REPORT ON LEGISLATION BY THE ELECTION LAW COMMITTEE

A.779
S.1103

M. of A. Lavine
Sen. Stewart-Cousins

AN ACT to amend the election law, in relation to primary elections and amending certain deadlines to facilitate the timely transmission of ballots to military voters stationed overseas; to amend the public officers law, in relation to filling vacancies in elective offices; to amend the election law, in relation to date of primary elections; and to amend the election law, in relation to canvass and audit of returns

THIS BILL IS APPROVED

The Election Law Committee of the New York City Bar Association supports, as a matter of public policy, A.779/S.1103, which would establish a consolidated Primary Day in New York for both federal and state offices and party positions, to be held in June.

Currently, New York holds its primaries for public office in state and local municipalities and for party positions (other than President and National Convention delegates and alternates) in September, while primaries for public offices at the federal level are held in June. This creates the possibility of as many as three primaries in a given calendar year.

The current system requires candidates to organize and consolidate their support in the summer, when potential voters are less likely to be available to participate. Under the reformed calendar proposed in this legislation, this organization can occur at a time when people are more available and accessible. With more people accessible to candidates, the reformed political calendar would mean the greater availability of voters so that petition signatures designating candidates for public office and party positions can be gathered more efficiently, rather than during the two separate periods for petitioning, first for candidates for federal offices, followed by candidates for state offices and party positions. Under the reformed calendar proposed, petitioning for all candidates can be consolidated into the same period of time.

Litigation involving ballot access issues would occur during the normal litigation season instead of during special sessions set up in the month of August. This will relieve the present burden on candidates, their counsels and the courts, and the additional expenses associated with the rush from filing of the action, to decision, to appeal. Rather than the present schedule, where there can be as little as three weeks during which an action is filed, a trial is conducted, and an appeal is taken and heard, under the reformed calendar proposed, ballot access issues can be resolved sufficiently in advance of the general election in November, allowing the Board of
Elections time to address absentee and military ballots in compliance with state and federal law in advance of the 45 day deadline prior to the general election.

Litigation involving election contests pursuant to Article 16 of the Election Law can be handled by the Courts with ample time to order a new primary if necessary. This issue was specifically highlighted in 2012 in Kings County in Matter of Gallo v. Akselrod,\(^1\) where a candidate - whom the Court noted commenced his primary contest action timely upon finding of irregularities in the election’s administration and merited the Court’s direction of a new primary - was prejudiced because of insufficient time available for the Board of Elections to conduct a new election under its new electronic voting procedures. The judge presiding over the matter, Hon. David I. Schmidt, even noted that “it would appear appropriate that the legislature take action, and perhaps provide more time between the primary and the general election in order that the judiciary can conduct meaningful review of primary election.”

Finally, enactment of A.779/S.1103 would maximize voter turnout and cut the costs of running additional separate primary elections. For these reasons we urge enactment of the legislation.

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\(^1\) Sup. Ct., Kings County, Index. No. 700026/2012.