

**2008 Proposed Legislative Agenda  
Election Commissioners Association:**

**I. SUBSTANTIVE:**

**PROPOSAL 1:** Give Boards of Elections authority to create/amend the boundaries of Election Districts.

**Rationale:** Since Boards of Elections are now in control of voting machines, including purchase, maintenance, moving, etc., they should have control over the drawing of boundaries which dictate the number of machines needed.

**Suggested Provision:**

NYS Election Law Section 4-100. Election districts; creation and alteration.

2. **The creation, consolidation, division, or alteration of election districts shall be done by the boards of elections.**

**PROPOSAL 2:** Give Boards of Elections authority to create/amend the boundaries of Election Districts one time between February 20, 2007 and December 1, 2010 due to purchase of new voting machines.

**Rationale:** Boards of Elections will be selecting new voting machines between these dates which will accommodate a different number of voters than the existing machines. Boards should have the ability to redraw lines once during this time to coincide with the purchase of new machines.

**Suggested Provision:**

NYS Election Law Section 4-100. Election districts; creation and alteration.

5. Any creation, consolidation, division or alteration of election districts in any calendar year shall be made on or before February fifteenth, and shall take effect on April first, except 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 subdivisions. No such

creation consolidation, division or alteration shall be made between February twentieth of a calendar year ending in seven and December first of a calendar year ending in zero unless required by the creation of alteration of a political subdivision, (new) **except that once during the time February 20, 2007 and December 1, 2010 boards of elections may create, consolidate , divide or alter election districts to accommodate the purchase of new voting machines.**

**PROPOSAL 3:** Give Boards of Elections authority to establish the size of election districts in their respective county, based upon the voting system selected.

**Rationale:** The new voting systems selected by each Board of Elections will accommodate a different number of voters than the existing systems and Boards of Elections should have authority to create election districts based on the voting system selected.

**Suggested Provision:** (General Revision of the wording of NYS Election Law 4-100.)

**PROPOSAL 4:** Amend Section 6-158 (1) of the NYS Election Law to start the petition process for designating and nominating petitions 30 days earlier

**Rationale:** As the filing calendar now reads, Boards of Elections do not always have sufficient time between the July filing dates and the Primary Election to process objections, specifications and court challenges. Setting the calendar to start the process 30 days earlier would allow the Boards of Elections to complete these mandated tasks in a timely fashion. This process also affects the timely mailing of absentee ballots and especially military ballots.

**Suggested Provision:**

NYS Election Law 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 **fifteenth** Monday before, and not later than the **fourteenth** Thursday preceding the primary election.

**PROPOSAL 5:** Amend Section 3-202 of the NYS Election Law to standardize the term of office for election commissioners to a four- year term statewide

**Rationale:** With the implementation of the Help America Vote Act and other reforms facing the election process, the continuity of terms of office throughout New

York State would greatly enhance the professional development of the offices and improve the stability of election administration.

**Suggested Provision:**

NYS Election Law 3-202. Election commissioners: term of office.

1. The terms of office of an election commissioner shall be **four** years beginning January first of each odd numbered year.

**PROPOSAL 6:** Election days should be a school holiday or conference day.

**Rationale:** Many schools are utilized as polling sites throughout the state and most are a “perfect fit” for this use as they are handicapped accessible and centrally located, However, many school districts are requesting that Boards of Elections cease using their buildings due to security issues.

**Suggestion:** That the State Legislature and Commissioner of Education declare that any Special, Primary or General Election Day be a school holiday throughout the state. If the State Legislature moved the Primary day to the later part of June, it would eliminate the need for a school holiday for Primary Day.

**PROPOSAL 7:** Eliminate the residency requirement contained in the witness statement on the statutorily prescribed independent nominating petition (*EL 6-140*) form. The statutorily prescribed requirement that a witness must reside in the district for which (s)he is circulating the petition has been deemed unconstitutional and should be removed from current Election Law to avoid, any misunderstanding or other further legal issues.

**Rationale:** In the current statute, Election Law 6-140, witnesses who circulate either designating or independent nominating petitions for candidates must sign a statement (the equivalent of an affidavit) that states, “I am a duly qualified voter of the State of New York and *I am also duly qualified to sign the petition*”. In order to be “duly qualified” to sign the petition the person must reside in the district. This language and witness requirement was found to be unconstitutional in Chou v New York City Bd. of Elections, 322 F. Supp. 2d (510 U.S. District Ct. E.D. N.Y. 2004). That ruling was recently affirmed by the New York State Court of Appeals in McGuire v. Gamache, et al.(5 N.Y. 3d 444)

**Suggestion:** The State Legislature should delete the unconstitutional language, “and I am also duly qualified to sign the petition” from the statutory language for the statement of witness. .

## **II. HOUSEKEEPING**

**PROPOSAL 1:** Eliminate residence address of candidates in official publications.

**Rationale:** This information is readily available to interested parties with the use of the Freedom of Information Law, internet sites, advertising, etc. and there is no need for counties to bear the cost of advertising same. The published address of candidates can also be a safety concern.

**Suggested Provision:**

NYS Election Law 4-122. Lists of nomination; publication by board of elections.

1. The county board of elections shall publish, at least six days before an election, a list containing the name of every candidate for public office to be voted for within its jurisdiction at such election.

**PROPOSAL 2:** Repeal Sections 4-118 and 4-120 of the Election Law requiring the publication of notices for general, village, and special elections which is extremely costly to the boards of elections throughout the State.

**Rationale:** This information is available to the public by use of television, radio, newspapers, internet sites, etc.

**Suggested Provision:**

NYS Election Law 4-118 and 4-120 to be repealed.

**PROPOSAL 3:** There should be no requirement that the location of a polling site outside its election district must be in a contiguous district in such town or city if such site is deemed by the Board of Elections to be within a reasonable distance.

**Rationale:** This could help utilize buildings which are handicapped accessible, tax exempt and for which the board of elections would not need to pay rental. Also, this could help boards of election consolidate polling sites

for some elections thus saving the costs of moving machines, inspectors, printing expenses, rental, etc.

**Suggested Provision:**

NYS Election Law 4-104. Registration and polling places; designation of.

3. “A building exempt from taxation shall be used whenever possible as a polling place if it is situated in the same election district or **within a reasonable distance there from**, and may contain as many distinctly separate polling places as public convenience may require. ...”
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 **within a reasonable distance there from**”

**PROPOSAL 4:** Amend Section 4-117(1) of the NYS Election law, to all boards of elections to send notice to all voters by August 1<sup>st</sup> of each year.

**Rationale:** Boards of Elections mail these notices as required by law. However, many voters express their concerns that they receive the notices after the Primary Election. Amending the law to mail said notices sooner will ensure timely delivery.

**Suggested Provision:**

NYS Election Law Section 4-117. Check of registrants and information by mail.

1. “The board of elections, **between August first and August Fifth of each year**, shall send by first class mail...”

**PROPOSAL 5:** Add a section to NYS Election Law 3-400 to permit Boards of Elections to employ election inspectors for half-day shifts with proper adjustment to canvass sheets and procedure, at the county board’s option.

**Rationale:** The typical Election day is over 15 hours long. The average inspectors must make significant alternate arrangements in their normal life and with regular family commitments. By allowing the boards of elections to allow half-

day shifts they would be able to increase the inspectors' pool. Also, by allowing some existing inspectors to work half-day shifts, this would permit the Board to make arrangements when necessary to ensure poll sites are always fully staffed.

**Suggested Provision:**

NYS Election Law 3-400. Election inspectors and poll clerks;  
provision for.

- 7. Boards of Elections, if they choose may employ election inspectors to work half-day shifts with adjusted compensation. Each county board of elections shall prescribe the necessary rules and procedures to ensure proper poll site operation.**

**III. ITEM FOR DISCUSSION:**

1. Expanding the use of absentee ballot under NYS Election Law 8-400.  
(Possible need to amend New York State Constitution.)

