



**NEW YORK STATE ASSEMBLY**

**A N N U A L**

**2 0 1 2**

**R E P O R T**



**Committee on  
Election Law**

**Michael J. Cusick, Chairman**

**SHELDON SILVER, SPEAKER**



MICHAEL CUSICK  
Assemblyman 63<sup>rd</sup> District

THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

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Committee on Election Law

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Ways and Means

December 15, 2012

Honorable Sheldon Silver  
Speaker of the Assembly  
New York State Assembly  
State Capitol  
Albany, New York 12248

Dear Mr. Speaker:

It is with great pleasure that I present to you the 2012 Annual Report of the Assembly Standing Committee on Election Law.

During the 2012 session, the Committee reported significant legislation that was later enacted into law to change the primary election date from September 11, 2012 to September 13, 2012. Under the New York State Election Law the 2012 fall primary election was scheduled for September 11, 2012. This legislation recognized and respected the significance of the anniversary of September 11, 2001 terrorist attacks by rescheduling the 2012 fall primary for September 13, 2012.

The Committee also enacted legislation to allow for the continued use of lever voting machines for school districts, villages and special districts in their respective local elections until December 31, 2014.

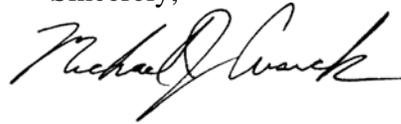
Other legislative initiatives which the Committee reported and the Assembly passed include:

- ensuring the security of lever voting machines used in village elections;
- requiring voting material to be provided in Russian;
- prohibiting certain candidates for public office from serving as poll watchers;
- requiring absentee ballot applications for village elections to conform to state board of election absentee ballot requirements;
- providing that absentee ballots for all elections shall be made available in Braille upon the request of a blind or visually impaired voter; and
- amending deadlines to facilitate timely transmission of ballots to overseas military voters for primary and general elections.

I am proud of the Committee's record of achievement during the past year. The Committee and Assembly have diligently, aggressively and intelligently advanced policies to reform both the administrative agencies that monitor the electoral process and the laws by which they are governed. In that regard, the Committee held a public hearing on December 14, 2012 that examined possible statutory and regulatory changes to make the in-person voting process in New York more user friendly and the impact of implementing such changes on the state budget.

The goal of this Committee remains unchanged: to instill in voters the confidence that our electoral system is structurally honest and fair to all New Yorkers. Through this Committee's oversight of existing institutions and its advocacy of initiatives designed to bring about reforms, New York has made and continues great strides towards this goal. The 2013 session will, no doubt, again see intense debate concerning the issues of campaign finance reform and the ways in which New Yorkers go to the polls.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. Cusick". The signature is fluid and cursive, with the first name "Michael" being the most prominent.

Michael J. Cusick  
Chairman  
Election Law Committee

**2012 ANNUAL REPORT  
of the  
New York State Assembly  
Standing Committee on Election Law**

**Michael J. Cusick  
Chairman**

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## I. INTRODUCTION

### **Committee Jurisdiction**

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

### **Executive Summary**

In 2012, the Assembly Standing Committee on Election Law focused its attention broadly on the overarching goal of expanding the opportunity for voters to meaningfully participate in elections affecting all levels of government.

In keeping with the Assembly’s commitment to uphold federal law and protect the rights of military personnel to effectively participate in elections, the Assembly passed a measure that would have moved State and local primaries from early September to late June. If enacted this bill would have made progress towards ensuring that New Yorkers serving our nation in the military would have enough time to effectively participate in state and local elections. In addition, the bill would have saved over \$50 million in additional costs that were expended on having two separate primary elections in 2012. This bill had the support of the State Board of Elections, the New York City Board of Elections as well as the New York State Election Commissioners Association.

The terror attacks of September 11, 2001 occurred on New York’s primary day that year. Due to the statutory political calendar, the 2012 New York State primary was scheduled for September 11. In light of this circumstance and out of respect for the anniversary of this somber occasion, Speaker Sheldon Silver authored a bill to reschedule the September 2012 primary from 9/11 to 9/13. The bill was passed by both houses of the legislature and signed into law by Governor Cuomo.

Also in 2012 the Assembly and the Election Law Committee vigorously supported more user-friendly elections by passing legislation that would have made ballots used in New York State elections easier to understand and cast by simplifying the instructions and making the ballot easier to read. In addition, concerned with the difficulty that visually impaired New Yorkers have in casting absentee ballots, the Election Law Committee recommended that the Assembly pass a bill requiring such absentee ballots be printed in Braille and large print. The Assembly passed the measure.

Making the experience of voting in New York State more user-friendly was also the focus of a hearing by the Election Law Committee held on December 14, 2012 in New York City. At the hearing the committee heard testimony from the New York State Board of Elections as well as the New York City Board of Elections on what steps could

and should be taken to ease burdens faced by voters when going to the polls such as long lines and the often burdensome process associated with in-person voting. At the hearing the committee heard testimony on the subject from various advocacy groups. As the result of this hearing the committee moves into 2013 with new ideas and proposals to make voting more accessible and less burdensome for all New Yorkers.

## II. HIGHLIGHTS OF THE 2012 LEGISLATIVE SESSION

**Reschedules the 2012 primary election from the eleventh to the thirteenth of September.**  
**(A.10112, S. Silver; Chapter 38 of 2012)**

This law recognizes and respects the significance of the anniversary of the 9/11/01 attacks by rescheduling the 2012 fall primary for September 13, 2012.

**Allows for the use of lever voting machines for school districts. (A.9178-A, M. Schimel; Chapter 482)**

This law allows for the continued use of lever voting machines for school districts, villages and special districts in their respective local elections until December 31, 2014.

**III. 2012 COMMITTEE INITIATIVES WHICH PASSED THE ASSEMBLY  
BUT WERE NOT CONSIDERED BY THE SENATE**

**Counting of ballots of military personnel. (A.1450-A, Ortiz)**

This bill would require that absentee or military ballots of any active duty service member be counted even if such service member dies before the date of the election for which it was cast.

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

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

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

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

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

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

**Voter friendly ballot act. (A.7492-D, Kavanagh)**

This bill would create a ballot layout that is easy for voters to read and use. This bill creates a ballot that is clear and simple to read, makes voting easier, and leads to more accurate voting.

**Eliminates the reference to “inmate” when referring to residents of veterans’ administration hospitals for purposes of absentee voting. (A.7769, Dinowitz)**

This bill would modify the Election Law to correct the designation of veterans in absentee voting procedures to refer to them as “resident or patient ” rather than “inmate” which more aptly describes the situation of these individuals upon requesting and submitting an absentee ballot.

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

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

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

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

**Absentee voting. (A.8093, Weprin)**

This bill would offer technical amendments to make laws relating to ballots concurrent with current practices. This bill would repeal a section of election law relating to the use of pasters (labels to replace someone on an already printed ballot). It also amends the laws relating to the use of absentee ballots so that the board of elections may receive applications for absentee ballots up to the day before an election.

**Requirements for petition witnesses. (A.8650, Abinanti)**

This bill would delete the requirement that a witness to a party designating petition or an independent nominating petition must reside in the district of the office in the petition.

**Prohibiting private individuals or entities from paying for the administrative expenses associated with the conduct of a referendum. (A.8925, Lavine).**

This bill would ensure a fair and equitable ballot initiative process that prevents special interests from placing countless referendums before the voters because they are able to finance the equipment, materials and personnel utilized to conduct the vote. The bill would also prevent municipalities from forcing private entities to pay for the costs associated with a referendum or ballot initiative.

**Holding the primary election on the fourth Tuesday in June. (A.9271-B, Silver)**

This bill establishes New York State's primary election as the fourth Tuesday in June annually thereby bringing New York into compliance with the federal MOVE Act. The bill further states that transmission of ballots to military and overseas voters by at least 45 days before a primary or general election.

**Clarifies that individuals have the ability to vote by absentee ballot where their maximum sentence of imprisonment has expired. (A.9661, Aubry).**

This bill amends the education law and town law by adding the language from §5-105 of the election law to clarify that a person can vote once their maximum sentence of imprisonment has expired or have been discharged from parole.

**Election night procedures. (A.10175, Kavanagh).**

This bill is intended to clarify the nature of election night tasks and alter the order they need to be undertaken in order to streamline and rationalize the procedures, while maintaining absolute integrity in the process and the official outcome of our elections.

**Designation of polling places. (A.10389, Cusick).**

This bill would allow local boards of election to move the polling place for a particular election district whenever the voters eligible to vote in an election in any such election district is less than ten.

**APPENDIX A**

**2012 SUMMARY SHEET  
SUMMARY OF ACTION ON ALL BILLS REFERRED TO THE COMMITTEE  
ON  
ELECTION LAW**

<u>FINAL ACTION</u>	<u>ASSEMBLY BILLS</u>	<u>SENATE BILLS</u>	<u>TOTAL BILLS</u>
<b>BILLS REPORTED WITH OR WITHOUT AMENDMENT</b>			
TO FLOOR; NOT RETURNING TO COMMITTEE	11	0	11
TO FLOOR; RECOMMITTED AND DIED	0	0	0
TO WAYS AND MEANS	1	0	1
TO CODES	6	0	6
TO RULES	9	0	9
TO JUDICIARY	1	0	1
TOTAL	28	0	28
<b>BILLS HAVING COMMITTEE REFERENCE CHANGED</b>			
TO <u>INSURANCE</u> COMMITTEE	0	0	0
TO <u>GOVERNMENTAL OPERATIONS</u> COMMITTEE	0	0	0
TO _____ COMMITTEE	0	0	0
TO _____ COMMITTEE	0	0	0
TOTAL	0	0	0
<b>SENATE BILLS SUBSTITUTED OR RECALLED</b>			
SUBSTITUTED		3	3
RECALLED		0	0
TOTAL		3	3
BILLS DEFEATED IN COMMITTEE	0	0	0
BILLS NEVER REPORTED, HELD IN COMMITTEE	24	0	24
BILLS NEVER REPORTED, DIED IN COMMITTEE	144	3	147
BILLS HAVING ENACTING CLAUSES STRICKEN	23	0	3
MOTIONS TO DISCHARGE LOST	0	0	0
TOTAL BILLS IN COMMITTEE	199	6	205
TOTAL NUMBER OF COMMITTEE MEETINGS HELD	6		

**APPENDIX B**

**2012 CHAPTERS**

<b><u>BILL NUMBER</u></b>	<b><u>SPONSOR</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>CHAPTER NUMBER</u></b>
A.9178-A	Schimel	Relating to the number and use of voting machines in village elections.	482
A.10112	Silver	Relating to date of the 2012 primary	38

**APPENDIX C**

**2012 BILL VETO**

<b><u>BILL NUMBER</u></b>	<b><u>SPONSOR</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>VETO NUMBER</u></b>
A.10609	Cymbrowitz	Voting materials in Russian	162