contains a material false statement, shall subject the person signing it to the same penalties as if he had been duly sworn, and such provision shall be printed in bold type directly above the signature line of the certificate.

[7.] 8. The village clerk shall furnish the inspectors of election, at village expense, with all necessary registration books, papers, equipment and supplies. The village clerk shall also deliver to the Inspectors a list of all persons who have applied for absentee ballots for the election for which the registration meeting is being held.

[8.] 9. Registration for special village elections for officers shall be held in the same manner as is provided herein for general village elections and the registration day therefor shall be the same as if said special village election were a general village election.

[9.] 10. The board of trustees of any village, if it determines that more than one-half of the voters qualified to vote at a forthcoming village election for village officers were personally registered at the last preceding general election other than a village election for officers and that taking the registration for such forthcoming election will be accomplished more efficiently and economically thereby, may, in the resolution required by subdivision [six] *seven* of this section, provide that for such election a single place and a single board of elections shall be used for taking the registration of two or more village election districts. If such action is taken the board of trustees shall [further and], in the same resolution [also], appoint a single board of inspectors of election to conduct such registration for each such two or more village election districts.

[Section amended by chap. 217, Laws of 1992. Takes effect December 1, 1992.]

§ 15-120. **Absentee voting at village elections.** 1. A qualified elector of a village may vote as an absentee voter under this section if during all the hours of voting on the day of a general or special village election he will be:

(a) Unavoidably absent from the county in which his residence is located because:

[Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.]



- i. he is a member of the armed forces of the United States of America; or
- ii. he is a student matriculated at an institution of learning located outside such county; or
- iii. he is a patient at a veterans administration hospital; or
- iv. his duties, occupation or business require him to be so absent, provided, however, such absence is not caused by the fact that his regular and daily place of business is located outside of said county.

(b) Absent from the county in which his residence is located because he is on vacation outside such county.

(c) He is the spouse, parent or child of, and resides in the same household with, a person qualified under any of the foregoing paragraphs of this subdivision and will also be absent from said county by reason of accompanying the person so qualified.

2. Each person entitled to vote as an absentee voter pursuant to this section and desirous of obtaining an absentee ballot shall make written application therefore to the village clerk. Application forms for use pursuant to this section shall be in a form prescribed by the state board of elections. The use of any application which is on a form prescribed by the state board of elections shall be acceptable.

3. An application for an absentee ballot must be signed by the applicant. Such application may require that the applicant submit a certificate in lieu of any affidavit which shall state that the information contained in the application is true. Such certificate shall be accepted for all purposes as the equivalent of an affidavit and shall have the following language printed in bold face type above the signature line:

**"I UNDERSTAND THAT THIS CERTIFICATE WILL BE ACCEPTED FOR ALL PURPOSES AS THE EQUIVALENT OF AN AFFIDAVIT AND, IF IT CONTAINS A MATERIAL FALSE STATEMENT, SHALL SUBJECT ME TO THE SAME PENALTIES AS IF I HAD BEEN DULY SWORN."**

4. An application must be received by the village clerk no earlier than four months before the election for which an absentee ballot is sought. If the application requests that the absentee ballot be mailed, such application must be received not later than seven days before the election. If the applicant or his agent delivers the application to the village clerk in person, such application must be received not later than the day before the election. The village clerk shall examine each application and shall determine from the information contained therein whether the applicant is qualified under this section to receive an absentee ballot. The clerk in making such decision shall not determine whether the applicant is a qualified elector, said determination being reserved to the

inspectors of election as is hereinafter provided in subdivision eight of this section.

5. No later than six days before the election for which an application has been received and for which the village clerk has determined the applicant to be qualified to vote by absentee ballot the village clerk shall mail, by regular mail, an absentee ballot to each qualified applicant who has applied before such day and who has requested that such absentee ballot be mailed to him at the address set forth in his application. If the applicant or his agent delivers the application to the village clerk in person after the seventh day before the village election and not later than the day before the election, the village clerk shall forthwith deliver such absentee ballots for those applicants whom he determines are qualified to make such applications and to receive such ballots to such applicants or the agents named in the applications when such applicants or agents appear in the village clerk's office.

6. The absentee ballot shall be caused to be prepared and printed by the village clerk as provided by law for paper ballots or machine ballots, whichever are to be used in said election and appropriate modifications for the purposes of this section. He shall also cause to be prepared and printed return envelopes addressed to him, conforming so far as may be practicable to the provisions of this chapter stating thereon that in order for the ballot contained therein to be counted it must be received by the village clerk not later than the close of the polls on election day. On the reverse side of each return envelope there shall be written instructions for the voter to insert at designated places his signature, his name printed, his residence address within the village and his village election district if there be more than one district within the village.

7. The method of marking, preparing and mailing such ballot for voting shall conform, wherever practicable, to the methods used for absentee ballots for a general election, except that the envelope in which it is contained shall be returned to the village clerk. On the day of the election, the village clerk shall deliver all such ballots, which have been returned to him, in the sealed envelopes to the board of inspectors of election of the proper election district. No such ballot shall be deemed to have been voted unless or until it shall have been delivered to the board of inspectors of election of the election district in which the elector casting the ballot resides and shall have been deposited by the chairman of such board in the box provided for receiving such ballot.

8. When such ballots shall have been delivered to the board of inspectors of election of the proper election district and shall have been duly determined by such board to have been lawfully cast by a qualified elector of such district, the chairman of such board shall, after the close of the polls, open the envelopes containing

such ballots and, without unfolding such ballots or permitting the face thereof to be exposed to the view of anyone, shall deposit each such ballot in a box specifically furnished for such purpose by the village clerk. If the board of inspectors shall determine that any such ballot has been cast by an elector who would not be qualified under the provisions of this section, then such ballot shall not be counted.

9. After all the ballots shall have been deposited, the box shall be opened and such ballots canvassed in the same manner as other ballots cast at such election and shall be counted and included in the total of all ballots cast at such election.

**§ 15-122. Absentee voting at village elections for persons unable to appear because of illness or physical disability.** 1. A qualified elector of a village, who, on the occurrence of any general or special village election, may be within the county of his residence but unable to appear personally at the polling place in the village of his residence because of illness, physical disability or confinement either at home or in a hospital or institution, other than a mental institution may vote as an absentee voter under this section.

2. Any elector of a village to whom this section may apply shall make application to the village clerk for an absentee ballot. Such application shall set forth the name and village address of the applicant, that he is a qualified voter of the village or election district if any, and that he was advised by his physician, medical superintendent, administrative head of hospital or institution, or Christian Science Practitioner that he will be unable to appear personally at the polling place within the village because of the reasons set forth in subdivision one. Such statement shall be accepted for all purposes as the equivalent of an affidavit, and if false shall subject the applicant to the same penalties as if he had been duly sworn. Such provision shall be printed in bold type directly above the signature line of the application.

3. Such statement, if made by an elector who resides in a village in which personal registration is required shall state that the applicant has registered, giving the date of such registration and his election district if any. If made by an elector who resides in a village in which personal registration is not required, it shall state that he has nevertheless registered; or that he has registered for the last preceding general election; or that he has voted in either or both of the two preceding general elections.

4. Any elector who is duly registered and who is permanently disabled may make application to the village clerk for a form which such clerk shall supply for the purpose of providing for the mailing of absentee ballots to permanently disabled voters. Such form shall contain an affidavit to be executed by the elector showing the particulars of his disability. Upon the filing of such application

the inspectors of election shall investigate the facts stated therein and if satisfied as to the truth thereof may approve such application and in such event shall cause the registration record of the voter, if any, to be marked "PERMANENTLY DISABLED". The inspectors shall also cause to be marked "PERMANENTLY DISABLED", the registration poll records of those voters who are indicated as permanently disabled on the list of registered voters received from the board of elections. Thereafter, the village clerk shall send an absentee voter's ballot for each election to such elector by first class mail to his last known address with a request to the postal authorities not to forward such ballot but to return it in five days in the event that it cannot be delivered to the addressee. The mailing of such ballot or ballots for each election shall continue as long as the elector remains a qualified voter of the village and unless it appears that such person has failed to return such ballot for the last two successive general village elections. Upon the mailing of such ballot or ballots, the village clerk shall cause the fact and the date of such mailing to be recorded next to the name of the voter in the register of the village or appropriate election district. If the inspectors of election shall determine that such elector is not entitled to an absentee voter's ballot, or if they shall determine that such elector is no longer entitled to receive such ballot without application they shall notify such elector in writing giving him the reason for such rejection or decision.

5. If a person entitled to an absentee ballot under this section is unable to sign his application because of illness or physical disability he shall be excused from signing upon making a statement, which shall be witnessed by one person, in substantially the following form: "I hereby state that I am unable to sign any application for an absentee ballot without assistance because I am unable to write by reason of my illness or physical disability. I have made, or have received assistance in making, my mark in lieu of my signature".

..... (Mark)

.....  
(Date)

.....  
(Signature of Witness)

Such statement shall be included in the application blank form furnished by the village clerk.

6. Printed forms containing the application for the absentee ballot, in accordance with the requirements of this section, shall be in the form prescribed by the state board of elections and shall be provided by the village clerk and shall be available at the office of the clerk. Application forms for absentee ballots for use pursuant to this section shall be furnished by the village clerk upon request

of the person authorized to vote under this section or by any such person's spouse, parent, child, authorized agent or any nurse charged with the care of such person.

§ 15-124. **Duties of village clerk.** 1. In addition to any duties of the village clerk specified in the chapter and the village law, the village clerk shall be the election officer of the village and shall have the responsibility for the general conduct of all village elections and shall have vested in him all authority, consistent with this chapter which may be reasonable and necessary to provide for the proper and orderly conduct of such elections and the proceedings preliminary and subsequent thereto.

2. The police department and the officers and members of such police department, if any, the office of the sheriff in a county in which a village or part of a village is located or any police agency or department charged with the responsibility of law enforcement in any county in which a village or part of a village is located shall, whenever called upon by the village clerk, render to such village clerk all practicable assistance in the enforcement of this chapter. Such assistance shall be rendered to the village clerk at no charge to the village. Such assistance shall include, but not be limited to:

- a. the police telephone service;
- b. the investigation of any registrant or any applicant for an absentee ballot to determine his qualifications to be registered or vote, and
- c. the maintenance of order, regulation of traffic and the control of crowds on any day or days designated for voter registration and voting.

§ 15-126. **Canvass of election.** 1. The inspectors of election of each election district shall, immediately upon the closing of the polls at each annual or biennial election, proceed to canvass the votes cast thereat and shall complete such canvass without adjournment. They shall, before nine o'clock in the forenoon of the following day, file with the village clerk their certificates setting forth the holding of the election, the total number of votes cast for each office, the number of votes cast for each person for such office, the total number of votes cast upon each proposition voted upon, and the number cast for and against it. They shall also deliver to the village clerk at the same time and place all ballot boxes, if there be such, and all unused supplies and the American flag furnished for use in the polling place. If the village contains more than one election district, the board of trustees of such village shall meet at its usual place of meeting not later than eight o'clock in the evening of the day after the election. The village clerk shall produce at such meeting the returns of the inspectors of election, at which time the board of trustees shall canvass such returns

and file in the office of the village clerk a certificate declaring the result.

2. a. The person or persons eligible and receiving the highest number of votes for an office shall be elected thereto.

b. In the event that more eligible persons than the number remaining to be elected receive for the same office or offices an equal number of votes, the board of trustees shall determine by lot, which of such persons shall be elected, unless, by local law adopted at least sixty-five days prior to the first general or special village election for which such local law shall apply, the board shall have provided for a run-off election. Such run-off election shall be held on the first Tuesday at least ten days after the final certification of such tie result, subject to the provisions of paragraph b of subdivision three of section 15-104 of this chapter, provided, however, that the only persons who shall be deemed nominated for the purposes of subparagraph three of such paragraph shall be those persons who shall have received such equal number of votes.

c. Any local law adopted pursuant to paragraph b of this subdivision shall provide that such run-off election shall be waived and the selection made by lot as otherwise provided by this section if each person who shall have received such equal number of votes shall file with the village clerk, no later than two days after such final certification of such tie result, a written notice of consent that such selection be made by lot.

d. If the board of trustees is unable to agree as to the method of selection by lot within two days after the certificate declaring the result of the election is filed in the office of the village clerk, the village clerk shall certify such facts in writing to any supreme court justice within the judicial district in which such village is located who shall within three days summon the candidates before him and he shall by lot determine which of them shall be elected.

3. The village clerk may, and upon written request of any candidate received within two days of the date of the village election, shall cause a recanvass of the vote cast in any village election to be made. The recanvass shall be conducted by the county board of elections of the county in which the village is located. For the purposes of this section, a village shall be deemed to be located within a county if more than fifty per cent of the population of the village as shown by the last federal decennial, or special census resides in that portion of the village located in that county. The village clerk shall, within one day after the written request for a recanvass is received notify the county board of elections of such request, whereupon the board of elections shall assume the duty of such recanvass and shall take all steps necessary and consistent with this chapter to cause a recanvass of the vote. Such recanvass shall be completed within five days of such notice to the county board of elections. The institution of a recanvass

shall immediately stay any further action by, or on behalf of, the village clerk with regard to further election procedures required by this section. Judicial review as provided by this chapter must be commenced no later than three days after the completion of the recanvass by the board of elections. Upon completion of the recanvass, the county board of elections shall notify the village clerk of the result. If no judicial proceedings have been instituted, the clerk shall proceed to notify the persons elected as provided in this article. If judicial proceedings have been instituted, such notice shall not be given until completion of such review.

§ 15-128. **Notice to person chosen to a village office.** The clerk of the village shall, within three days after the election of a village officer, notify each person elected of his election, and of the date thereof, and that, in order to qualify, he is required to file his oath of office with such clerk before entering upon the duties thereof; and, if an official undertaking be required of him by or in pursuance of law, that he is also required to file the same with such clerk and that upon his failure so to do he will be deemed to have declined the office. In the case of a village justice such notice shall further state that the filing of his oath with the county clerk of the county is also required. If an undertaking is required of a village officer after entering upon the duties of his office, the clerk of the village shall thereupon serve upon such officer, personally, a written notice that he is required to file such undertaking with the clerk within ten days after the service of the notice and that upon his failure to do so his office will become vacant.

§ 15-130. **Election of trustees by wards.** The board of trustees of any village may, by resolution, and subject to a mandatory referendum, provide for the election of trustees by wards, alter existing ward boundaries or abolish wards and the election of trustees by wards. If a village elects trustees by wards separate ballot boxes or voting machines shall be provided for each ward.

§ 15-132. **Votes upon propositions to be by ballot or voting machine.** All votes upon a proposition submitted at a village election shall be by ballot unless the board of trustees of the village has adopted voting machines as provided in this chapter, in which case machines may be used.

§ 15-134. **Failure to designate terms.** No election of village officers, held in any village, shall be invalid on account of the failure of the electors to designate in their ballots the respective terms of office of persons to be elected thereat, for the same office, for different terms; but the persons so to be elected to such office, who are eligible and receive the highest number of votes, shall be elected. The person first named on a ballot containing the names

of more than one person for such an office, and not designating their respective terms, shall be deemed designated for the longest term, the second, the next longest term, and so on to the end; and the inspectors of election shall count the ballots and certify the result accordingly.

§ 15-136. **Refusal of officer to surrender his office.** If a person who has been an officer of a village refuses or neglects to deliver to his successor in office, within ten days after written notification and request sent by order of board of trustees all the moneys, books, papers, records, property and effects of every description, which have come into his possession or under his control by virtue of his office and which belong to the village or pertain to the office, he shall forfeit and pay to the village the sum of twenty-five dollars for each and every day he shall so neglect or refuse, and he shall also pay all damages, costs and expenses caused by such neglect or refusal.

§ 15-138. **Judicial review of matters relating to village elections.** The supreme court or any justice thereof within the judicial district and the county court or any judge thereof within the county, in which the village is located, shall have summary jurisdiction to determine any question arising and make such order as justice may require, in respect to village elections and registration therefor.



## ARTICLE 16

## JUDICIAL PROCEEDINGS

- Section 16-100. Jurisdiction; supreme court, county court.  
 16-102. Proceedings as to designations and nominations, primary elections, etc.  
 16-104. Proceedings as to form of ballot, party name, etc.  
 16-106. Proceedings as to the casting and canvass of ballots.  
 16-108. Proceedings as to registration and voting.  
 16-110. Proceedings as to enrollment.  
 16-112. Proceedings for examination or preservation of ballots.  
 16-114. Proceedings to compel filing of statements or corrected statements of campaign receipts, expenditures and contributions.  
 16-115. Proceedings with respect to utilizing certain buildings as polling places.  
 16-116. Proceedings; provisions in relation thereto.  
 16-118. Proceedings to review removal of committee member or officer.

**§ 16-100. Jurisdiction; supreme court, county court.** 1. The supreme court is vested with jurisdiction to summarily determine any question of law or fact arising as to any subject set forth in this article, which shall be construed liberally.

2. The county court is vested with jurisdiction to summarily determine any question of law or fact except proceedings as to a nomination or election at a primary election or a nomination at a judicial convention, proceedings as to the casting and canvass of ballots and proceedings for examination or preservation of ballots.

**§ 16-102. Proceedings as to designations and nominations, primary elections, etc.** 1. The nomination or designation of any candidate for any public office or party position or any independent nomination, or the holding of an uncontested primary election, by reason of a petition for an opportunity to ballot having been filed, or the election of any person to any party position may be contested in a proceeding instituted in the supreme court by any aggrieved candidate, or by the chairman of any party committee or by a person who shall have filed objections, as provided in this chapter, except that the chairman of a party committee may not bring a proceeding with respect to a designation or the holding of an otherwise uncontested primary.

2. A proceeding with respect to a petition shall be instituted within fourteen days after the last day to file the [petitions; or if such] *petition, or within three business days after the officer or*

*board with whom or which such petition was filed, makes a determination of invalidity with respect to such petition, whichever is later; except that a proceeding [is in connection] with respect to a petition for a village election or an independent nomination for a special election[ , it] shall be instituted within seven days after the last day to file the petition for such village election or independent nomination[; or if in connection] or within three business days after the officer or board with whom or which such petition was filed, makes a determination of invalidity with respect to such petition, whichever is later. A proceeding with respect to a primary, convention, meeting of a party committee, or caucus[,] shall be instituted within ten days after the holding of such primary or convention or the filing of the certificate of nominations made at such caucus or meeting of a party committee.*

3. The court may direct reassembling of any convention or the holding of a new primary election, or caucus where it finds there has been such fraud or irregularity as to render impossible a determination as to who rightfully was nominated or elected.

4. A final order in any proceeding involving the names of candidates on ballots or voting machines shall be made, if possible, at least five weeks before the day of the election at which such ballots or voting machines are to be used, or if such proceeding is commenced within five weeks of such election, no later than the day following the day on which the case is heard.

[Subd. 2 amended by chap 79, Laws of 1992.]

**§ 16-104. Proceedings as to form of ballot, party name, etc.** 1. The form and content of any ballot, or portion thereof, to be used in an election, and the right to use any emblem design, color, party or independent body name, may be contested in a proceeding instituted in the supreme court by any aggrieved candidate or by the chairman of any party committee or independent body.

2. The wording of the abstract or form of submission of any proposed amendment, proposition or question may be contested in a proceeding instituted by any person eligible to vote on such amendment, proposition or question.

3. A proceeding pursuant to subdivision two of this section must be instituted within fourteen days after the last day to certify the wording of any such abstract or form of submission.

4. A final order in any proceeding involving the contents of official ballots on voting machines shall be made, if possible, at least five weeks before the day of the election at which such voting machines are to be used, or if such proceeding is commenced within five weeks of an election, no later than the day following the day on which the case is heard.

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[Matter in *italics* is new; matter in brackets [ ] is old law to be omitted.]

§ 16-106. **Proceedings as to the casting and canvass of ballots.** The casting or refusal to cast challenged ballots, blank ballots, void ballots and ballots voted in affidavit envelopes by persons whose registration poll records were not in the ledger or whose names were not on the computer generated registration list on the day of election and the original applications for a challenged military or absentee voter's ballot may be contested in a proceeding instituted in the supreme or county court, by any candidate or the chairman of any party committee, against the board of canvassers of the returns from such district, if any, and otherwise against the board of inspectors of election of such district.

2. The canvass of returns by the state, or county, city, town or village board of canvassers may be contested, in a proceeding instituted in the supreme court by any voter, except a proceeding on account of the failure of the state board of canvassers to act upon new returns of a board of canvassers of any county made pursuant to the order of a court or justice, which may be instituted only by a candidate aggrieved or a voter in the county.

3. The attorney general, on behalf of the state, and the chairman of the state committee of a party, may institute any proceeding allowed herein relating to the returns of canvass by inspectors upon the vote of any ballot proposal submitted to the people of the state.

4. The court may direct a recanvass or the correction of an error, or the performance of any duty imposed by law on such a state, county, city, town or village board of inspectors, or canvassers.

5. A proceeding under subdivisions one and three of this section must be instituted within twenty days and under subdivision two, within thirty days after the election or alleged erroneous statement or determination was made, or the time when the board shall have acted in the particulars as to which it is claimed to have failed to perform its duty, except that such a proceeding with respect to a village election must be instituted within ten days after such election, statement, determination or action.

[Subd. 1 amended by chap. 91, Laws of 1992.]

§ 16-108. **Proceedings as to registration and voting.** 1. The supreme court, by a justice thereof within the judicial district, or the county court, by a county judge within his county, in a proceeding instituted by any voter to whom registration has been unlawfully refused, shall compel, by order, the registration of such voter, and, in a proceeding instituted by any voter duly qualified to vote in this state, or by the state board of elections, shall, by order, direct the cancellation of the registration of any person who shall unlawfully be registered, and shall order the board

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[Matter in *italics* is new.]

of elections or other official charged with the conduct of registration to carry out such order.

2. In any such proceeding the board of elections or other official charged with the conduct of the election, in which it is claimed the registration of the voter unlawfully was refused or unlawfully registered, shall be a necessary party and the person whose name is sought to be stricken from the register shall likewise be a necessary party, and the board and such person shall receive such notice as the court, justice or judge shall direct.

3. Such court, in a proceeding instituted by any voter unlawfully denied the right to vote by the inspectors, shall, by order, direct that he be allowed to vote at his polling place and within the hours established by law. Such order shall, where necessary, direct the board of elections to complete the voter's registration and enrollment records.

4. Such court, justice or judge, in a proceeding instituted by any voter unlawfully denied an absentee ballot or the application therefor, shall compel, by order, the delivery to such voter of a ballot or application.

5. An affidavit by any officer or employee of the board of elections, or by any police officer, sheriff or deputy sheriff, or by any special investigator appointed by the state board of elections, that he visited the premises claimed by the applicant as his residence and that he interrogated an inmate, housedweller, keeper, caretaker, owner, proprietor or landlord thereof or therein as to the applicant's residence therein or thereat, and that he was informed by one or more of such persons, naming them, that they knew the persons residing upon such premises and that the applicant did not reside upon such premises thirty days before the election, shall be presumptive evidence against the right of the voter to register from such premises.

6. For each primary, special and general election, the presiding justice of the appellate division of the first and second judicial department shall, and the presiding justice of the appellate division of the third and fourth judicial departments may assign one or more justices of the supreme court to sit at such offices of the board of elections and such other locations as may be designated to hear and determine all cases arising under this chapter relating to eligibility for voting of such election.

§ 16-110. **Proceedings as to enrollment.** 1. The supreme court, by a justice thereof within the judicial district, or the county court, by a judge within his county, in a proceeding instituted by a duly enrolled voter of a party, not later than the second Friday before a primary election, shall direct the enrollment of any voter with such party to be cancelled if it appears that any material statement in the declaration of the voter upon which he was

enrolled is false or that the voter has died or does not reside at the address on his registration record.

2. The chairman of the county committee of a party with which a voter is enrolled in such county, may, upon written complaint by an enrolled member of such party in such county and after a hearing held by him or by a sub-committee appointed by him upon at least two days' notice to the voter, personally or by mail, determine that the voter is not in sympathy with the principles of such party. The Supreme Court or a justice thereof within the judicial district, in a proceeding instituted by a duly enrolled voter of the party at least ten days before a primary election, shall direct the enrollment of such voter to be cancelled if it appears from the proceedings before such chairman or sub-committee, and other proofs, if any, presented, that such determination is just.

**§ 16-112. Proceedings for examination or preservation of ballots.** The supreme court, by a justice within the judicial district, or the county court, by a county judge within his county, may direct the examination by any candidate or his agent of any ballot or voting machine upon which his name appeared, and the preservation of any ballots in view of a prospective contest, upon such conditions as may be proper.

**§ 16-114. Proceedings to compel filing of statements or corrected statements of campaign receipts, expenditures and contributions.** 1. The supreme court or a justice thereof, in a proceeding instituted by any candidate voted for at the election or primary or by any five qualified voters or by the state or other board of elections may compel by order, any person required to file a statement of receipts, expenditures or contributions for campaign purposes, who has not filed any such statement within the time prescribed by this chapter, to file such statement within five days after notice of the order.

2. The supreme court or a justice thereof, in a proceeding instituted by any candidate voted for at the election or primary or by any five qualified voters, or by the state or other board of elections in accordance with the provisions of this chapter may compel by order any person required under the provisions of this chapter to file a statement of receipts, expenditures or contributions for campaign purposes, who has filed a statement which does not conform to the requirements of this chapter in respect to its truth, sufficiency in detail or otherwise, to file a new or supplemental statement which shall make the statement or statements true and complete within five days after notice of the order. The state board of elections shall be a necessary party in any such proceeding.

3. The supreme court or a justice thereof, in a proceeding instituted by any candidate voted for at the election or primary or by any five qualified voters, or by the state or other board of

elections may compel by order any person who has failed to comply, or the members of any committee which has failed to comply, with any of the provisions of this chapter, to comply therewith.

4. In every proceeding instituted under this section, except a proceeding to compel the filing of a statement by a candidate for nomination to a public office at a primary election or for election thereto, or by the treasurer of a political committee, who has failed to file any statement, the petitioner or petitioners, upon the institution of the proceeding shall file with the county clerk an undertaking in a sum to be determined and with sureties to be approved by a justice of the supreme court conditioned to pay any costs imposed against him or them; provided, however, that no such undertaking shall be required in a proceeding instituted by the state or other board of elections.

**§ 16-115. Proceedings with respect to utilizing certain buildings as polling places.** The supreme court or a justice thereof, in a proceeding instituted by any board or body empowered to designate polling places, may compel by order, any person or entity which owns or operates a building or facility which is required by this chapter to be made available as a place of registration and voting to make such building or facility available for such purposes and in a proceeding instituted by any person or entity which owns or operates such a building or facility, may vacate a determination by such a board or body that such a building is suitable for registration and voting upon a finding that such building is not required to be made available as a place of registration and voting.

**§ 16-116. Proceedings; provisions in relation thereto.** A special proceeding under the foregoing provisions of this article shall be heard upon a verified petition and such oral or written proof as may be offered, and upon such notice to such officers, persons or committees as the court or justice shall direct, and shall be summarily determined. The proceeding shall have preference over all other causes in all courts. The petition in any such proceeding instituted by the state or other board of elections shall be verified by the persons specified in accordance with rules promulgated by the state board of elections. In the city of New York, a proceeding relating to a run-off primary brought pursuant to this article shall have first preference over all other proceedings.

**§ 16-118. Proceedings to review removal of committee member or officer.** The action of any political committee or independent body in removing a member or officer thereof may be reviewed by a proceeding pursuant to article seventy-eight of the civil practice law and rules.

Art. 17 VIOLATIONS OF THE ELECTIVE FRANCHISE

ARTICLE 17

VIOLATIONS OF THE ELECTIVE FRANCHISE

- Section 17-100. Definitions.
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- 17-104. False registration.
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17-168. Crimes against the elective franchise not otherwise provided for.

17-170. Destroying or delaying election returns.

§ 17-100. **Definitions.** The word "election" as used in this article shall be deemed to apply to and include all general, special and primary elections, unofficial primaries and all local elections relating to candidates, ballot proposals, proceedings for the nominations of candidates by petition, and all elections held pursuant to Article 52A of the education law.

2. The word "candidate" shall be deemed to apply to any person seeking a nomination, designation, or election to a public office or party office.

3. The term "election officer" shall mean any person who, pursuant to the provisions of this chapter, performs any duty or function in the electoral process.

4. The term "public officer" as used in this article shall be deemed to apply to any person who holds an elective or appointive office of the state, separate authority or any political subdivision of the state with authority to supervise other personnel within such subdivisions. The term "public employee" shall be deemed to apply to all other personnel of the state or such authorities or subdivisions.

§ 17-102. **Misdemeanors at, or in connection with, primary elections, caucuses, enrollment in political parties, committees, and conventions.** Any person who:

1. At a primary election or caucus of a party, wilfully votes, or attempts to vote, without being entitled to do so, or votes, or attempts to vote under any other name than his own or on the same day more than once under his own name; or,

2. Votes, or offers to vote, at a primary election or caucus of a party, having voted at the primary election or caucus of any other political party on the same day, or being at the time enrolled in a party other than the party at whose primary or caucus he votes or offers to vote; or, who causes his name to be placed upon the rolls of party organization of one party while his name is by his consent or procurement upon the rolls of a party organization of another party; or,

3. At a primary election or caucus, for the purpose of affecting the result thereof, votes or attempts to vote two or more ballots, or adds, or attempts to add, any ballot to those lawfully cast, by fraudulently introducing the same into the ballot box before or after the ballots therein have been counted, or who adds to or mixes with, or attempts to add to or mix with, the ballots lawfully cast, another ballot or other ballots before the votes have been counted or canvassed, or while the votes are being counted or canvassed; or at any time abstracts any ballots lawfully cast, with



intent to change the result of such election or to change the count thereat in favor of or against any person voted for at such election, or to prevent the ballots being recounted or used as evidence; or carries away, destroys, loses, conceals, detains, secretes, mutilates, or attempts to carry away, destroy, conceal, detain, secrete, or mutilate, any tally lists, ballots, ballot boxes, enrollment books, certificates of return, or any official documents provided for by the election law or otherwise by law, for the purpose of affecting or invalidating the result of such election, or of destroying evidence; or in any manner interferes with the officers holding any primary election or conducting the canvass of the votes cast thereat, or with voters lawfully exercising, or seeking to exercise, their right of voting at such primary election; or

4. For the purpose of securing enrollment as a member of a political party, or for the purpose of being allowed to vote at a primary election or caucus as a member of a political party makes, deposits or files with a board of inspectors, or with any public officer or board, a false declaration of party affiliation or wilfully makes a false declaration of residence, either by an enrollment blank or otherwise, or falsely answers any pertinent question asked him by the board of election inspectors, or by a member thereof; or,

5. Fraudulently or wrongfully does any act tending to affect the result of any primary election, caucus or convention; or,

6. Induces or attempts to induce any poll clerk, election inspector, election coordinator or officer, clerk or employee of the board of elections discharging any duty or performing any act required or made necessary by the election law at a primary election or in connection with the registration or enrollment of voters, to do any act in violation of his duty or in violation of the election law; or,

7. Directly or indirectly, by himself or through any other person, pays, or offers to pay, money or other valuable thing, or promises a place or position, or offers any other consideration or makes any other promise, to any person, to induce any voter to vote, or refrain from voting, at a primary election or caucus, or convention, for or against any particular person; or does or offers to do, anything to hinder or delay any elector from taking part in or voting at a primary election or caucus; or,

8. By menace or other unlawful or corrupt means, directly or indirectly, influences or attempts to influence, the vote of any person entitled to vote at a primary election or caucus, or convention, or obstructs such person in voting, or prevents him from voting thereat; or,

9. Directly or indirectly, by himself or through another person, receives money or other valuable thing, or a promise of a place or position before, at, or after any primary election or caucus, or convention, for voting or refraining from voting for or against any

person, or for voting or refraining from voting at a primary election, caucus or convention; or,

10. Being an officer, teller, canvasser, or inspector, at a primary election or caucus, knowingly permits any fraudulent vote to be cast, or knowingly receives and deposits in the ballot box any ballots offered by any person not qualified to vote; or permits the removal of ballots from the polling place before the close of the polls, or refuses to receive ballots intended for the electors of the district, or refuses to deliver to any elector ballots intended for the electors of the district which have been delivered to the board of inspectors, or permits electioneering within the polling place or within one hundred feet therefrom, or fails to keep order within the polling place, or permits any person other than the inspectors, or other persons permitted by this chapter to render assistance, to accompany an elector into a voting booth, or enters the voting booth with any elector, except one entitled to receive such assistance in the preparation of his ballot, or permits any person, other than a voter who has not voted, or a watcher to come within the guard rail or removes or permits another to remove any mark placed upon a ballot for its identification; or,

11. Being an officer, clerk or employee of the board of elections, election inspector, poll clerk or election coordinator, knowingly puts opposite the name of an elector in an enrollment book any enrollment number other than the number opposite such name in the registration poll records of such district, or knowingly delivers to or receives from any elector on the day of registration an enrollment blank or envelope on which is any other enrollment number than the one opposite his name in such registration poll records or knowingly transcribes from an enrollment blank to the enrollment books any refusal to enroll or enrollment not indicated on the enrollment blank of the elector of such district whose enrollment number appears on such enrollment blank, or refuses or wilfully neglects to transcribe from any enrollment blank to the proper enrollment books any refusal to enroll or enrollment indicated on the enrollment blank of such an elector, enrolls or attempts to enroll as a member of a political party upon any of the enrollment books, any person not qualified to enroll as such, or fraudulently enters thereupon the name of any person who has not enrolled as a member of any political party, or refuses or wilfully neglects to enroll upon any of the enrollment books the name of any qualified person who has demanded to be enrolled as a member of a political party, or at any time strikes from any of the enrollment books the name of any person duly enrolled, or at any time adds to any of the enrollment books the name of any person not qualified to be enrolled as a member of a political party, or the name of any person who in fact has not enrolled as such; or makes marks upon, mutilates, carries away, conceals, alters, or destroys any enrollment blank or enrollment envelope used or deposited by an elector on a day of registration for the

purpose of enrolling or refusing to enroll himself as a member of a political party; or mutilates, carries away, conceals, alters or destroys, any statement or declaration made by a qualified voter for the purpose of enrolling as a member of the party; or, prior to the close of the last meeting for registration in any year, mutilates, carries away, conceals, alters, or destroys any enrollment blanks or enrollment envelopes not then delivered to electors; or,

12. Being an officer, teller, canvasser, election inspector, clerk or employee of the board of elections or any officer of a political committee or a convention, wilfully omits, refuses or neglects to do any act required by this chapter or otherwise by law, or violates any of the provisions of the election law, or makes or attempts to make any false canvass of the ballots cast at a primary election, caucus or convention, or a false statement of the result of a canvass of the ballots cast thereat; or

13. Being an officer, clerk or employee of the board of elections, or an officer of a political committee or a convention, who is charged with, or assumes, the duty of compiling the roll of any convention, wilfully includes in such roll the name of any person not certified to be elected thereto in accordance with the provisions of law, or who wilfully omits from such roll the name of any person who is so certified to be a delegate to such convention, is guilty of a misdemeanor.

**§ 17-104. False registration.** Any person who:

1. Registers or attempts to register as an elector in more than one election district for the same election, or more than once in the same election district; or,

2. Registers or attempts to register as an elector, knowing that he will not be a qualified voter in the district at the election for which such registration is made; or

3. Registers or attempts to register as an elector under any name but his own; or

4. Knowingly gives a false residence within the election district when registering as an elector; or

5. Knowingly permits, aids, assists, abets, procures, commands or advises another to commit any such act, is guilty of a felony.

**§ 17-106. Misconduct of election officers.** Any election officer who wilfully refuses to accord to any duly accredited watcher or to any voter or candidate any right given him by this chapter, or who wilfully violates any provision of the election law relative to the registration of electors or to the taking, recording, counting, canvassing, tallying or certifying of votes, or who wilfully neglects or refuses to perform any duty imposed on him by law, or is guilty of any fraud in the execution of the duties of his office, or connives in any electoral fraud, or knowingly permits any such fraud to be practiced, is guilty of a felony.

**§ 17-108. False affidavits; mutilation, destruction or loss of registry list or affidavits.** 1. Any person who wilfully loses, alters, destroys or mutilates the list of voters or registration poll ledgers in any election district, or a certified copy thereof, is guilty of a misdemeanor.

2. An applicant for registration who shall make, incorporate or cause to be incorporated a material false statement in an application for registration, or in any challenge or other affidavit required for or made or filed in connection with registration or voting, and any person who knowingly takes a false oath before a board of inspectors of election, and any person who makes a material false statement in a medical certificate or an affidavit filed in connection with an application for registration, is guilty of a misdemeanor.

3. A person who shall wilfully suppress, mutilate or alter, or, except as authorized by this chapter, shall destroy, any signed challenge or other affidavit required for or made or filed in connection with registration or voting, and any person who, except as authorized by this chapter, shall remove such an affidavit from the place of registration or polling place, is guilty of a felony.

4. A person other than the applicant who, prior to the filing of the application, shall wilfully suppress, mutilate, materially alter, or, except as authorized by this chapter, destroy a signed application for registration by mail, is guilty of a misdemeanor.

**§ 17-110. Misdemeanors concerning police commissioners or officers or members of any police force.** Any person who, being a police commissioner or any officer or member of any police force in this state:

1. Uses or threatens or attempts to use his official power or authority, in any manner, directly or indirectly, in aid of or against any political party, organization, association or society, or to control, affect, influence, reward or punish, the political adherence, affiliation, action, expression or opinion of any citizen; or

2. Appoints, promotes, transfers, retires or punishes an officer or member of a police force, or asks for or aids in the promotion, transfer, retirement or punishment of an officer or member of a police force because of the party adherence or affiliation of such officer or member, or for or on the request, direct or indirect, of any political party, organization, association or society, or of any officer, member of a committee or representative official or otherwise of any political party, organization, association or society; or

3. Solicits, collects or receives any money for, any political fund, club, association, society or committee, is guilty of a misdemeanor.

**§ 17-112. Soliciting media support.** Any person who solicits from a candidate for an elective office money or other property as a condition or consideration for a supporting article, report or

advertisement in any publication or news media in favor of such candidate, is guilty of a misdemeanor.

**§ 17-114. Failure to furnish information; false information.** 1. Any person who knowingly harbors or conceals any person who falsely registered as a voter, or who shall rent any room or bed to any person to be used by such person for himself or any other person for the purpose of unlawfully registering or voting therefrom is guilty of a misdemeanor.

2. A keeper of a hotel, lodging-house, boarding-house or rooming-house, who neglects to give to an election officer requesting the same, a sworn list of persons residing in such hotel, lodging-house, boarding-house, dwelling or apartment, together with the other particulars or information in relation to such persons required to be given by or pursuant to this chapter, is guilty of a misdemeanor.

3. A keeper of a hotel, lodging-house, boarding-house, or rooming-house or the owner or lessee of a dwelling or apartment who makes a report or furnishes a list required by this chapter which knowingly and falsely states that a person has resided on the premises to which the report or list relates for a longer period than he has actually resided therein, or puts upon such a list or in such a report a name under which no person resides in said premises, is guilty of a felony.

**§ 17-116. Removal, mutilation or destruction of election booths, supplies, poll-lists or cards of instruction.** Any person who:

1. During the election, wilfully defaces or injures a voting booth or compartment, or wilfully removes or destroys any of the supplies or other conveniences placed in the voting booths or compartments in pursuance of law; or,

2. Before the closing of the polls, wilfully defaces or destroys any list of candidates to be voted for such an election posted in accordance with the election law; or,

3. During an election, wilfully removes or defaces the cards for the instruction of voters, posted in accordance with this chapter, is guilty of a misdemeanor.

**§ 17-118. Refusal to permit employees to attend election.** A person or corporation who refuses an employee entitled to vote at an election the privilege of attending thereat, as provided by the election law, or subjects such employee to a penalty or reduction of wages because of the exercise of such privilege, is guilty of a misdemeanor.

**§ 17-120. Misconduct in relation to certificate of nomination and official ballot.** A person who:

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1. Falsely makes or makes oath to, or fraudulently defaces or destroys a certificate of nomination or any part thereof; or,

2. Files or receives for filing a certificate of nomination, knowing that any part thereof was falsely made; or,

3. Suppresses a certificate of nomination which has been duly filed, or any part thereof; or,

4. Forges or falsely makes the official indorsement of any ballot; or,

5. Having charge of official ballots, destroys, conceals or suppresses them, except as provided by the law, is guilty of a felony.

§ 17-122. **Misconduct in relation to petitions.** Any person who:

1. Pays, lends, contributes or promises to pay, lend or contribute any money or other valuable consideration to or for any voter, or to or for any other person, to induce such voter to sign a petition for the designation of a candidate for party nomination or for election to a party position to be voted for at a primary election, or to induce such voter to sign a petition for opportunity to ballot at a primary election or to induce such voter to sign an independent nominating petition for public office; or

2. Gives, offers or promises any office, place or employment, or promises to procure or endeavor to procure any office, place or employment to or for any voter, or to or for any other person, in order to induce such voter to sign a petition for the designation of a candidate for party nomination or for election to a party position to be voted for at a primary election, or to induce such voter to sign a petition for opportunity to ballot at a primary election or to induce such voter to sign an independent nominating petition for public office; or

3. Receives, agrees or contracts for any money, gift, loan or other valuable consideration, office, place or employment for himself or any other person, for signing a petition for the designation of a candidate for party nomination or for election to a party position to be voted for at a primary election, or for signing a petition for opportunity to ballot at a primary election or for signing an independent nominating petition for public office; or

4. Pays or agrees to pay money or other valuable consideration, to any person for his services in canvassing for or otherwise procuring the signatures of voters to a petition for the designation of a candidate or candidates for party nomination or for election to a party position to be voted for at a primary election, or to a petition for opportunity to ballot at a primary election, or to an independent nominating petition for public office, upon the basis of the number of names to such petition procured by such person, or at a fixed amount per name; or,

5. Represents to any person as an inducement for signing a petition for the designation of a candidate for party nomination or for election to a party position to be voted for at a primary election, or for signing a petition for opportunity to ballot at a primary election, or for signing an independent nominating petition for public office, that the person soliciting such signature is to be compensated upon the basis of the number of names procured by such a person, or at a fixed amount per name; or

6. Being a signer of a petition, provided for in the election law, for the designation or nomination of a candidate, or a petition for opportunity to ballot at a primary election, thereby makes a false statement or makes a false affidavit thereon, or a false statement to the witness who authenticates the petition; or

7. Being a subscribing witness to a petition, provided for in the election law, for the designation or nomination of a candidate, or a petition for opportunity to ballot at a primary election, thereby makes a false statement or makes a false affidavit thereon; or

8. Alters a petition, provided for in the election law, for the designation or nomination of a candidate, or a petition for opportunity to ballot at a primary election, by inserting, adding or changing therein the name of a candidate, or the title or designation of an office or position by any means whatsoever, after such petition has been signed by one or more persons, is guilty of a misdemeanor.

§ 17-124. **Failure to deliver official ballots.** Any person who has undertaken to deliver official ballots to any city, town or village clerk, or inspector as authorized by this chapter, and neglects or refuses to do so, is guilty of a misdemeanor.

§ 17-126. **Misconduct of election officers.** Any election officer who:

1. Reveals to another person the name of any candidate for whom a voter has voted;

2. Communicates to another person his opinion, belief or impression as to how or for whom a voter has voted; or,

3. Places a mark upon a ballot, or does any other act by which one ballot can be distinguished from another or can be identified; or,

4. Before the closing of the polls, unfolds a ballot that a voter has prepared for voting, is guilty of a misdemeanor.

§ 17-128. **Violations of election law by public officer or employee.** A public officer or employee who knowingly and wilfully omits, refuses or neglects to perform any act required of him by this chapter or who knowingly and wilfully refuses to permit the doing of any act authorized by this chapter or who knowingly and wilfully hinders or delays or attempts to hinder or delay the

performance of such an act is, if not otherwise provided by law, guilty of a felony.

§ 17-130. **Misdemeanor in relation to elections.** Any person who:

1. Acts as an inspector of election or as a clerk at an election, without being able to read or write the English language, or without being otherwise qualified to hold such office; or,

2. Being an inspector of election, knowingly and wilfully permits or suffers any person to vote who is not entitled to vote thereat; or

3. Wilfully and unlawfully obstructs, hinders or delays, or aids or assists in obstructing or delaying any elector on his way to a registration or polling place, or while he is attempting to register or vote; or,

4. Electioneers on election day or on days of registration within one hundred feet, as defined herein, from a polling place. Said prohibition shall not apply to a building or room that has been maintained for political purposes at least six months prior to said election or registration days, except that no political displays, placards or posters shall be exhibited therefrom. For the purposes of this section, the one hundred feet distance shall be deemed to include a one hundred foot radial measured from the entrances, designated by the inspectors of elections, to a building where the election or registration is being held.

5. Removes any official ballot from a polling place before the closing of the polls; or,

6. Unlawfully goes within the guard-rail of any polling place or unlawfully remains within such guard-rail after having been commanded to remove therefrom by any inspector of election; or,

7. Enters a voting booth with any voter or remains in a voting booth while it is occupied by any voter, or opens the door of a voting booth when the same is occupied by a voter, with the intent to watch such a voter while engaged in the preparation of his ballot, except as authorized by this chapter; or,

8. Being or claiming to be a voter, permits any other person to be in a voting booth with him while engaged in the preparation of his ballot, except as authorized by this chapter, without openly protesting against and asking that such person be ejected; or,

9. Having lawfully entered a voting booth with a voter, requests, persuades or induces such voter to vote any particular ballot or for any particular candidate, or makes or keeps any memorandum of anything occurring within the booth, or directly or indirectly, reveals to another the name of any candidate voted for by such voter; or,



10. Shows his ballot after it is prepared for voting, to any person so as to reveal the contents, or solicits a voter to show the same; or,

11. Places any mark upon his ballot, or does any other act in connection with his ballot with the intent that it may be identified as the one voted by him; or,

12. Places any mark upon, or does any other act in connection with a ballot or paster ballot, with the intent that it may afterwards be identified as having been voted by any particular person; or,

13. Receives an official ballot from any person other than one of the clerks or inspectors having charge of the ballots; or,

14. Not being an inspector of election or clerk, delivers an official ballot to a voter; or,

15. Not being an inspector of election, receives from any voter a ballot prepared for voting; or,

16. Fails to return to the inspectors of election, before leaving the polling place or going outside the guard-rail, each ballot not voted by him; or,

17. Wilfully defaces, injures, mutilates, destroys or secretes any voting machine which belongs to any municipality or board of elections for use at elections, and any person who commits or attempts to commit a fraud in the use of any such voting machine during election; or,

18. Not being lawfully authorized, makes or has in his possession a key to a voting machine which has been adopted and will be used in elections; or,

19. Not being an inspector or clerk of election, handles a voted or unvoted ballot or stub thereof, during the canvass of votes at an election; or,

20. Intentionally opens an absentee voter's envelope or examines the contents thereof after the receipt of the envelope by the board of elections and before the close of the polls at the election; or,

21. Wilfully disobeys any lawful command of the board of inspectors, or any member thereof; or,

22. Induces or attempts to induce any poll clerk, election inspector, election coordinator, or officer, clerk or employee of the board of elections discharging any duty or performing any act required or made necessary by the election law, to do any act in violation of his duty or in violation of the election law; or,

23. Not having been appointed or named an inspector of elections or clerk and not having taken the oath for such office shall wear or display any button, badge or emblem identifying or purporting to identify such person as an inspector of election or clerk, is guilty of a misdemeanor.

§ 17-132. **Illegal voting.** Any person who:

Art. 17 VIOLATIONS OF THE ELECTIVE FRANCHISE § 17-136

1. Knowingly votes or offers or attempts to vote at any election, when not qualified; or,

2. Procures, aids, assists, counsels or advises any person to go or come into any election district, for the purpose of voting at any election, knowing that such person is not qualified; or,

3. Votes or offers or attempts to vote at an election, more than once; or votes or offers or attempts to vote at an election under any other name than his own; or votes or offers or attempts to vote at an election, in an election district or from a place where he does not reside; or,

4. Procures, aids, assists, commands or advises another to vote or offer or attempt to vote at an election, knowing that such person is not qualified to vote thereat; or,

5. Prompts a person, applying to vote, to falsely answer questions put to him by the inspectors concerning his identity or qualifications for voting; or,

6. Being an applicant for an absentee voter's ballot, makes a material false statement in his application, or a person who makes a material false statement in a medical certificate or an affidavit filed in connection with an application for an absentee voter's ballot; or,

7. Not being a qualified absentee voter, and having knowledge or being chargeable with knowledge of that fact, votes or attempts to vote as an absentee voter; or,

8. Fraudulently signs the name of another upon an absentee voter's envelope or aids in doing or attempting to do a fraudulent act in connection with an absentee vote cast or attempted to be cast; or,

9. Falsely pretends or represents to the inspectors of election or any of them that he is incapacitated to mark his ballot, for the purpose of obtaining assistance in voting under the provisions of this chapter, is guilty of a felony.

Any offer or attempt under this section shall be deemed to be the doing of any act made necessary by this chapter preliminary to the delivery of a ballot to an elector or the deposit of the ballot in the ballot box or his admission to the booth or voting machine enclosure.

§ 17-134. **Unlawful use of pasters.** An election officer or other person who uses a paster upon an official ballot, at any election, except as authorized and in the manner provided by this chapter, is guilty of a felony.

§ 17-136. **False returns; unlawful acts respecting returns.** An inspector or clerk of an election who intentionally makes, or attempts to make, a false canvass of the ballots cast thereat, or any false statement of the result of a canvass, though

not signed by a majority of the inspectors, or any person who induces or attempts to induce any such inspector or clerk to do so, is guilty of a felony.

§ 17-140. **Furnishing money or entertainment to induce attendance at polls.** Any person who directly or indirectly by himself or through any other person in connection with or in respect of any election during the hours of voting on a day of a general, special or primary election[,] gives or provides, or causes to be given or provided, or shall pay [for], wholly or in part, for any meat, drink, tobacco, refreshment or provision[,] to or for any person, other than persons who are official representatives of the board of elections or political parties and committees and persons who are engaged as watchers, party representatives or workers assisting the candidate, *except any such meat, drink, tobacco, refreshment or provision having a retail value of less than one dollar, which is given or provided to any person in a polling place without any identification of the person or entity supplying such provisions,* is guilty of a Class A misdemeanor.

[Subd. 2. REPEALED by chap. 154, Laws of 1985.]

[Section amended by chap. 414, Laws of 1992.]

§ 17-142. **Giving consideration for franchise.** Except as allowed by law, any person who directly or indirectly, by himself or through any other person:

1. Pays, lends or contributes, or offers or promises to pay, lend or contribute any money or other valuable consideration to or for any voter, or to or for any other person, to induce such voter or other person to vote or refrain from voting at any election, or to induce any voter or other person to vote or refrain from voting at such election for any particular person or persons, or for or against any particular proposition submitted to voters, or to induce such voter to come to the polls or remain away from the polls at such election or to induce such voter or other person to place or cause to be placed or refrain from placing or causing to be placed his name upon a registration poll record or on account of such voter or other person having voted or refrained from voting for or against any particular person or for or against any proposition submitted to voters, or having come to the polls or remained away from the polls at such election, or having placed or caused to be placed or refrained from placing or causing to be placed his or any other name upon the registry of voters; or,

2. Gives, offers or promises any office, place or employment, or promises to procure or endeavor to procure any office, place or employment to or for any voter, or to or for any other person, in order to induce such voter or other person to vote or refrain from voting at any election, or to induce any voter or other person to

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[Matter in *italics* is new.]

vote or refrain from voting at such election, for or against any particular person or for or against any proposition submitted to voters, or to induce any voter or other person to place or cause to be placed or refrain from placing or causing to be placed his or any other name upon a registration poll record; or,

3. Gives, offers or promises any office, place, employment or valuable thing as an inducement for any voter or other person to procure or aid in procuring either a large or a small vote, plurality or majority at any election district or other political division of the state, for a candidate or candidates to be voted for at an election; or to cause a larger or smaller vote, plurality or majority to be cast or given for any candidate or candidates in one such district or political division than in another; or,

4. Makes any gift, loan, promise, offer, procurement or agreement as aforesaid to, for or with any person to induce such person to procure or endeavor to procure the election of any person or the vote of any voter at any election; or,

5. Procures or engages or promises or endeavors to procure, in consequence of any such gift, loan, offer, promise, procurement, or agreement the election of any person, or the vote of any voter, at such election; or,

6. Advances or pays or causes to be paid, any money or other valuable thing, to or for the use of any other person with the intent that the same, or any part thereof, shall be used in bribery at any election, or knowingly pays or causes to be paid any money or other valuable thing to any person in discharge or repayment of any money, wholly or in part expended in bribery at any election, is guilty of a felony.

§ 17-144. **Receiving consideration for franchise.** Except as allowed by law, any person who directly or indirectly, by himself or through any other person:

1. Receives, agrees or contracts for, before or during an election, any money, gift, loan or other valuable consideration, office place or employment for himself or any other person, for voting or agreeing to vote, or for coming or agreeing to come to the polls, or for remaining away or agreeing to remain away from the polls, or for refraining or agreeing to refrain from registering as a voter, or for refraining or agreeing to refrain from voting, or for voting or agreeing to vote, or for refraining or agreeing to refrain from voting for or against any particular person or persons at any election, or for or against any proposition submitted to voters at such election; or,

2. Receives any money or other valuable thing during or after an election on account of himself or any other person having voted or refrained from voting at such an election; or having registered or refrained from registering as a voter, or on account of himself or any other person having voted or refrained from voting for or

against any particular person at such election, or for or against any proposition submitted to voters at such election, or on account of himself or any other person having come to the polls or remained away from the polls at such election, or having registered or refrained from registering as a voter, or on account of having induced any other person to vote or refrain from voting for or against any particular person at such election, or for or against any proposition submitted to voters at such election, is guilty of a felony.

**§ 17-146. Offender a competent witness; witnesses' immunity.** 1. A person offending against any section of this article is a competent witness against another person so offending and may be compelled to attend and testify on any trial, hearing or proceeding or investigation in the same manner as any other person.

2. In any criminal proceeding before a court or grand jury for a violation of any of the provisions of this article, the court or grand jury may confer immunity in accordance with the code of criminal procedure.

**§ 17-148. Bribery or intimidation of elector in military service of United States.** Any person who, directly or indirectly, by bribery, menace or any other corrupt means, controls, or attempts to control an elector of this state enlisted in the military service of the United States, in the exercise of his rights under the election law, or annoys, injures or punishes him for the manner in which he exercises such right, is guilty of a misdemeanor.

**§ 17-150. Duress and intimidation of voters.** Any person or corporation who directly or indirectly:

1. Uses or threatens to use any force, violence or restraint, or inflicts or threatens to inflict any injury, damage, harm or loss, or in any other manner practices intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting for or against any particular person or for or against any proposition submitted to voters at such election, or to place or cause to be placed or refrain from placing or causing to be placed his name upon a registry of voters, or on account of such person having voted or refrained from voting at such election, or having voted or refrained from voting for or against any particular person or persons, or for or against any proposition submitted to voters at such election, or having registered or refrained from registering as a voter; or,

2. By abduction, duress or any forcible or fraudulent device or contrivance whatever impedes, prevents or otherwise interferes with the free exercise of the elective franchise by any voter, or compels, induces or prevails upon any voter to give or refrain

from giving his vote for or against any particular person at any election; or,

3. Being an employer pays his employees the salary or wages due to "pay envelopes," in which there is enclosed or upon which there is written or printed political motto, device or argument containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employees, or within ninety days of a general election puts or otherwise exhibits in the establishment or place where his employees are engaged in labor, any handbill or placard containing any threat, notice or information, that if any particular ticket or candidate is elected or defeated, work in his place or establishment will cease, in whole or in part, his establishment will be closed up, or the wages of his employees reduced, or other threats, express or implied, intended or calculated to influence the political opinions or actions of his employees, is guilty of a misdemeanor, and, if a corporation, shall in addition forfeit its charter.

**§ 17-152. Conspiracy to promote or prevent election.** Any two or more persons who conspire to promote or prevent the election of any person to a public office by unlawful means and which conspiracy is acted upon by one or more of the parties thereto, shall be guilty of a misdemeanor.

**§ 17-154. Pernicious political activities.** It shall be unlawful for any person to: 1. Intimidate, threaten or coerce, or to attempt to intimidate, threaten or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or for the purpose of causing such other person to vote for, or not vote for, any candidate for the office of governor, lieutenant-governor, attorney-general, comptroller, judge of any court, member of the senate, or member of the assembly at any election held solely or in part for the purpose of selecting a governor, lieutenant-governor, attorney-general, comptroller, any judge or any member of the senate or any member of the assembly; or,

2. Directly or indirectly, promise any employment, position, work, compensation, or other benefit, provided for or made possible in whole or in part by any act of congress or of the legislature appropriating funds for work relief or relief purposes, to any person as consideration, favor or reward for any political activity or for the support of or opposition to any candidate or any political party in any nominating convention or in any election; or,

3. Deprive, attempt to deprive or threaten to deprive, by any means, any person of any employment, position, work, compensation or other benefit provided for or made possible in whole or in part by any act of congress or of the legislature appropriating funds for the work relief or relief purposes, on account of any

political activity or on account of support for or opposition to any candidate or any political party in any nominating convention or election; or,

4. Solicit or receive or be in any manner concerned in soliciting or receiving any assessment, subscription or contribution for any political purpose whatever from any person known by him to be entitled to or receiving compensation, employment or other benefit provided for or made possible by any act of congress or of the legislature appropriating, or authorizing the appropriation of, funds for work relief or relief purposes; or,

5. Furnish or to disclose, or to aid or assist in furnishing or disclosing, any list or names of persons receiving compensation, employment or benefits provided for or made possible by any act of congress or of the legislature appropriating or authorizing the appropriation of, funds for work relief or relief purposes, to a political candidate, committee, campaign manager, or to any person for delivery to a political candidate, committee or campaign manager, and it shall be unlawful for any person to receive any such list or names for political purposes.

No part of any appropriation made by any act of congress or of the legislature, heretofore or hereafter enacted, making appropriations for work relief, relief, or otherwise to increase employment by providing loans and grants for public works projects, shall be used, and no authority conferred by any such act upon any person shall be exercised or administered, for the purpose of interfering with, restraining or coercing any individual in the exercise of his right to vote and to vote as he may choose at any election.

Any person who violates any of the foregoing provisions of this section shall be guilty of a misdemeanor.

§ 17-156. **Political assessments.** Any officer or employee of the state, or of a political subdivision thereof who, directly or indirectly uses his authority or official influence to compel or induce any other officer or employee of the state or a political subdivision thereof, to pay or promise to pay any political assessment shall be guilty of a class A misdemeanor. Nothing herein shall be deemed to prohibit an officer or employee of the state or political subdivision thereof from making a voluntary contribution to a candidate or political committee.

§ 17-158. **Corrupt use of position or authority.** Any person who:

1. While holding public office, or being nominated or seeking a nomination therefor, corruptly uses or promises to use, directly, or indirectly, any official authority or influence possessed or anticipated, in the way of conferring upon any person, or in order to secure, or aid any person in securing, any office or public employment, or any nomination, confirmation, promotion or in-

crease of salary, upon consideration that the vote or political influence or action of the person so to be benefited or of any other person, shall be given or used in behalf of any candidate, officer or party or upon any other corrupt condition or consideration; or,

2. Being a public officer or employee of the state or a political subdivision having, or claiming to have, any authority or influence affecting the nomination, public employment, confirmation, promotion, removal or increase or decrease of salary of any public officer or employee, promises or threatens to use, any such authority or influence, directly or indirectly to affect the vote or political action of any such public officer or employee, or on account of the vote or political action of such officer or employee; or,

3. Makes, tenders or offers to procure, or cause any nomination or appointment for any public office or place, or accepts or requests any such nomination or appointment, upon the payment or contribution of any valuable consideration, or upon an understanding or promise thereof; or,

4. Makes any gift, promise or contribution to any person, upon the condition or consideration of receiving an appointment or election to a public office or a position of public employment, or for receiving or retaining any such office or position, or promotion, privilege, increase of salary or compensation therein, or exemption from removal or discharge therefrom, is guilty of a felony.

**§ 17-160. Procuring fraudulent documents in order to vote.** 1. Any person who knowingly and wilfully procures from any court, judge, clerk or other officer, any document with intent to enable himself or any other person to register for or vote at any election when he or such other person is not entitled to exercise the elective franchise; or

2. Any person who knowingly and wilfully presents to any election officer for the purpose of having himself or any other person placed upon any list or registry of voters or for the purpose of enabling himself or any other person to vote at any election, any false document, is guilty of a felony.

**§ 17-162. Judicial candidates not to contribute.** No candidate for a judicial office shall, directly or indirectly, make any contribution of money or other thing of value, nor shall any contribution be solicited of him; but a candidate for a judicial office may make such legal expenditures, other than contributions, authorized by this chapter.

**§ 17-164. Political contributions by owners of polling places prohibited.** A person, who being the owner of premises contracted for or used as a place of registration or as a polling place for any election or official primary, who makes offers or



promises to make a political contribution to any party committee, candidate or person, or any person who makes, promises or offers to make any such political contribution as an inducement for the hiring of premises owned by him for use as a place of registration or polling place for any election or official primary, shall be guilty of a misdemeanor.

§ 17-166. **Penalty.** Any person convicted of a misdemeanor under this article shall for a first offense be punished by imprisonment for not more than one year, or by a fine of not less than one hundred dollars nor more than five hundred dollars, or by both such fine and imprisonment. Any person who, having been convicted of a misdemeanor under this article, shall thereafter be convicted of another misdemeanor under this article, shall be guilty of a felony.

§ 17-168. **Crimes against the elective franchise not otherwise provided for.** Any person who knowingly and wilfully violates any provision of this chapter, which violation is not specifically covered by any of the previous sections of this article, is guilty of a misdemeanor.

§ 17-170. **Destroying or delaying election returns.** A messenger appointed by authority of law to receive and carry a report, certificate or certified copy of any statement relating to the result of any election, who wilfully mutilates, tears, defaces, obliterates or destroys the same, or does any other act which prevents the delivery of it as required by law; and a person who takes away from such messenger any such report, certificate or certified copy, with intent to prevent its delivery, or who wilfully does any injury or other act in this section specified, is guilty of a felony.

## UNCONSOLIDATED SECTION

### UNCONSOLIDATED SECTIONS

#### § 6. Laws repealed.

Chapter one hundred of the laws of nineteen hundred forty-nine, entitled "An act in relation to the elections, constituting chapter seventeen of the consolidated law," and all acts amendatory thereof and supplemental thereto, are hereby repealed, except as follows:

a. Nothing contained in this act shall effect or impair any act done or right accruing, accrued or acquired, or any penalty, forfeiture of punishment incurred prior to the time when this act shall take effect, under or by virtue of the provision or provisions of the election law, as in force immediately prior to the time this act shall take effect, but the same may be asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if this act shall not have taken effect.

b. An act of the legislature of the year nineteen hundred seventy-six and nineteen hundred seventy-seven which, in form, amends or repeals or purports to amend or repeal any provision or provisions of the election law, as in force immediately prior to the time this act shall take effect, shall be deemed and construed as an amendment or repeal, as the case may be, of the corresponding provision or provisions of such law, as renumbered, modified or amended by this act, irrespective of whether such provision or provisions is or are contained in one or more than one title, article, section, subdivision or other part thereof and such corresponding provision or provisions shall be deemed and construed to be amended, modified, changed or repealed as though the same had been expressed and in terms so amended or repealed.

c. An act of the legislature of the year nineteen hundred seventy-six and nineteen hundred seventy-seven which adds or purports to add a new article, section, subdivision or other provision of law to the election law, as in force immediately prior to the time this act shall take effect, shall be deemed and construed as having been added to such law, as amended by this act, and shall be given full effect according to its context as if the same had been added expressly and in terms to such law, as amended by this act, and shall be deemed and construed to have been inserted in such law, as amended by this act, in the appropriate respective position in regard to and as modifying the effect of the corresponding provision or provisions of such law, as amended by this act.

d. Reference in any act of the legislature of the year nineteen hundred seventy-six and nineteen hundred seventy-seven to an existing article, section, subdivision or other provision of the election law, as in force immediately prior to the time this act shall take effect, shall be deemed and construed to refer to the corresponding article, section, subdivision or other provision of such law, as renumbered, modified or amended by this act.

## THE ELECTION LAW

e. Reference in any general, special or local law, rule, regulation or public document to any provision or provisions of the election law, as in force immediately prior to the time this act shall take effect, shall be deemed to be and construed as a reference to the corresponding provision or provisions of such law, as renumbered, modified or amended by this act, irrespective of whether such provision or provisions is or are contained in one or more than one title, article, section, subdivision or other part thereof.

§ 7. Saving clause and miscellaneous provisions. Commissioners of the state and county boards of elections and directors of the division of servicemen's voting in office when this chapter takes effect shall continue in office for the term for which they were appointed, unless sooner removed. Where, by this chapter, the salaries of commissioners of election are to be fixed by the county legislative body, such commissioners shall receive their present salaries until otherwise provided by such board. The positions of subordinates in the offices of boards or commissioners of elections and their compensation shall continue until changed pursuant to law. Inspectors, clerks and other election officers shall continue in office for the terms for which they were appointed, unless sooner removed. Election districts, as now constituted, shall continue until changed pursuant to this chapter.

§ 8. Effect of unconstitutionality in part. If any clause, sentence, paragraph, subdivision, section, article, part or portion of this chapter heretofore, herewith, or hereafter enacted, or any application thereof, shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall not otherwise affect, impair, or invalidate the remainder thereof, or any other clause, sentence, paragraph, subdivision, section, article, part, or portion of this chapter, but shall be construed to affect only such clause, sentence, paragraph, subdivision, section, article, part, or portion thereof, directly involved in the controversy in which such order, decree or judgment shall have been rendered.

§ 9. When to take effect. This act shall take effect on the first day of December, nineteen hundred seventy-seven.

## SUFFRAGE

### NEW YORK STATE CONSTITUTION

#### APPENDIX A

#### The Provisions on Suffrage of New York's Present Constitution

##### ARTICLE I.

###### *Bill of Rights*

Section 1. [*Rights, privileges and franchise secured; uncontested primary elections.*]—No member of this state shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers, except that the legislature may provide that there shall be no primary election held to nominate candidates for public office or to elect persons to party positions for any political party or parties in any unit of representation of the state from which such candidates or persons are nominated or elected wherever there is no contest or contests for such nominations or election as may be prescribed by general law.

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##### ARTICLE II.

###### *Suffrage*

Section 1. [*Qualifications of voters.*]—Every citizen shall be entitled to vote at every election for all officers elected by the people and upon all questions submitted to the vote of the people provided that such citizen is twenty-one years of age or over and shall have been a resident of this state, and the county, city, or village for three months next preceding an election.

Notwithstanding the foregoing provisions, after January first, one thousand nine hundred twenty-two, no person shall become entitled to vote by attaining majority, by naturalization or otherwise, unless such person is also able, except for physical disability, to read and write English.

§ 2. [*Absentee voting.*]—The legislature may, by general law, provide a manner in which, and the time and place at which, qualified voters who, on the occurrence of any election, may be absent from the county of their residence or, if residents of the city of New York, from the city, and qualified voters who, on the occurrence of any election, may be unable to appear personally at the polling place because of illness or physical disability, may vote and for the return and canvass of their votes.

§ 3. [*Persons excluded from the right of suffrage.*]—No person who shall receive, accept, or offer to receive, or pay, offer or

## THE ELECTION LAW

promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or withholding any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election; and upon challenge for such cause, the person so challenged, before the officers authorized for that purpose shall receive his vote, shall swear or affirm before such officers that he has not received or offered, does not expect to receive, has not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote of such election, and has not made any promise to influence the giving or withholding of any such vote, nor made or become directly or indirectly interested in any bet or wager depending upon the result of such election. The legislature shall enact laws excluding from the right of suffrage all persons convicted of bribery or of any infamous crime.

§ 4. [*Certain occupations and conditions not to affect residence.*].—For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor while engaged in the navigation of the waters of this state, or of the United States, or the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse, or other asylum, or institution wholly or partly supported at public expense or by charity; nor while confined in any public prison.

§ 5. [*Registration and election laws to be passed.*].—Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established, and for the registration of voters; which registration shall be completed at least ten days before each election. Such registration shall not be required for town and village elections except by express provision of law. In cities and villages having five thousand inhabitants or more, voters shall be registered upon personal application only; but voters not residing in such cities or villages shall not be required to apply in person for registration at the first meeting of the officers having charge of the registry of voters; however, voters who are in the actual military service of the United States, in the army, navy, air force or any branch thereof, or in the coast guard, or inmates of a veterans' bureau hospital and voters who are unable to appear personally for registration because of illness or physical disability or because their duties, occupation or business require them to be outside the counties of their residence or, in the case of residents of the city of New York, their duties, occupation or business require them to be in a county outside such city; and a spouse, parent or child of such a voter in the actual

## SUFFRAGE

military service or of such an inmate or of such a voter unable to appear personally for registration, accompanying or being with him or her, if a qualified voter and a resident of the same election district, and if outside the county of such election district, shall not be required to register personally. The number of such inhabitants shall be determined according to the latest census or enumeration, federal or state, showing the population of the city or village, except that the federal census shall be controlling unless such state enumeration, if any, shall have been taken and returned two or more years after the return of the preceding federal census.

§ 6. [*Permanent registration.*].—The legislature may provide by law for a system or systems of registration whereby upon personal application a voter may be registered and his registration continued so long as he shall remain qualified to vote from the same address, or for such shorter period as the legislature may prescribe.

§ 7. [*Manner of voting; identification of voters.*].—All elections by the citizens, except for such town officers as may by law be directed to be otherwise chosen, shall be by ballot, or by such other method as may be prescribed by law, provided that secrecy in voting be preserved. The legislature shall provide for identification of voters through their signatures in all cases where personal registration is required and shall also provide for the signatures, at the time of voting, of all persons voting in person by ballot or voting machine, whether or not they have registered in person, save only in cases of illiteracy or physical disability.

§ 8. [*Bi-partisan registration and election boards.*].—All laws creating, regulating or affecting boards or officers charged with the duty of registering voters, or of distributing ballots to voters, or of receiving, recording or counting votes at elections, shall secure equal representation of the two political parties which, at the general election next preceding that for which such boards or officers are to serve, cast the highest and the next highest number of votes. All such boards and officers shall be appointed or elected in such manner, and upon the nomination of such representatives of said parties respectively, as the legislature may direct. Existing laws on this subject shall continue until the legislature shall otherwise provide. This section shall not apply to town, or village elections.

§ 9. [*Presidential elections; special voting procedures authorized.*].—Notwithstanding the residence requirements imposed by section one of this article, the legislature may, by general law, provide special procedures whereby every person who shall have moved from another state to this state or from one county, city or village within this state to another county, city or village within this state and who shall have been an inhabitant of this state in any event for ninety days next preceding an election at which electors are to be chosen for the office of president and vice president of the United States shall be entitled to vote in this

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state solely for such electors, provided such person is otherwise qualified to vote in this state and is not able to qualify to vote for such electors in any other state. The legislature may also, by general law, prescribe special procedures whereby every person who is registered and would be qualified to vote in this state but for his removal from this state to another state within one year next preceding such election shall be entitled to vote in this state solely for such electors, provided such person is not able to qualify to vote for such electors in any other state.

THE ELECTION LAW

**RULES AND REGULATIONS**

of

**STATE BOARD OF ELECTIONS**

**In Effect August 1, 1978**

**TITLE 9 OF THE OFFICIAL COMPILATION  
OF CODES, RULES AND REGULATIONS  
OF THE STATE OF NEW YORK**

**SUBTITLE V**

**State Board of Elections**

**Part 6200**

**Filing Statements of Campaign Receipts  
and Expenditures**

§ 6200.1 Places for filing statements of campaign receipts and expenditures. The places for filing statements of campaign receipts and expenditures pursuant to Sections 14-102 and 14-104 of the Election Law shall be as follows:

(a) (1) The statements of a candidate for election to the office of presidential elector, Governor, Lieutenant Governor, Attorney General, Comptroller, member of the State Legislature, delegate to a constitutional convention, justice of the Supreme Court or for nomination for any such office at a primary election or convention, or for any party position to be voted for at a primary election by the voters of two or more counties or portions of two or more counties not wholly within the city of New York, with the State Board of Elections.

(2) The statements of a candidate for election to any other public office except a village office, or for nomination for any such office at a primary election or convention, or for any party position to be voted for at a primary election solely by the voters within a single county or within the City of New York, with the board of elections of the city or county whose voters are to vote for such office or party position.

(3) The statements of a candidate for election to a village office or for nomination for any such office at a primary election or convention, with the village clerk, except where a village has opted pursuant to Section 15-104(d) of the Election Law to have elections occur on the day of the general election and be conducted by the board of elections, then with the county board of elections.

(b) The statements of a treasurer of a political committee, with the State Board of Elections, except as follows:

(1) If the committee aided or took part solely in the election or defeat of a candidate for an office or party position set forth



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in paragraph (2) of subdivision (a) of this section with the appropriate board of elections.

(2) If the committee aided or took part solely in the election or defeat of a candidate for an office or party position set forth in paragraph (3) of subdivision (a) of this section with the village clerk.

(3) If the committee promoted the success or defeat of a proposition submitted to vote at a public election held within a single county, or the City of New York, with the appropriate board of elections.

(4) The treasurer of the county committee of a political party and the treasurer of a duly constituted subcommittee of a county committee shall file with the board of elections of such county, except that if the committee aids or takes part in the election or defeat of a candidate for an office or party position set forth in paragraph (1) of subdivision (a) of this section, a copy of the statements required to be filed pursuant to subdivision (a) of section 6200.2 of this title which include expenditures made for such candidate shall also be filed with the State Board of Elections.

(c) (1) The statements of a political committee, other than a county committee, which supports or opposes candidates for those offices enumerated in paragraph (1) of subdivision (a) of this section and, in addition supports or opposes candidates enumerated in paragraph (2) or paragraph (3) of subdivision (a) shall be filed with the State Board of Elections. Copies of the pre- and post-election statements thereof shall be filed with the appropriate local filing offices except that in those years in which such committee only supports or opposes candidates for offices set forth in either paragraph (2) or paragraph (3) of subdivision (a), such committee need only file pre- and post-election statements with the appropriate local filing offices.

(2) The periodic statement required to be filed with the State Board of Elections by such committee on the 15th day of January following a year in which such committee only supported candidates for county, city, town, or village offices shall have attached to it a copy of the summary section of the 27-day post-election statement filed by such committee with the local filing offices in such preceding year.

§ 6200.2 Time for filing statements of campaign receipts and expenditures. The statements of campaign receipts and expenditures required by Sections 14-102 and 14-104 of the Election Law shall be filed at the following times.

(a) On the 32nd and 11th day before, and on the 27th day next succeeding the election other than a primary election, or convention to which the statement relates; if there is a contested primary election, said statements shall be filed on the 32nd and 11th day before and the 10th day next succeeding such contested primary

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election. If it is necessary to hold a runoff primary, a statement shall be received on the fourth day preceding such runoff primary and on the 10th day next succeeding such runoff primary.

(b) In addition to the statements required to be filed pursuant to the provisions of subdivision (a) of this section, periodic statements shall be filed no later than the 15th day of January and July of each subsequent year until such time as the candidate or committee terminates activities. At such time, a final statement shall be filed particularizing campaign receipts and expenditures during the filing period. It shall also evidence a complete payment of all liabilities and the expenditure of all funds in the possession of the committee or candidate. The filing of said statement shall terminate the activities of the political committee or candidate.

(c) In addition to the statements required to be filed pursuant to the provisions of subdivisions (a) and (b) of this section, political committees shall file periodic statements no later than the 15th day of January and July of each year from the time the statement required by section 14-118 of the Election Law is filed.

(d) If, pursuant to subdivisions (a) and (b) of this section, a candidate or committee is required to file two statements within a period of five days, the information required to be included in each such statement may be combined in a single statement provided that the information contained in such single statement shall be segregated and identified as to the election to which it relates. Such combined statement shall be filed on the date on which the latter of the two separate statements would be required to be filed.

(e) A runoff primary shall not be construed to be a separate contested primary election for the purposes of this section.

(f) If a person or a political committee receives or expends funds to promote such person's candidacy for a particular office and the person fails to qualify for either the primary or general election ballot, statements of receipts and expenditures shall be required to be filed pursuant to subdivision (b) of this section.

(g) Contributions in excess of one thousand dollars received within fourteen days preceding an election which, pursuant to section 14-108(2) of the Election Law, are required to be reported within twenty-four hours of receipt. Such report shall include the name of the committee receiving such contribution, the name and residence address of the contributor, the dollar amount of the contribution and the date of the contribution. Such contributions may be reported by letter signed by the treasurer of the committee receiving the contributions or on standard campaign financial disclosure forms and may be transmitted to the proper filing officer by electronic transmission. All such contributions shall also be included on the statement required to be filed on the post-election filing next succeeding the election for which the contribution is intended.

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§ 6200.3 Filing of statements by candidates for party positions and political committees supporting such candidates.

(a) The provisions of Sections 14-104, 14-112(b) and 14-118(a) shall not apply to any candidate for member of a county committee or political party or any candidate for delegate or alternate delegate to a judicial district convention if the campaign expenditures made by or on behalf of such candidate do not exceed fifty dollars.

(b) Political committees supporting such candidates may, when filing statements required by Section 14-112 of the Election Law, list the titles of such party positions in lieu of the names of the supported candidates.

(c) When filing statements of campaign receipts and expenditures pursuant to Section 14-102, a political committee may, when allocating expenditures, combine as a single entry all expenditures made on behalf of candidates for such party positions for whom no more than fifty dollars has been expended.

§ 6200.4 Fund-raising events.

(a) Any candidate or political committee that charges or accepts monetary donations for admission to any fund-raising event at which food and beverages are provided, is not required to list as a candidate expenditure the cost of providing such food and beverages (including the expense of preparation and service) where any such cost is included within the charge or suggested donation for such admission; provided however, that the charge or donation for any such admission must exceed the cost of providing a person admitted with food and beverages.

(b) Notwithstanding the foregoing, any such cost of providing food and beverages shall be separately reported and itemized by any such candidate or political committee on his or its statement of campaign receipts and expenditures. Any other cost in relation to any such fund-raising event, including but not limited to, the cost of music, printing, premises or advertising must be listed and itemized in the same manner as any other candidate expenditure is reported.

§ 6200.5 Expenditures not exceeding \$50.00.

Expenditures made by any individual or political committee for or on behalf of the nomination or election of any candidate or candidates, or for or on behalf of any question to be submitted to vote at a public election, in an aggregate amount not exceeding \$50.00 during any calendar year shall not be deemed a "contribution other than of money", and any individual or political committee, by the fact of any such expenditures alone, shall not be required to comply with the provisions of Sections 14-102 and 14-118 of the Election Law.

§ 6200.6 Contribution other than of money.

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(a) The term "contribution other than of money" means:

(1) A gift, subscription, loan or advance of anything of value (other than money) made to or for any candidate or political committee; and

(2) The payment by any person other than a candidate or political committee of compensation for the personal services of another person which are rendered to any such candidate or committee without charge; and

(3) Provided however, that the term "contribution other than of money" shall not be construed to include personal services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee.

(b) In determining the monetary value to be placed on a "contribution other than of money" a reasonable estimate of fair market value shall be used. Each such contribution shall be declared as an expenditure at the same fair market value and reported on the expenditure schedule, identified as to its nature and listed as an "expenditure-in-kind".

### § 6200.7 Resignation of a Treasurer.

(a) Before any treasurer of any political committee may resign his position at a time when his committee has unexpended funds or unsatisfied liabilities, such treasurer must first deliver a copy of his written resignation as treasurer to both the committee's chairman and the applicable filing officer for the committee's statements as set forth in Section 6200.1. The effective date of the resignation shall be five (5) days after delivery to such filing officer unless the treasurer specifies a date later than five (5) days after delivery, in which case said date shall be the effective date. Within two (2) days after the effective date of his resignation, any such treasurer shall file a statement of receipts and expenditures with the appropriate filing officer, which statement shall include all transactions made by his committee from the date of the committee's last report up to and including the effective date of the treasurer's resignation.

(b) Upon the effective date of a resignation or upon the death of any treasurer of a political committee, no member of any such political committee or other person acting under its authority or in its behalf shall receive any money or other valuable thing or expend the same until the committee shall have chosen a new treasurer and the treasurer's name and address shall have been filed pursuant to Section 14-118 of the Election Law with the appropriate filing officer. For the purposes of this subdivision, the term political committee shall not include a party or constituted committee.

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Whenever a person or entity, such as a consultant acting on behalf of a political committee which supports or opposes candidates for any public office or party position or which supports or opposes any proposition, subcontracts for finished goods or services, the treasurer of the committee shall, in addition to reporting the expenditure made to such consultant or agent, report the name, address and amount expended to each person or entity providing such goods or services the cost of which exceeds, in the case of a committee supporting candidates for statewide office, \$10,000 and all other committees, \$5,000. The treasurer of any committee which makes such expenditures may, in lieu of providing such information on the statement which lists the expenditure, include the information on a separate schedule to be filed with the committee's 27-day post general election statement or if it relates to a primary election, with the 10-day post primary statement. In such case the schedule entry shall reference the statement in which the expenditure is listed.

### Part 6201

#### Fair Campaign Code

Section 6201.1 Fair Campaign Code. In order that all political campaigns be conducted under a climate promoting discussion of the issues and presentation of the records and policies of the various candidates, stimulating just debate with respect to the views and qualifications of the candidates and without inhibiting or interfering with the right of every qualified person and political party to full and equal participation in the electoral process, the following is hereby adopted by the New York State Board of Elections pursuant to Section 3-106 of the Election Law as the Fair Campaign Code for the State of New York.

No person, political party or committee during the course of any campaign for nomination or election to public office or party position shall, directly or indirectly, whether by means of payment of money or any other consideration, or by means of campaign literature, media advertisements or broadcasts, public speeches, press releases, writings or otherwise, engage in or commit any of the following:

(a) Practices of political espionage including, but not limited to, the theft of campaign materials or assets, placing one's own employee or agent in the campaign organization of another candidate, bribery of members of another's campaign staff, electronic or other methods of eavesdropping or wiretapping.

(b) Political practices involving subversion or undermining of political parties or the electoral process including, but not limited to, the preparation or distribution of any fraudulent, forged or falsely identified writing or the use of any employees or agents

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who falsely represent themselves as supporters of a candidate, political party or committee.

(c) Misrepresentation of the contents or results of a poll relating to any candidate's election; also, failure to disclose such information relating to a poll published or otherwise publicly disclosed by a candidate, political party or committee as required to be disclosed by rule or regulation of the New York State Board of Elections.

(d) Any acts intended to hinder or prevent any eligible person from registering to vote, enrolling to vote or voting.

### § 6201.2 Use of Public Opinion Polls.

No candidate, political party or committee shall attempt to promote the success or defeat of a candidate by directly or indirectly disclosing or causing to be disclosed the results of a poll relating to a candidate for such an office or position, unless within 48 hours after such disclosure, they provide the following information concerning the poll to the board or officer with whom statements or copies of statements of campaign receipts and expenditures are required to be filed by the candidate to whom such poll relates:

(a) The name of the person, party or organization that contracted for or who commissioned the poll and/or paid for it.

(b) The name and address of the organization that conducted the poll.

(c) The numerical size of the total poll sample, the geographic area covered by the poll and any special characteristics of the population included in the poll sample.

(d) The exact wording of the questions asked in the poll and the sequence of such questions.

(e) The method of polling—whether by personal interview, telephone, mail or other.

(f) The time period during which the poll was conducted.

(g) The number of persons in the poll sample; the number contacted who responded to each specific poll question; the number of persons contacted who did not so respond.

(h) The results of the poll.

### § 6201.3 Procedure in Fair Campaign Code Proceedings.

(a) Initiation of Proceeding.

(1) A proceeding under the Fair Campaign Code (hereinafter "Code") shall be commenced by the New York State Board of Elections when:

A. The Board receives a written complaint sworn to or affirmed, alleging the commission or omission of acts, in violation of the Code or

B. The Board, on its own initiative, undertakes an investigation of an alleged violation of the Code.

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(2) A complaint shall be filed by mailing to, or by personally serving, the Board of Elections at [One Commerce Plaza (99 Washington Ave.), Albany, NY 12260] Swan Street Building—Core 1, Empire State Plaza, Albany, NY 12223-0002.

### (b) Form of Complaint.

(1) A complaint shall, if possible, be based on personal knowledge and belief and be specific as to times, places and names of witnesses to the acts charged as violations of the Code. If a complaint is based upon information and belief, the complainant shall state that source of his information and belief. Copies of all documentary evidence available to the complainant shall be attached to the complaint.

(2) If a complaint is submitted by a person acting on behalf of a candidate, authorized or unauthorized political committee, party committee, or constituted committee, as those terms are defined in Section 14-100 of the Election Law, it shall so state. In any case of a complaint submitted by a person acting on behalf of a candidate, the candidate shall attach to the complaint a signed statement that he has read the complaint and has authorized it to be filed with the Board.

### (c) Answer.

(1) If after receipt and preliminary review of a complaint alleging a violation of the Code, or following commencement of an investigation initiated by the Board, where the Board determines a hearing shall be held, then the Board shall send notice, by certified mail, to any person, organization or committee (hereinafter "respondent") whose conduct is complained of or whose conduct is under investigation. Such notice shall specify when and where a hearing is to be held (such a hearing may not be held earlier than seven days from service of the notice of hearing, or on such earlier date, as the Board may for good cause require) and include a brief statement of the alleged Code violation, and where applicable, a copy of the complaint. If, following preliminary review, the Board determines that a complaint does not warrant further action, it shall promptly notify the complainant and provide him with the reasons for its determination.

(2) A respondent may file an answer, sworn to or affirmed (within seven days or such shorter period as the Board may for good cause require) after service upon him of the notice of hearing. Such an answer shall, if possible, be based on the personal knowledge and belief and be specific as to times, places, and names of witnesses to acts relevant to the complaint. Copies of all documentary evidence available to the respondent shall be annexed to the answer. If an answer is based on information and belief, the respondent shall state the source or sources of his information and belief. An answer shall be filed by certified mail or by personally serving the Board at [One Commerce Plaza (99 Washington Ave.),

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Albany, NY 12260] Swan Street Building—Core 1, Empire State Plaza, Albany, NY 12223-0002.

### (d) Hearing.

(1) A respondent shall appear for a hearing at the time and place fixed in the notice of hearing.

(2) In any proceeding, the Board may designate a hearing officer before whom sworn evidence may be taken.

(3) In any proceeding, either the Board or any hearing officer designated by it shall have all the powers necessary for the taking of evidence including, but not limited to, the power:

A. To fix the time or times when, and the place or places where, the evidence shall be taken;

B. To regulate the course of the hearing and the conduct of the parties and their counsel;

C. To administer oaths and affirmations;

D. To provide for the taking of testimony by deposition;

E. To consider and rule upon all objections to evidence and motions regarding the same and to receive any offers of proof; and

F. To issue subpoenas requiring the attendance of witnesses and/or the production of any materials at any hearing.

### (e) Hearing Procedure.

(1) In any hearing, parties shall have the right to representation by counsel, cross examination, presentation of evidence, objection and motion. Irrelevant or unduly repetitious evidence, however, may be excluded, and the rules of evidence need not apply, although the rules of privilege recognized by law shall be given effect.

(2) All hearings conducted by the Board or any hearing officer shall be in private, but the record of any such hearing may be publicly disclosed upon a majority vote of the Board. Any report or finding by the Board, however, shall be made public promptly after its issuance or determination.

(3) Disposition of any proceeding may be made by agreement of the parties involved with the Board's approval.

(f) Public Comment. During the pendency of any proceeding, no member of the Board or its staff shall comment publicly on the subject matter of the proceeding other than to acknowledge that a complaint has been received or any inquiry under way.

(g) Transcripts. A complete record shall be made of all testimony taken before the Board or a hearing officer. For this purpose, stenographic transcriptions or electronic recording devices may be used. A respondent may purchase a copy of the transcript or any part thereof. In addition, a witness shall be entitled to purchase a copy of that portion of the record containing his testimony.

### (h) Hearing Officer's Report.



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(1) If a hearing is conducted by a hearing officer, he shall, after considering the evidence and matters officially noted, make and file a report with the Board. Such report shall contain:

- A. Findings of fact; and
- B. Conclusions of law.

(2) Together with his report, the hearing officer shall file with the Board the entire record of the proceedings before him, including the transcript and any exhibits.

(i) Findings. Fines and Reports.

(1) Upon the conclusion of any hearing, or upon receipt of a hearing officer's report, the Board shall make a determination, based upon substantial evidence, whether the respondent has violated any provision of the Code.

(2) The Board may impose a fine up to and including \$1,000 upon each respondent for each and every separate violation of the Code.

(3) In addition to, or in lieu of any fine, the Board may issue a report setting forth its findings and determinations.

(j) Counsel.

(1) The Board may retain counsel to advise and assist it, or a hearing officer, in the conduct of any proceeding and the preparation of any documents. The name of any such counsel shall be placed upon the record at the outset of the hearings.

(2) The appearance of any party by attorney shall be noted by filing with the Board a statement signed by the party setting forth the name and address of the attorney.

(3) All papers to be served upon a party may be served personally or by certified mail on his attorney of record.

(k) Construction. This Section shall be liberally construed and shall not be deemed to limit the powers conferred on the New York State Board of Elections by statute.

### Part 6202

#### Examination and Copying of Records

##### Section 6202.0 Examination and copying of records.

(a) Applicability. The provisions of this Part shall be applicable to all records of the State Board of Elections available for public inspection and copying.

(b) List of Available Records. A current list of all Board records available for inspection and copying shall be maintained by the records access officer and such list shall be available for public inspection and copying.

(c) Location of Records. All available records shall be located at [One Commerce Plaza (99 Washington Ave.), Albany, NY 12260]

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Swan Street Building—Core 1, Empire State Plaza, Albany, NY 12223-0002.

(d) Hours of Inspection. Records may be inspected and copied each day the office is open to the public, commencing one-half hour after such office hours begin and terminating fifteen minutes before close of such hours.

(e) To Whom and Where Request Made. A request for a particular record shall be made to the Public Information Officer who shall be the Board's records access officer, or his designee.

(f) Form of Request and Identification. Where an applicant wishes to examine or copy an available record, he shall submit a written and signed request on a form to be provided by the Board. Within five business days of the receipt of the request, the records access officer of the Board shall make the requested records available, shall deny the request in writing or shall furnish a written acknowledgment of the receipt of such request and a statement of the approximate date when such request will be granted or denied. If within ten business days after the date of the acknowledgment of the receipt of the request for records, access to the requested records is neither granted nor denied, the request shall be deemed to be denied and the applicant shall have the right to appeal in accordance with the provisions of subdivision u of this regulation.

(g) Description of Record Required. A request for a record shall adequately specify or describe the record sought to be inspected or copied.

(h) Number of Records Permitted. The records access officer, or his designee, shall have the discretion to limit the number of records of any type or types an applicant may request and receive at any one time.

(i) Treatment of Records. No marks of any kind shall be made on any record provided for inspection.

(j) Area Restriction. Inspection or copying of records shall be permitted only in the area designated by the records access officer for such purpose.

(k) Duplicate Requests. If duplicate requests are received from applicants for a particular record, the applicant making the first request physically received by the Board shall first receive the record.

(l) Limitation of Examination Time. The records access officer or his designee may fix reasonable limitations on the time any applicant may have to examine any record.

(m) Temporary Unavailability of Records. Where a record is in use by the Board, or filing or intake procedures relating thereto have not been concluded, the filing of a request for such a record may be reasonably delayed until such a use or procedure is completed.

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(n) Return for Board Business. Whenever a record made available for inspection or copying is required for the business of the Board, the records access officer, or his designee, may require the return of the record. In such a case the applicant shall return the record upon demand.

(o) Provisions of Photostatic Copies. Photostatic copies of available records may be obtained from the Board by ordering same at a fee of \$.25 per page plus postage.

(p) Provisions for Use of Telephone Lines to Transmit Available Records. Any request for Board records to be transmitted over telephone lines shall be paid for at a fee of \$.65 per page.

(g) Provisions for Producing Data on Computer Printouts or Magnetic Media. The fee for producing any data on computer printouts or magnetic media shall be in an amount not to exceed the actual cost of reproduction.

(r) Mailing of Data on Computer Printouts or Magnetic Media. If the Board is requested to mail any computer tapes, computer discs or any other electronic recording, the cost of postage shall be in addition to the fee charged for the actual cost of production. Orders may be made by mail provided the requested computer printout or magnetic media is sufficiently identified.

(s) Release of Records. No records shall be released by the Board unless all fees and charges have been paid in advance.

(t) Individual Accounts. Any person, corporation, association or other entity which wishes to establish an account with the Board for the purpose of facilitating payment for requested records may request the Board to create such an account. Such account shall be created when the Board receives a certified check, bank check or money order made payable to the New York State Board of Elections. The minimum amount required to establish such an account is one hundred dollars (\$100). Such funds shall be placed in a special account with balances maintained for each individual account.

Each transmittal, mailing or receipt from the Board shall contain a statement of the charges for the transaction and the balance remaining in the account.

(u) Denial of Access. In the event a request for a record is denied on grounds other than that the Board does not maintain such a record or no such record is found, the applicant shall be provided with a form advising him of his right to appeal the denial of the application to the State Board of Elections. Such appeal shall be made to the New York State Board of Elections. The Board shall, within seven business days of the receipt of the appeal, fully explain in writing to the person requesting the record the reasons for denial, or provide access to the record sought.

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### Part 6203

#### Investigations

Section 6203.1 Administration of Oaths, Examination of Witnesses and Issuance of Subpoenas. For the purpose of conducting investigations pursuant to the authority vested in the State Board of Elections by Chapter 233 of the Laws of 1976:

(a) Any Commissioner of the State Board of Elections may designate in writing any Board employee to administer oaths or affirmations, examine witnesses in public or private hearings, receive evidence and preside at or conduct any such investigation, hearing or study;

(b) The counsel, special counsel, assistant counsel, deputy counsel, executive director and assistant executive director are hereby authorized to issue subpoenas in the name of the State Board of Elections to compel the attendance of any person before the Board or any employee designated pursuant to paragraph (a) hereof or to require the production of any books, records, documents or other evidence that the Board or any such employee may deem relevant to any investigation.

### Part 6204

#### Designating and Independent Nominating Petitions

Section 6204.1 Specification of objections to designating and independent nominating petitions.

(a) Any person filing general objections to any designating or independent nominating petition filed with the State Board of Elections who thereafter files specifications of his objections to any such petition with such board shall do so in accordance with the provisions of Section 6-154 of the Election Law. All such specifications shall substantially comply with the following requirements:

(1) The volume number, page number, and line number of any signature objected to on any petition shall be set forth in detail. In addition, any portion of any petition or any signature line or witness statement objected to shall be specifically identified and reasons given for any such objection;

(2) The total number of signatures objected to shall be set forth and all objections relating to a single signature line should be grouped together;

(3) Symbols and/or abbreviations may be used to set forth objections, provided that a sheet explaining the meaning of any such symbols and/or abbreviations is attached to the specifications.

(b) No specifications of objections to any petition will be considered by the Board unless the objector filing the specifications personally delivers or mails by registered or certified mail a du-

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uplicate copy of the specifications to each candidate for public office named on the petition. In the case of a petition containing candidates for party position, service of the specifications shall be made on either the named candidates or the first person named on the petition's committee to fill vacancies. Service shall be made on or before the date of filing of any specifications with the Board and proof of such service shall be filed with the Board prior to the time of the hearing on the specifications.

(c) Any notice and/or determination relating to a petition for which specifications of objections have been filed shall be transmitted by the Board to the objector filing the specifications, provided that any such objector may designate an attorney or agent to receive any such notice and/or determination on his behalf. Any such designation shall be in writing and include the name, address and telephone number of any such attorney or agent, and any such attorney and/or agent shall be eligible to represent any such objector in any proceeding conducted by the Board relating to the specifications.

### Part 6205

#### Actions and Proceedings

Section 6205.1 Verification of pleadings in a special proceeding. For the purposes of verifying a pleading in a special proceeding brought pursuant to the authority vested in the State and local Boards of Elections by Chapter 233 of the Laws of 1976, the following named persons may verify any pleading:

(a) any commissioner, or deputy commissioner of a board of elections;

(b) executive director or assistant executive director of a board of elections;

(c) the counsel, special counsel, associate counsel, assistant counsel or deputy counsel of a board of elections;

(d) any other employee of a board of elections who is familiar with the facts; and

(e) any other board employee specified in writing by a board of elections to verify pleadings.

### Part 6206

#### Designation of Polling Places

Section 6206.1 1. Access for the handicapped or elderly. Every city or town legislative body shall, when submitting to the county board of elections a list of polling places pursuant to section 4-104 of the Election Law, indicate those polling places having at least one entrance that provides access, by ramp or otherwise, to physically handicapped or elderly voters. The criteria to be used to

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determine if such entrance is accessible to the handicapped or elderly voter are as follows:

(a) the exterior walkways from the street or parking areas to such entrance to the polling place must be level or ramped;

(b) the entrance must be ramped or level;

(c) the doorways to the entrance to the polling place must have an opening at least 32 inches in width; and

(d) the passageways must be level or ramped and provide a clear and unobstructed path to the polling booth (such ramp or ramping as required in (a), (b) or (d) may be permanent or portable, and should not completely block existing stairs and railings and should, to the extent reasonably practicable, have a slope which is not greater than one foot of vertical rise for each twelve feet of horizontal length). Such bodies shall also submit at this time any petitions it may wish to make to the county board for a waiver pursuant to the provisions of subdivision 1-a of said section. The petition for a waiver, on a form prescribed by the State Board of Election, shall specify why the legislative body had determined that a selected polling place is unable to comply with the provisions of subdivision 1-a of said section and the criteria set forth above. The petition shall state whether or not there is another place within the election district which would comply with the above criteria. The county board shall review all such petitions filed with it and make its determination whether or not to approve a request for a waiver not later than the first day of June of each year.

2. Those boards which designate polling places shall comply with the provisions of such subdivision not later than the first day of June of each year.

3. Not later than the first day of July of each year each board of elections shall transmit to the State Board of Elections a report setting forth the following:

a) The total number of polling places in the county, or in the City of New York, the city, designated for registration and voting.

b) The total number of such polling places having at least one entrance that provides access, by ramp or otherwise, to physically handicapped or elderly voters.

c) The total number of such polling places for which the board has waived the requirements of subdivision 1-a of section 4-404 of the Election Law.

4. The board shall include with the report a copy of each petition for waiver submitted to the board, since the board's last report together with notice of the board's action regarding each petition. In the City of New York and in counties in which polling places are designated by the board of elections, the board shall include a copy of each written determination of its inability to comply with subdivision 1-a made since the board's last report.

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### Part 6207

#### Central File Registration Records

Any board of elections wishing to discontinue maintenance of its central file registration records pursuant to Section 5-504 of the Election Law may do so provided:

Section 6207.1 1. It maintains a complete computer record of all registered voters which shall include not less than each voter's name, complete address including town or city, apartment or room number, zip code, assembly district if election districts are grouped by assembly district, ward, election district, registration serial number, party enrollment, date of registration, sex and date of birth.

2. It has available, as a public record at the board of elections, at least one alphabetized list of all registered voters containing such information as is required pursuant to subdivision one of this section.

3. A complete list is printed not less than once per year following completion of the purge and is updated weekly by a reprinting of the complete list or by the printing of supplements showing additions or deletions to the master file occurring during the preceding week.

4. At least one copy of the computer tape is securely located in a building other than the one in which the offices of the board of elections are housed.

5. All original registration applications are retained.

6. It receives authorization from the State Board after submitting an application which shall provide sufficient information for the Board to determine that the county board has satisfied the requirements of subdivisions one through five of this section.

### Part 6208

#### Reapportionment Compliance Act

6208.1 Application for order. An application to the State Board of Elections or an order pursuant to provisions of Section 128 of Chapter 111 of the Laws of 1982 and section 3 of Chapter 112 of the Laws of 1982 shall be by a petition of a citizen or candidate aggrieved thereby duly verified which shall contain:

(a) The name and full residence address of the petitioner;

(b) A concise specification of the description of the district or districts to be corrected and a statement of each section of the Act in which such description appears or should be included if omitted;

(c) A complete statement of the reason or reasons for such request.

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### 6208.2 Service of Petition; timeliness.

(a) The original petition shall be served at the office of the State Board of Elections, [One Commerce Plaza (99 Washington Avenue), Albany NY 12260] Swan Street Building—Core 1, Empire State Plaza, Albany, NY 12223-0002 or upon any person authorized by the State Board of Elections to receive such service.

6208.3 Determination and order. Within 30 days after the service of such petition, the State Board of Elections shall make its determination thereon and issue an order accomplishing the purposes and objectives of the Reapportionment Compliance Act. A copy of such order shall be sent registered mail to the petitioner, to each board of elections affected by the order, to the Temporary President of the Senate, to the Speaker of the Assembly and to the Attorney General.

#### **Part 6209**

Electronic Voting Systems  
and Auxiliary Equipment  
Examination and Certification

(Copies available at State Board of Elections)

#### **Part 6210**

Absentee Ballot Counting  
Equipment

(Copies available at State Board of Elections)

#### **Part 6211**

Operation of Absentee Counting System Utilizing  
Electronically Tabulated Punchcard Ballots

(Copies available at State Board of Elections)

#### **Part 6209**

Electronic Voting Systems  
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#### **Part 6212**

Electronic Registration Files, Records  
(Copies available at State Board of Elections)





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# 1993

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3 4 5 6 7 8 9  
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31

## FEBRUARY

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## MARCH

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## MAY

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## JUNE

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## S M T W T F S JULY

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## SEPTEMBER

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## OCTOBER

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