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BOARD OF ELECTIONS

IN
THE CITY OF NEW YORK
EXECUTIVE OFFICE, 32 BROADWAY
NEW YORK, NY 10004–1609
(212) 487–5300
FAX (212) 487–5349
www.vote.nyc.ny.us

MICHAEL J. RYAN EXECUTIVE DIRECTOR

DAWN SANDOW
DEPUTY EXECUTIVE DIRECTOR

PAMELA GREEN PERKINS ADMINISTRATIVE MANAGER

GEORGEA KONTZAMANIS
OPERATIONS MANAGER

Comments on Pending Legislation
before the
Committee on Governmental Operations
of the Council of the City of New York
at a
Public Hearing, February 29, 2016
by
Michael J. Ryan, Executive Director
Board of Elections in the City of New York

Chair Kallos and Members of the New York City Council Committee on Governmental Operations.

My name is Michael J. Ryan and I am the Executive Director of the Board of Elections in the City of New York ("Board"). I am joined today by my colleagues from the Board:

Thank you for providing the Board with the opportunity to comment on several pending legislative items. In accordance with the direction of the Commissioners of Elections, I want to share with you the concerns of the Board with respect to Intros. 62-A, 463-A and 848.

Constitutional and Statutory Basis for Boards of Elections

I want to begin the Board's comment by briefly reviewing the Constitutional and Statutory framework which govern Boards of Elections in this State and their relationship to their local legislative bodies.

Generally, the New York State Constitution in Article 9, Section 2(c)(i) provides that every local government may adopt laws relating to its "property, affairs or

government" so long as those laws do not conflict with the Constitution or any general law of the State.

The Constitution of the State of New York, Article 2, Section 8, and the laws enacted thereunder, particularly the New York State Election Law ("Election Law"), mandate that Boards of Elections generally operate free from interference from their respective county or city governmental bodies. This independence is essential to the Board's ability to honestly administer elections (including those for the local elected officers). The Election Law grants certain specified and limited powers to local governmental bodies with respect to the activities of Boards of Elections, such as the appointment of Commissioners of Elections [Election Law Section 3-204] and the allocation of funds required to conduct elections [Election Law Section 4-136].

The Courts of this State have recognized the unique constitutional and statutory status of the Boards of Elections for over seventy-five (75) years. The Election Law has statewide applicability and the" uniform statewide application to protect the fundamental right of suffrage and to ensure the orderly conduct of elections for local, statewide and federal officers—is a matter of statewide concern" [Matter of Wood v. Cortland County, 23 Misc 3d 913,(2009) affd 72 AD3d 1447 (2010)]. In 1939, the New York State Court of Appeals ruled that the New York City Government could not restrict the hiring of Board employees within the amounts appropriated to the Board, notwithstanding the exigencies created by the "Great Depression". [Fugazy v. Kern, 280 NY 375 (1939)]. The basic concept that Boards of Elections are empowered with independent authority has continued to be applied, even when local governments have faced severe fiscal constraints within the last decade. [See: Mohr v Giambra, 7 Misc 3d 723, affd 27 AD3d 723 (2005) {Local Erie County Law requiring Board of Supervisors to approve all salaries and set the number of employees cannot be enforced against the Board of Elections}].

In the most recent case, the New York State Supreme Court upon reviewing the legislative history of Section 1-102 of the Election Law concluded that it applies only to other New York State statutory provisions and not to local laws or the Charters of municipalities. [Castine v. Zurlo, 4 NYS3d 469, 204 WL 6992446 (2014)]. In this instance, the County Government sought to impose its ethics code provision relating to holding multiple public offices on an Election Commissioner notwithstanding the specific provisions of Election Law Section 3-200(4).

The Board respectfully submits that Intros. 62-A, 463-A and 848 are in conflict with the independent nature of the Board's constitutional and statutory authority. The Board's opinion is consistent with New York State's constitutional and statutory framework for the organization and operation of Boards of Elections and has been consistently confirmed over the course of time by various judicial determinations.

I will now discuss each of the three intros in more detail.

Int. Number 848

Intro Number 848 directs the Board to mail to every registered voter in New York City, between August 1st and August 5th of each year, information about which elections held within the last four (4) calendar years each specific individual voter was registered to vote and whether that specific individual voter actually did vote. The Intro further provides that this requirement may be met by including such information as an addendum to the communication sent by the Board of Elections pursuant to Section 4-117(1) of the Election Law.

This Intro seeks to change the duties and responsibilities of the City Board as prescribed by the Election Law. Pursuant to Section 4-117(1) of the Election Law, each Board of Elections, including the City Board, is required to annually mail an information notice to each registered voter. Section 4-117(1) of the Election Law specifies the contents of said notice. No modification of that State statutory mandate can be enacted by a local legislative body. Such action is pre-empted by the State's Constitution and statutory framework. This Intro seeks to add to the established statutory framework with respect to the mandated annual communication to registered voters as well as the method for making available a voter's history [See: Election Law §§ 3-220 and 5-506].

In addition, the reference to the current timeframe for the mailing of notices [as specified in Section 4-117(1)] of the Election Law will change should a single unified statewide primary election date be adopted into law. [See: A 9108 which passed the NYS Assembly on February 2, 2016]. It is the respectful position of the Board that Intro 848 seeks to modify the Election Law in a manner that is pre-empted by the State Constitution and Election Law.

Int. Number 463-A

Intro Number 463-A mandates the City Board, to send notifications by e-mail and text message to registered voters who provide the City Board with an e-mail or mobile phone number and to create opportunities for city residents to provide an e-mail address or mobile phone number. The Intro further specifies that the City Board shall not share, sell, or otherwise disclose the email addresses or mobile phone numbers collected unless with written permission from the voter or by court order.

This Intro also changes the duties and responsibilities of the City Board as prescribed by the Election Law and conflicts with existing State Law. The State prescribed voter registration application provides for the optional inclusion of a voter's telephone number. It does not distinguish between a land-line or mobile telephone number. In addition, the State voter registration application now includes the optional

inclusion of a person's e-mail address. Further, the Election Law does not mandate that the voter advise a Board of Elections of a change in either.

Section 89(2)(b)(iii) of the New York State Public Officers Law, also known as the Personal Privacy Protection Law, only prohibits the sale of names and addresses for commercial or fundraising purposes. State Law offers no such prohibition on telephone numbers or e-mail addresses.

Section 3-220 of the Election Law mandates that <u>all</u> information provided by a voter on their application for registration form is a public record except for three specified statutory exceptions:

- (1) the Driver's License Number or Non-Driver's Photo ID Number;
- (2) the last four digits of the Social Security Number; and
- (3) the Fax Number (if provided).

Additionally, Section 3-220(7) specifically authorizes the sale of the public records portion of the information provided on the voter registration application. Therefore, the Intro's Section 1(e) is in direct conflict with the governing state law.

In addition, other elements set forth in the Intro's Section 1(c) are pre-empted by various provisions of the Election Law, including:

- (a) With respect to the Board's website, the information provided thereon is prescribed by the Commissioners of Elections in fulfillment of their constitutional and statutory obligations or occasionally mandated by specific provisions of the Election Law [See: Election Law § 3-506.]
- (b) Virtually all of the written communications sent by the Board to voters are mandated by the Election Law, including the specific contents thereof or empower the New York State Board of Elections to prescribe the contents and form of such communications to ensure statewide uniformity. [For example See: Election Law §§ 5-210 & 8-400.]
- (c) Also, the Board's responsibility in relation to voter registration activities are authorized in Section 3-212 (4)(b) and the plan prepared thereunder by the Commissioners of Elections.

As I have just outlined, Intro 463-A seeks to modify the Election Law in a manner that is pre-empted by the State Constitution and Election Law.

Int. Number 62-A

Intro Number 62-A directs the Board to post notifications on each election day, prior to the opening of the polls, at the main entrances of each building that is not being used as a poll site, but that was used as a poll site for any election in the past four (4) calendar years. The Intro further requires the notice to include a list of the addresses of the poll site specifying where all the election districts that used to be at the building are

now located for that Election Day along with the website URL address and the City Board's telephone to find out that same information.

This Intro changes the duties and responsibilities of the City Board as prescribed by the Election Law and conflicts with existing provisions of the Election Law. Section 4-117 of the Election Law mandates that the Board annually notify each registered voter of their poll site (i.e. - where they are voting in the upcoming elections). If that location has changed, clear and specific text regarding that changed in prescribed in the Election Law. In addition, if a poll site is changed after that notice has been sent, Election Law Section 4-104(2) requires the Board to send to each affected voter a poll site change notice.

The Intro also requires the posting of a listing of the election districts that were at the poll site and where they are currently located. However, the boundaries and designation of election districts are routinely changed pursuant to the Election Law. Sections 4-100(3) & (4) of the Election Law, direct the Commissioners of Elections to periodically review boundaries and compositions of each Election District and mandates changes in certain circumstances. A voter may be voting in the same poll site but in a different election district, or the voter's prior election district number may still be voting at the poll site while the voter has been assigned to a newly created or renumbered election district either at the prior poll site or a different one. The Election Law specific notification provisions control in this instance.

In addition, the Intro may require the Board to enter onto private property, which the Board may no longer even have a contractual relationship with (poll site lease) and post the Intro's mandated notice without obtaining the permission of the property owner.

Such action may give rise to potential criminal liability for (trespass, defacing private property, etc.) as well as State and Federal constitutional violations and/or claims relating to an uncompensated taking of or unlawful entry onto private property without due process of law.

For the reasons I have just outlined, Intro 62-A is not only pre-empted by the State Constitution and Election Law but also raises practical and legal concerns.

I want to once again thank you for providing me with the opportunity to share the views of the Board of Elections and my team and I are ready for any questions you may have.

New York City Council Committee on Governmental Operations

Hearing on Voter Bills: Intros 62, 255, 463, 504 and 848

February 29, 2016

Written Testimony of Henry Berger, Special Counsel to the Mayor

Voting and civic participation are essential to a healthy democracy. When I testified before you in October 2015, I explained that the administration shares your concerns regarding New York City's extremely low voter participation rates. Not only is the number of registered voters among eligible citizens appallingly low, but the number of registered voters who actually go out and vote is only a fraction of where it should be.

Mayor de Blasio is deeply committed to reducing barriers to voter participation to make it easier to register to vote and to get out to vote. The Mayor's Ofice is working with our City agencies and the Board of Elections in the City of New York ("Board of Elections" or "the Board") to make registration easier and more accessible and to make voting more efficient. When I testified last year, I explained the creation of the Administration's Working Group, and the voter registration programs we are implementing at the agency level. We are also working with the Mayor's Office of Technology and Innovation to explore how to best leverage technology in this effort.

The working group also met with voting advocates over the last year and we are in the process of securing translations of the voter registration forms, a voter registration guide and Voting FAQs prepared by the Campaign Finance Board so that they will be available in all of the languages required by EO 120 and by DOE - Arabic, Creole, Russian, French and Urdu – as well as the languages that the Board of Elections uses - Chinese, Spanish, Korean and Bengali.

We have engaged with the Interactive Direct Marketing (IDM) Lab at the Pace University Lubin School of Business, which is doing market research on why NYC residents don't register to vote and what would get them to do so.

Thus, we are aggressively pursuing ways to make it easier for NYC residents to register to vote. We strive to make it as easy and simple as possible. We firmly believe that exercising the right to vote for elected officials is the most effective way for people to make their voices heard in representative government. We are hopeful that our efforts are making real and lasting change with respect to voter participation.

Before I address the specific pieces of legislation, as an initial matter, the City has serious concerns about placing affirmative operational mandates upon the Board of Elections, which performs a state function when it administers elections. The Board is subject to the supervision of the State Board of Elections, as well as the State Election Law ("Election Law") and regulations promulgated thereunder by the State Board of Elections. In light of this context, operational mandates of the kind reflected in these bills raise sensitive questions about the scope of the City's authority over the Board. Therefore, the concerns sought to be addressed by the bills could be more appropriately addressed, in cooperation with the administration and Board, outside the legislative process.

Now I will address other concerns related to the specific pieces of legislation:

Intro. 62

Intro. 62 states that on every election day, the Board of Elections shall post a notice near the main entrance of any site used as a former poll site during the last 4 years, indicating that the building is no longer a poll site, providing the addresses of the poll sites that are currently being used along with a list of election districts, the Board of Elections website information and the Board of Elections contact information. This law would take effect 60 days after its enactment.

In addition to the concerns noted above, the bill's obligation to post notices with detailed information on potentially hundreds of buildings faces many practical, logistical and resource based challenges. First, as there are both federal and state elections this year, the Board of Elections, with a small staff and limited resources, is currently in the midst of organizing 4 regular elections and numerous special elections over the next 10 months. These will be high turnout elections that will tax the resources and manpower of the Board in many different ways. The Board will not have the ability to implement this requirement in the next 2 months; it is simply not a burden the Board can take on at this time.

Second, most polling locations have multiple election districts housed inside of them. Posting a sign on a door with a new location won't help the vast majority of people who do not know which election district they live in, and thus, won't fully address the problem that this bill is trying to solve.

Third, requiring this information at all former poll sites used within the last four years is overly burdensome. A one or two year requirement would make more sense in this regard, but the Board could speak more about the details of implementation.

Intro. 463

Intro 463 requires the Board of Elections to send email and text message notifications to notify residents regarding dates/hours/locations of elections, dates/hours/locations for casting an inperson absentee ballot; deadlines for submission of absentee voting applications; and sample ballots. The board will collect this information through voter registration forms, the Board's website, events, mailings and by other means that the Board determines.

Again, we have serious concerns about placing affirmative operational mandates upon the Board of Elections, which performs a state function when it administers voter registration. We also have the same concerns outlined above regarding manpower and resources. The mandates outlined in this bill are a massive undertaking and would take significant resources, staff, equipment and technological infrastructure before it can even begin to be realized or implemented.

Intro. 848

Intro. 848 would require the Board of Elections to mail a voting history to every registered voter, informing him/her which elections--held over the previous four calendar years--such board's records indicate (1) that such voter was registered to vote; and (2) whether such voter voted in those elections.

As outlined above, we have serious concerns about placing affirmative operational mandates upon the Board of Elections.

Additionally, similar to the bills mentioned above, it would take much longer than 3 months to implement this type of notification to millions of voters.

Int 255 and Int 504

The CFB Voter Guide is a large document that is printed and mailed to all registered voters for elections of city officials. The Guide is printed and mailed to all registered voters in English and Spanish. The CFB may also produce the guide in other languages as needed.

Intro. 255 and Intro. 504 together have the potential to greatly increase the costs of printing and mailing. Intro. 255 would require the printing and mailing of the Voters Guide in "each of the top seven limited-English proficiency languages", in addition to English and Spanish. Intro. 504 would require the printing and mailing of the Voters Guide for all elections — City, state, federal and special elections. These large, expensive documents would have to be mailed to every voter unless the voter affirmatively opted out from receiving a hard copy.

Before we go down the path of adding substantial printing and mailing costs to the budget, the Administration would like to discuss with the Campaign Finance Board and the Council possible alternatives that might more efficiently and with greater cost-effectiveness get needed information to the voters.

While local laws may be inappropriate, resolutions addressing these issues could further discussions to implement the goals of this otherwise worthy legislation



Testimony of Amy Loprest Executive Director New York City Campaign Finance Board

City Council Committee on Governmental Operations February 29, 2016

Good morning, Chair Kallos and members of the Government Operations Committee. I am Amy Loprest, Executive Director of the New York City Campaign Finance Board. With me today is Eric Friedman, Assistant Executive Director for Public Affairs and Sue Ellen Dodell, General Counsel.

Thank you for the opportunity to testify on the bills under consideration today. Now that we have entered this pivotal presidential election year, we are happy to see a renewed focus and urgency around the movement to help more New Yorkers make their voices heard in the electoral process.

As you know, the Campaign Finance Board works to promote civic involvement through our voter engagement campaign, NYC Votes. We register New Yorkers to vote, and provide them information about where and how to cast their ballots.

We also provide voters with a wide range of resources to help inform their choices at the polls. The centerpiece of our voter information efforts is the city's official Voter Guide for municipal elections, mandated by the New York City Charter.

The Guide provides an opportunity to all candidates for city office to transmit their message to registered voters, free of charge. We mail a print Guide to every household with a registered voter before every primary and general election for mayor, public advocate, comptroller, borough president, and City Council, and when there is a city referendum on the ballot. The Charter requires the Guide contain biographical information on each candidate, including party affiliation, public offices held, occupation and employer, prior employment and other public service experience, educational background, and a listing of major organizational affiliations and endorsements, as well as statements by each candidate of his or her principles, platform or views.

We publish an edition of the Voter Guide online on our website, <u>www.nyccfb.info</u>, which we also publish for state, federal, and special elections. For non-city offices, our online guide includes links out to campaign websites and social media accounts. We are currently exploring a collaboration with Maplight, a nonpartisan research organization, to provide more information on candidates for these other offices. We recently published an online guide with the candidates for last week's special election in Council District 17 with full candidate profiles.

We produce and distribute a video edition of the Voter Guide for city elections, hosted on our website and aired on cable television. In citywide election years, we produce the candidate video statements. For special elections, we work with community television stations to create the video Guide. For instance, we worked with BronxNet to produce Voter Guide videos for the February 23rd special election.

We strongly believe that empowering voters to cast an informed ballot is critical to the democratic process, and we are supportive of initiatives that will provide more voters with more information.

Together, Int. No. 255 and Int. No. 504 would significantly expand our voter information mandate.

Under Section 203 of the Voting Rights Act, we currently publish the Voter Guide in five languages: English, Spanish, Chinese, Korean, and Bengali. We also translate transcripts of candidates' video statements into these languages.

Under Int. No. 255, we will be required to translate and print the Voter Guide in the top seven limited-English proficiency languages, which would potentially add up to five new language editions of the print Guide.

This new requirement raises a number of issues to consider.

Additional translations will require a significant investment of resources, as some languages are more expensive to translate, format, and print. New language editions will require additional costs for printing and distribution.

Our current practice, with the permission of the Department of Justice, is to target mailings of the Voter Guide in Chinese, Korean and Bengali to voters by conducting surname analysis, and determining areas where the relevant populations are concentrated. CFB should have the authority to deliver these new resources to the populations that need them. Targeting distribution will mitigate the additional translation, printing, and postage costs, and ensure voters receive the information that is most relevant to them.

Int. No. 504 would require the CFB to print and mail Voter Guides for federal and state elections as well as city elections. We support expanding the voter information resources available to New Yorkers, and we know from the feedback we receive that many New Yorkers depend on the print Voter Guide.

Candidate participation rates in the Guide have been high, in part because we have a direct relationship with candidates running for city office—95 percent of candidates on the ballot in the primary provided information for the Guide's print edition, and 74 percent of candidates for the general. To ensure voters receive information focused on the candidates they will see on their ballot, we produced 14 print editions for the 2013 primary election, and 20 editions in the general election. Overall, we printed and mailed nearly 7.5 million Guides in 2013.

Producing, printing, and mailing the Guide for the primary and general elections in citywide election years is a significant undertaking, requiring staff to collect and track candidate submissions, review content, communicate with translators, and oversee production at the print and mailing house.

In 2013, our budget included nearly \$10 million to print and distribute the Voter Guide. Printing and mailing multiple Voter Guides every year, including information for federal, state, and county offices, would require a considerable new investment.

After Int. No. 504 was introduced in October 2014, we estimated that creating Guides for the state and federal primaries and the general elections in 2016 could cost between \$16 and \$28.5 million. Publishing Voter Guides in 2017 under the expanded mandate to cover additional offices could cost between \$19.5 and \$35 million.

These estimates do not include the necessary cost of additional staff dedicated to the annual production of multiple citywide print Voter Guides. For example, we anticipate that it would require more staff time just to follow up with candidates to submit their information because we don't have an established relationships. Without this follow up, we expect lower response rates from candidates for non-city offices, which would make the Guides less useful for voters.

We are proud of the work we do to inform voters, and we are happy to explore ways we can expand our reach. However, as you consider Int. No. 504—and as we consider our budget request for the coming fiscal year—it is important that the Council is fully aware of the significant investment it requires.

Our immediate recommendation would be to amend Int. No. 504 to eliminate the requirement for the Voter Guide to cover party positions. There are multiple party position contests per assembly district, and there are easily more than 1,000 candidates across the city for delegate, state committee, county committee, and district leader positions.

It is true that there is often little information available to voters about the candidates for these party positions. Still, removing them would simplify the production of the Guide, lessen the expense, and ensure the information we provide is the most helpful and meaningful to voters. Omitting party positions would enable us to print fewer editions and dedicate more space to candidates for other offices.

Int. No. 504 does allow us to reduce some costs by allowing us to create an opt-out procedure for voters who prefer to receive the guide electronically. This was among the recommendations in our 2013 post-election report, and we think it is an important tool to providing voters the information that they need in the format they prefer. The most efficient way to create this system would be for the Board of Elections to collect opt-out information at the time a voter registers. At the same time, voters could also indicate in what language

they prefer to receive the guide. That way, we can ensure voters receive the Guide in the correct language, removing some guesswork.

We would also like to note that the BOE has been continually improving their online poll site locator with lists of candidates and sample ballots, and it is a valuable resource. We would love to work with the BOE to integrate this into our online Guide so that we could give voters additional tools prior to Election Day.

Of course, there are other ways we could reduce costs for the voter guide. One obvious change would be to consolidate the primaries. Voters will go to the polls at least four times in 2016, which guarantees voter fatigue. Primary consolidation makes imminent sense for everyone involved—especially voters. Fewer elections would relieve the administrative burden on the BOE—and would mean fewer editions of the Voter Guide. We support Res. No. 232-A to consolidate the primaries, and would urge members of City Council to be even more active in asking the state legislature to act.

As you know, we have been working with partners on the Vote Better NY effort to push for voting reform at the state level. We want to ensure that every New Yorker can register to vote, has an opportunity to get to the polls, and can cast a ballot that counts.

We strongly support Res. No. 553, which calls on the state legislature to pass legislation to allow early voting. Governor Cuomo called for early voting in his State of the State address in January and the bills now in the legislature mirror his strong proposal, which would

require counties provide 12 days of early voting and one polling location per 50,000 registered voters. With the Governor's support, there's now real hope that this will pass during the 2016 session.

We also urge the Council to consider a resolution in support of the Voter Empowerment Act (A5972/S2538B), which would bring our outdated voter registration system into the 21st century by leveraging technology to get more people registered and keep their registrations up to date.

We also urge the Council to consider a resolution supporting the Voter Friendly Ballot Act (A3389), which would provide voters with clearer, simpler ballots and has unanimously passed the Assembly for three sessions in a row.

Finally, we support Res. No. 870, asking legislators to change state law so that people with felony convictions be able to register to vote once they are released from prison. Under current law, probationers can complete a voter registration form, but people released to community supervision must wait until they have completed parole to submit a voter registration application.

When we register voters, we find a lot of confusion around this policy. We have also heard public testimony on this matter at our meetings of the Voter Assistance Advisory Committee. This past Saturday, our Voter Assistance Unit worked with a number of volunteers to register voters at two NYCHA buildings in Brownsville. One of the requests

from the community was that we discuss voting rights specifically for people that were formerly incarcerated.

Many would-be voters do not understand the distinction between parole and probation, or are unclear about their status. New Yorkers should not feel that they need to disclose their conviction status in order to get clarity on whether or not they can register. Language on the voter registration form explains that it is a crime to furnish false information to the BOE; some people fear they could be returned to prison if they complete the form incorrectly.

Changing the state law to allow people to register once they have been released from prison would simplify existing policy and make it clear and less frightening to those who have been incarcerated. It would encourage people released to community supervision to take part in civic life as part of their re-entry to society.

We support Res. 281-A which calls on the Mayor to create an annual Student Voter Registration Day. This year the CFB, Council Member Rosenthal, the New York Immigration Coalition, community groups and other members of the Council are partnering to bring SVRD to 56 schools throughout the city. We will bring our message to nearly 20,000 students citywide on March 18. Last year, on our inaugural SVRD, we registered over 2,000 students in 25 schools.

We generally support much of the remaining legislation under consideration today. Though we defer to the Board of Elections to assess the administrative burden they represent, we support the remaining items under consideration.

We support Int. No. 62 to require notice on closed poll sites, as well as Res. No. 390 to require Russian interpreters at certain polling locations.

We agree with the sponsors of Int. No. 463-A that it would be an important step forward if BOE were to communicate with voters through text and e-mail. We would note, however, that information that voters provide, such as e-mail addresses, are part of the public record and would have to be disclosed whenever someone obtains the voter file, unless state law is changed.

Int. No. 848 would require the BOE to send voters a summary of their voting history the past four years, which may help to spur turnout by providing individualized reminders to voters about their participation.

We also support Res. No. 384, calling on the Board of Elections to allow half-day shifts for poll workers. This could be a useful way to recruit potential poll workers who are deterred by a long 15-hour shift. This would not supplant the need for full-day workers, but would allow the BOE an additional recruitment tool to fill needed positions. A limited, but successful pilot project in Brooklyn suggests that the idea has promise. We would

generally encourage an expanded pilot, such as one poll site in each borough, to further determine viability.

The BOE is already crafting a pilot program to recruit 17-year-olds from select high schools in each borough to work as poll workers in a half-day shift. We think this is a positive step forward to further test split shifts and involve more young people in the civic process.

Thank you for your time today, and I am happy to take questions.

Testimony of Mr. Seth Flaxman, Co-Founder and Executive Director of Democracy Works, Inc., before The New York City Council Committee on Governmental Operations

February 29, 2016, 10:00 a.m.

Chairman and council members, thank you for allowing me the opportunity to testify today. My name is Seth Flaxman. I am the co-founder and executive director of Democracy Works, a nonpartisan, 501(c)(3) nonprofit technology organization proudly based in Brooklyn, and dedicated to the idea that voting should fit the way we live.

Many of you and your constituents may have actually used our services even if you've never heard of us. For the 2014 election cycle, The Pew Charitable Trusts contracted with Democracy Works to be the core engineering team for VIP (Voting Information Project). In this role, we work with states and counties to collect official state election data and standardize it into a national dataset. We then coordinated with Google so voters could search "where do I vote?" online and find the right polling place. We also run a website, TurboVote, that allows any American to sign up once to get help registering to vote, voting absentee, and receive text and email reminders of election dates.

Since TurboVote's launch in 2010, we've learned a lot about civic technology and how users interact with it. What began as a way to simply send election reminders has now blossomed into a more comprehensive voter engagement tool. But the heart of TurboVote — our election notifications and reminders — are now among the most robust portions of our system and are being refined all the time to best ensure we service as many elections as possible nationwide. We are encouraged by the results and we've seen that simply reminding our users of upcoming elections can spur them into checking their registration status and making sure they have a plan to vote.

The idea of a government sending election reminders or notifications to their constituencies perfectly represents the driving notion behind TurboVote — that voting should fit the way we live. We are a culture that increasingly lives in our mobile devices. We expect to be able to access more information in our phones than ever before. That's why I'd like to share some lessons we've learned as we've tried to meet voters where they are.

First, it's hard to know exactly what about a notification tool is going to work until you start building it, so allowing room for changes and adjustments is critical. I recommend testing and iterating on the design of a system without excessive initial prescription. This can often

lead to finding out answers you didn't know you were looking for. Given the public nature of notifications, and the highly customizable content in each message, ensuring perfect implementation from start to finish can be a challenge, to say the least.

Second, I would encourage a more iterative approach. The number of users and the stakes for success go up dramatically in a presidential year like 2016, so the development or rollout of a notifications system can be crucial to its overall success. It would be best if a system were phased in over time, rather than released all at once. There are many ways to implement these types of notifications, so having the ability to try different approaches in smaller sizes, over time, allows control for errors and an ability to fix problems more quickly.

Finally, I highly recommend a concern for privacy serve as a throughline for the development of any election notification system. Moving quickly to build technology where personal information is concerned is always tricky. As we have witnessed in other states and cities, it is important to safeguard email and phone number information. Without appropriate guidelines and rulemaking to protect this type of information from improper use, privacy concerns can easily grow into a barrier for implementation.

I am always encouraged when I see governments willing and eager to make the act of civic engagement easier for voters. In the end, I think these efforts give us a better democracy. I heartily endorse election notifications and I hope our years of experience in this area can serve the Council as this issue moves forward. Thank you again for the opportunity to testify today.

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Testimony to the NYC Council Committee On Governmental Operations

Monday, February 29, 2016

Good morning. My name is Kate Doran. I serve on the Board of the League of Women Voters of the City of New York. As a multi-issue, non-partisan political organization we encourage informed and active citizen participation in government, work to increase understanding of major policy issues, and influence public policy through advocacy and education.

For over 95 years, voter education, voter registration, and voter service, have been priorities for the League of Women Voters in New York. Accordingly we appreciate this opportunity to comment today.

Prop. Int. No 62-A

The Board of Elections is required by NY State Election Law to send a notification to all registered voters, every year in early August. This notification must include the name, and address of the voter's poll site for September primaries and November general elections. In addition, the board notifies specific voters of any poll site change that may have to be made owing to an emergency, or any other reason. The problem is that these notices often resemble "junk mail." Many voters ignore, or toss them. NYC voters typically wait until Election Day, and walk to a site where they have voted in the past.

We do not believe that the added requirement to post signage, "On the day of any primary, special, or general election," will place an onerous burden on the Board of Elections, and the value of this service to voters will be huge. Nothing frustrates or angers voters more than traveling, and then waiting to vote, only to be told that they are in the wrong place.

The League of Women Voters supports this Int. but we note that <u>most voters do not know their ED number</u>. (If they do know their ED #, they probably have their Notice to Voters in hand and will turn up at the correct poll site.)

More helpful than ED numbers would be a simple map of the streets that are being served at the new site. Posting the website to access the Poll Site Locator, and the phone number of the Board of Elections are good ideas which we strongly support.

Resolution No. 384

The League of Women Voters of the City of New York has consistently and vigorously encouraged the NYC Board of Elections to recruit Inspectors, and other poll site workers for half-day shifts.

Election Law Section 3-400(7) was added in March 2010. It provides that "The board of elections may employ election inspectors to work half-day shifts with adjusted compensation..."

The March 2010 amendment means that the Board has had permission to deploy half-day workers for nearly six years. We understand and acknowledge that there are administrative challenges. We also congratulate Brooklyn Commissioners John Flateau, and Simon Shamoun who took it upon them-selves to conduct pilot projects in November 2014 & 2015. Both pilots were successful. None of the Board's voiced, or anticipated problems materialized.

We encourage the Council to strike the word, "allow," in the title of this resolution, and replace it with "actively develop plans to recruit and hire," poll workers to work half-day shifts.

We agree with all of the other statements made, with one correction.

The full day shift is actually a minimum of 16 and ½ hours, not "at least a sixteen hour work day."

(5AM to 9PM is sixteen hours. The polls close at 9:00 pm. There are many important and time consuming jobs to be done after 9:00pm)

Int. No. 504

The League of Women Voters has concerns about including all State and Federal Elections in the Campaign Finance Board's Voter Guides because it will create the impression that these candidates for office are participating in Campaign Financing, which is not the case.

We are equally concerned that there will be significant cost to city taxpayers. This Int. would require that the CFB produce Voter Guides for essentially every election event in the City of New York. Under current law the CFB produces guides only every four years or when there is a Special Election for a City Office.

We do agree that the CFB should establish procedures to enable households to opt out of receiving the hard copy guides that it currently produces, and to receive the guide electronically instead.

Resolution No. 553

The League of Women Voters of New York State supports these bills, which would allow early voting in New York State.

Resolution No. 232

The League of Women Voters of New York State, on January 29, 2016 issued a "Memorandum in Support of: A.9108 Cusick/S.6452A Stewart-Cousins (attached), which would create a single combined congressional and state June primary date and would bring New York State into compliance with the Military Overseas Voter Empowerment (MOVE) Act.

We thank the Governmental Operations Committee for its continuing commitment to serving the voters of the City of New York.



The League of Women Voters of New York State 62 Grand Street, Albany, New York 12207 Phone: 518-465-4162 Fax: 518-465-0812 www.lwvny.org E-Mail: lwvny@lwvny.org

THE LEAGUE OF WOMEN VOTERS of New York State

MEMORANDUM IN SUPPORT OF: A.9108 Cusick/ S.6452A Stewart-Cousins

TO: Assembly Elections Committee

DATE: January 29, 2016

Subject: 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; and to amend the election law, in relation to date of primary elections.

The League of Women Voters of New York State strongly supports A.9108/S.6452A, which would create a single combined congressional and state June primary date and would bring New York State into compliance with the Military Overseas Voter Empowerment (MOVE) Act. The MOVE Act was designed to provide greater protection of the voting rights of military personnel, their families, and other overseas citizens. The League believes that a single primary is the only and best way to ensure that our military men and women are not disenfranchised and that voter participation does not suffer.

For several years, New York has had one of the lowest voter participation rates of the 50 states and Washington, D.C., ranking 49th in turnout in the 2014 election, with primary elections having even lower rates. Multiple primary dates serve only to confuse voters and contribute to New York's low voter participation rate. In addition, the unnecessary multiple primaries create a significant fiscal burden for local municipalities. Combining congressional and state primaries would save New York localities tens of millions of dollars and is the fiscally responsible alternative to a confusing and unnecessary multiplicity of primaries.

Now is the time for the Legislature to act and do what is best to maximize voter participation, protect the voting rights of overseas personnel, and eliminate the unnecessary costs of separate congressional and state primaries.

The League of Women Voters of New York State urges your support of this legislation.



CITIZENS UNION OF THE CITY OF NEW YORK Testimony to the NYC Council Committee on Governmental Operations Regarding Elections and Voter Registration Legislation February 29, 2016

Good morning Chair Kallos and members of the Governmental Operations Committee. My name is Rachael Fauss, and I am the Director of Public Policy for Citizens Union of the City of New York. Citizens Union is a nonpartisan good government group dedicated to making democracy work for all New Yorkers, which includes ensuring that our election and voter registration processes enable eligible voters to cast their ballots.

We are pleased that the Council is holding another hearing on election legislation, as you did last fall, given that 2016 is an important election year. The legislation can be roughly grouped in three categories, which I will address in turn: (1) voter notification; (2) voter education; and (3) resolutions on state legislation.

1. Voter Notification

Ensuring that voters have greater information at their disposal, in modern, digital formats where appropriate is a worthy goal, particularly given New York's low voter turnout. Proactive notifications regarding basic election information, such as poll site locations and voter registration dates, could help to ensure that voters are able to find their poll sites and update their registrations, the first step to casting a vote on Election Day.

- Int. No. 62-A (Garodnick) A Local Law to amend the New York city charter, in relation to requiring notice on former poll sites Citizens Union supports the intent of this legislation to help eliminate confusion among voters about poll site locations. Locations can change for a variety of reasons cost saving measures through consolidations, ensuring accessibility for voters with disabilities, for example and though voters receive notification of their poll sites via mail, they may be used to going to a particular site. Notices at old sites could help to steer voters in the right direction, rather than having them decide not to go to a new site out of frustration.
- Int. No. 463-A (Vacca) A Local Law to amend the New York city charter, in relation to providing e-mail and text message notifications to New York city voters Citizens Union supports this legislation, having worked on a previous draft with Councilmember Inez Dickens. These proactive, additional notifications will boost the Board's current efforts, as they are mandated by state law to do certain notifications, but only via hard copy mail. These notices could eventually replace the mail notifications, should state law change.
- Int. No. 848 (Torres) A Local Law to amend the New York city charter, in relation to requiring the board of elections to send voting histories to voters Citizens Union believes that this legislation presents an interesting and promising idea to potentially change voters' habits around voting. Research indicates that in addition to structural voting reforms such as early voting, easing registration, etc peer and social pressure is another effective tool to

boost turnout. Further, voters "pledging" to vote by outside groups and receiving their own pledge back in the mail before Election Day has also shown to be an effective tool. A voter seeing his or her own history of voting is a similar type of pressure that can be seen as an improvement upon it because it places pressure on voters but does not impinge on their privacy by publishing this information to peers. This may be an interesting experiment for New York City to implement.

For all of these bills, we encourage the City Council to examine the fiscal impact and enactment dates to make sure that they are feasible and able to be implemented fully by the City Board of Election.

2. NYC CFB Voter Guide

Citizens Union has long supported expanding and modernizing the city's Voter Guide, published through the NYC Campaign Finance Board. We understand that this issue is also being considered in the context of changes to the city's campaign finance program, and there is separate legislation — Intro 988 (Kallos) supported by the Campaign Finance Board to allow for opting out of the print guide, and instead receiving it via email. We believe that the bills before the Council today should be considered in the context of that legislation, and the overall goal to improve the Voter Guide.

- Int. No. 504 (Eugene) A Local Law to amend the New York city charter, in relation to including information about candidates for federal, state, and county offices in the New York City voters guide. Citizens Union supports this legislation, having assisted in drafting it with Councilmember Eugene. We understand that it presents the comprehensive approach to voter information, including detailed information about all the positions on the ballot, including district leaders. However, we are open to a narrowing of the legislation to require print guides for state and federal races while creating an electronic opt-out that contain basic information about certain races, such as a list of candidates, and more detailed information about priority races
- Int. No. 255 (Eugene) A Local Law to amend the New York city charter, in relation to the translation and publication of the New York city voters guide in additional languages. Citizens Union supports the intent of this legislation, as it would ensure greater accessibility of voting information. The city has worked to translate voter registration forms into additional languages beyond those required by federal law those currently used by the Department of Education for its materials and this legislation would continue that effort.

We understand that the Campaign Finance Board would require additional funding for staffing and printing/mailing of an expanded guide to cover state and federal races, and for guides translated into more languages. This additional cost could be partially offset, however, by the electronic opt-out—and indeed may prove to diminish over the coming years, as users increasingly prefer electronic communications. Additionally, the enactment dates should be considered to make sure that they are feasible.

3. Resolutions on State Legislation and Action by the City Board of Elections

Citizens Union has a wide platform of election reform issues at the state level, and is actively engaged on state election reform legislation. Our positions on the resolutions presented today reflect those state level positions.

- Res. 232 (Kallos) Resolution calling upon the New York State Legislature to pass and the Governor to sign into law A.8198 and S.6204, which would amend the election law to consolidate New York's federal, state, and local primaries into one primary which would take place on the fourth Tuesday of June Citizens Union supports this state legislation, having released a position statement¹ on consolidating the state primaries to both save taxpayer dollars and boost turnout, as research indicates that voter fatigue can occur with multiple elections in a given calendar year. The four elections this year in New York is both costly, and damaging to voter participation.
- Res. 281 (Rosenthal) Resolution to create an Annual Student Voter Registration Day.

 Citizens Union supports this resolution, having participated in Student Voter Registration Day pilot in 2015 with the City Council, and with a diverse coalition of groups, has called upon the Department of Education to make it a permanent, citywide program.²
- Res. 384 (Levine) Resolution calling upon the New York City Board of Elections to allow poll workers to work half-day shifts. Citizens Union supported the passage of state legislation to allow poll workers to work half-day shifts, and has been actively urging the City Board of Elections to implement this as "split" shifts, learning from their piloting of split shifts in Brooklyn. We believe that while this may require a greater number of poll workers, it will be easier to recruit poll workers for reasonable shifts, including youth and students who may be available for only partial days. Additionally, allowing poll workers to serve for fewer hours will diminish their own fatigue, and will likely improve their interactions with voters.
- Res. 390 (Treyger) Resolution in support of A9182/S7337, an act to amend the election law
 in relation to requiring the New York City Board of Elections to provide Russian interpreters
 at certain polling locations. Citizens Union does not have a position on this legislation, but
 supports the intent to improve accessibility.
- Res. 553 (Cabrera) Resolution calling on the New York State Legislature to pass, and the
 Governor to sign, A.689 and S.1461 of 2014, which would allow early voting in New York
 State. Citizens Union strongly supports early voting, but would note to the City Council that
 there are competing proposals to implement this at the state level. A.689 is former Speaker
 Sheldon Silver's legislation; A.8582-A is new early voting legislation sponsored by
 Assemblymember Kavanagh, which is being considered by the Assembly and has
 incorporated the language introduced by Governor Cuomo via his budget legislation. We
 urge the Council to examine the newly introduced legislation.
- Res. 870 (Rodriguez) Resolution calling on the New York State Legislature to pass and the Governor to sign A.7634, which would amend both the New York State Election Law and the Correction Law, in relation to voting by convicted felons. Under current law, parolees can apply to restore their right to vote through either a Certificate of Good Conduct, or Certificate of Relief, but this is a cumbersome process. Citizens Union supports allowing parolees to vote, as once a prison sentence has been completed, there should be no impediment for these New Yorkers to participate in the democratic process.

http://www.citizensunion.org/www/cu/site/hosting/IssueBriefs/CU ConsolidatedJunePrimary IssueBrief June 2014.pdf

¹ Available at:

² Statement available at: http://us3.campaign-archive1.com/?u=ca0fb41d668202ba6cc542ca8&id=55930b5b87&e=f9d8c6edf9



Prudence Katze, Research and Policy Manager, Common Cause/NY Before the New York City Council Committee on Governmental Operations February 29, 2015

Good Morning. My name is Prudence Katze and I am Common Cause/NY's Research and Policy Manager. Common Cause/NY provides a voice for citizens in support of open, honest and accountable government while working to strengthen public participation and confidence.

As reported by the NYC Campaign Finance Board, the New York City turnout rate for the November 2014 midterm election was a dismal 25% of registered voters, or only about 1 in 5 voting-age citizens cast their ballot at the polls.

Common Cause/NY is in favor of the 11 bills and resolutions before today's Gov Ops Committee consideration because they individually address the distressing problem of low voter turnout by enhancing different aspects of the voter experience. These bills, taken together, will act to streamline the overall process of casting a ballot. Important measures that the bills address include expanding the scope of the voter guide through publishing it in more languages and including information on all federal, state and county elections (Intro 255 and Intro 504); bringing voter information into the 21st century through text and email alerts (Intro 463-A), annually updating voters with their voting history (Intro 848), and ensuring that an individual can get to the correct poll site if their most recent poll site location has moved (Intro 62-A).

We also want to highlight the resolutions that call on New York State to consolidate our election and primary into one day and allow early voting (Res. 232 and Res. 553-A); for the NYC Mayor's office to create an annual Student Voter Registration Day (Res. 281-A); restoring voting rights to parolees (Res. 0870); and for the Board of Elections to allow poll workers to work half-day shifts (Res. 384).

Common Cause/NY understands that an un-funded mandate is no help to anyone – which is why we joined the New York Voters Coalition in calling on our Governor to allocate an election reform budget line in his 2016 Executive Budget. In that vein, we hope to see specific funding allocations from the New York City council to the NYC Board Of Elections (BoE) so that translation services, technological communication advances, and other voter-access tools can be effectively expanded. The New York City Council must do its part to work with the BoE on behalf of all New York City voters.

At the same time, we call on the NYC Board to accept the direction from the NYC Council contained in these needed bills and resolutions and to work with every level of government to ensure that voters can receive the best experience possible. Collaboration and understanding across jurisdictions and municipalities is the key to building up voter participation and will also demonstrate to the people of New York that our government is serious about letting their voices be heard. The Council has an obligation to insure that New York City taxpayer money is spent efficiently and effectively. That obligation carries with it the oversight of the NYC BoE, as it receives its taxpayer funding through the City Council. The Board's stubborn insistence that it is not answerable for the way in which it spends tax dollars does it no credit and simply re-enforces the unfortunate public perception that it is an agency that is unresponsive to public concerns

We look forward to working with the Council and with the NYC BOE in implementing these measures. Thank You.

FOR THE RECORD



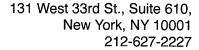
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New York City Council - Governmental Operations Committee Hearing – Election Reform

Testimony from the New York Immigration Coalition February 29, 2016

Good morning My name is Murad Awawdeh and I am the Senior Manager of Political Engagement at the New York Immigration Coalition, an umbrella policy and advocacy organization that works statewide with nearly 200 immigrant-serving member organizations. Thank you to chair Council member Kallos for the opportunity to testify at today's Government Operations Committee hearing.

New York State is the second-largest home to New Americans in the nation. With nearly 40% of New York City's residents being foreign-born and over 60% speaking a language other than English at home, we have the opportunity to fully engage newcomers from all over the globe in our civic and electoral processes. New York City houses over 40% of all voters in the state, but with the continued lack of language accessibility, understanding of the electoral process, and issues at the polls, New York City's new Americans continue to be civically disengaged and, in turn, unable to fully integrate into the fabric of our city. Almost every election year in recent history has had dwindling voter turnout rates; the decision of selecting representation is left in the hands of a few rather than the many. When New American voters do head to the polls, they are inhibited by poorly-trained poll workers, difficulty navigating the voting process, and still-extant language barriers. While New York City has been a leader in engaging its residents civically, we must do more to engage our newest New York City residents.





Efforts must be taken to address the inaccessibility of elections to all New Yorkers. We propose to the NYC Council a revamp the Board of Elections through a package of reforms to enfranchise immigrant voters:

- Reform the Board of Elections to efficiently improve programming and procedures, and implementing a cultural competency curriculum,
- Increase language access at the polls by providing voter materials in the top 9
 languages (English, Spanish, Chinese, Korean, Bangla, Urdu, Arabic, Russian,
 French Creole), most commonly spoken in the City. Voter materials include voter
 guides, posted signage at polls, translators at polls, ballots, and other informational
 material related to elections.
- Update training program for election site workers.
- We also seek resources to provide community based oversight and analysis of poll sites so that community-based organizations can monitor service provision.

Moving forward, we believe New York City must take a new, comprehensive and urgent approach to educating and building a civically engaged immigrant community. We need to take a long-term view towards the education and inclusion of the million's of New Yorkers lacking English proficiency and ensure that we are proactively building a robust participatory democracy.

We look forward to a renewed commitment from this Council to develop this vision and unlock the tremendous opportunity to engage all New Yorkers in the electoral process.

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