



THE COUNCIL OF THE CITY OF NEW YORK

Christine C. Quinn, Speaker

BRIEFING PAPER OF THE COMMITTEE ON RULES, PRIVILEGES AND ELECTIONS

Joel Rivera, Chairperson

December 18, 2012

Topic: *New York City Board of Elections – (Richmond County Democratic Committee Candidate for re-appointment by the Council)*

- **Maria R. Guastella [Preconsidered-M]**

The New York City Board of Elections (“BOE”) consists of ten commissioners, two from each of the City’s five counties, who are directly appointed by the New York City Council. Not more than two commissioners shall be registered voters of the same county. Each commissioner serves a term of four years or until a successor is appointed. Commissioners shall be registered voters from each of the major parties in the county for which they are appointed [*New York State Election Law* § 3-200(3)].

Party recommendations for election commissioner shall be made by the County Committee, or in such fashion as the rules of a party may provide. Each of the major political parties shall be eligible to recommend appointment of an equal number of commissioners [*New York State Election Law* § 3-200(2)]. The BOE and its commissioners are responsible for the maintenance and administration of voting records and elections. The BOE also exercises quasi-judicial powers by conducting hearings to validate nominating petitions of candidates for

nomination to elective office. The BOE is required to make an annual report¹ of its affairs and proceedings to the New York City Council once every twelve months and no later than the last day of January in any year. A copy of said annual report shall be filed with the New York State Board of Elections [*New York State Election Law* § 3-212(4)(a)].

At least thirty days before the first day of January of any year on which an elections commissioner is to be appointed, the Chair or Secretary of the appropriate party County Committee shall file a *Certificate of Party Recommendation* with the Clerk of the appropriate local legislative body [*New York State Election Law* § 3-204(1)]. In New York City, the City Clerk serves as the Clerk of the Council. If the Council fails to appoint an individual recommended by a party for appointment as a Commissioner within thirty days after the filing of a *Certificate of Party Recommendation* with the Council, then members of the Council who are members of the political party that filed the certificate may appoint such person. If none of the persons named in any of the certificates filed by a party are appointed within sixty days of the filing of the designating certificate, then such party may file another certificate within thirty days after the expiration of any such sixty day period recommending a different person for such appointment. If the party fails to file a *Certificate of Party Recommendation* within the time prescribed, the members of the Council who are members of such party may appoint any eligible person to such office [*New York State Election Law* § 3-204(4)].

If at any time a vacancy occurs in the office of any election commissioner other than by expiration of term of office, party recommendations to fill such vacancy shall be made by the county committee in such fashion as the rules of the party may provide.² *Certificates of Party Recommendation* to fill such vacancy shall be filed no later than forty-five days after the creation of a vacancy. Anyone

¹ The annual report shall include a detailed description of existing programs designed to enhance voter registration. The report shall also include a voter registration action plan to increase registration opportunities [*New York State Election Law* § 3-212(4)(b)].

² According to *New York State Public Officers Law* § 5, every officer except a judicial officer, a notary public, a commissioner of deeds and an officer whose term is fixed by the Constitution, having duly entered on the duties of his office, shall unless the office shall terminate or be abolished, hold over and continue to discharge the duties of his office after the expiration of the term for which he shall have been chosen, until his successor shall be chosen and qualified; but after the expiration of such term, the office shall be deemed vacant for the purpose of choosing his successor.

who fills a vacancy shall hold such office during the remainder of the term of the commissioner in whose place he/she shall serve [*New York State Election Law* § 3-204(5)].

BOE elects a President and a Secretary who cannot belong to the same political party [*New York State Election Law* § 3-312(1)]. The commissioners receive a \$300 per-diem for each day's attendance at meetings of the BOE or any of its committees, with a maximum of \$30,000 per year [*New York State Election Law* § 3-208].

If re-appointed, Ms. Guastella, a resident of Staten Island, will be eligible to serve a four-year term that begins January 1, 2013 and expires December 31, 2016. Copies of Ms. Guastella's résumé, report/resolution and Election Commissioner Certificate are annexed to this briefing paper.

Attachments

PROJECT STAFF

Charles W. Davis III, Director

Yasmin Vega, Legislative Investigator

Emerson J. Sykes, Counsel, Committee on Rules, Privileges and Elections

Alycia Vassell, Legislative Clerk

Diana Arreaga, Legislative Intern