

**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)**

BILL NUMBER: A4743

SPONSOR: Galef

TITLE OF BILL: An act to amend the election law and the education law, in relation to providing public school districts the authority to decline or change a school building's designation as a polling location

PURPOSE OR GENERAL IDEA OF BILL::

The purpose of this legislation is to provide public school districts with the authority to decline, or change a school building's designation as a polling location.

SUMMARY OF PROVISIONS::

Section 1. Subdivision 3 of section 4-104 of the Election Law is amended to allow public school buildings, when designated as a polling location, to decline their designation.

Section 2. Subdivision 1 of section 2002 of the Education Law is amended to allow school districts to hold district elections at publicly accessible locations other than school buildings within their district boundaries.

Section 3. Section 2604 of the Education Law is amended to allow small city school districts to hold district elections at publicly accessible locations other than school buildings within their district boundaries.

Section 4. Establishes the effective date.

DIFFERENCE BETWEEN ORIGINAL AND AMENDED VERSION (IF APPLICABLE):

This portion of this memorandum is not applicable at this time.

JUSTIFICATION::

In recent years, there has been growing concern regarding public school buildings being used as polling locations for district and non-district elections. When school buildings are used as polling locations, they are open to the public and schools are unable to track who has access to their facilities. Many school district leaders are concerned about this amount of unfettered access citing worries that this practice can compromise the safety and security of students, and disrupt academic programming.

It is not feasible for school districts to cancel classes on all days

their buildings are used for primaries and special elections, and with the increasing likelihood that early voting will be adopted, there are likely to be even more days that voting could take place in schools.

Districts already face increasing pressure when developing their calendars. As diversity increases in many districts, they are choosing to close for additional religious holidays and observances. Moreover, if special elections occur, these dates may be decided after the school calendar has already been finalized and adopted. School districts should be able to develop and implement calendars and security policies that are in the best interests of their students.

PRIOR LEGISLATIVE HISTORY::

This is new legislation.

FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENTS::

There are no fiscal implications to the state in associated with the passage of this legislation.

EFFECTIVE DATE::

This act shall take effect immediately.

STATE OF NEW YORK

4743

2019-2020 Regular Sessions

IN ASSEMBLY

February 5, 2019

Introduced by M. of A. GALEF -- read once and referred to the Committee on Election Law

AN ACT to amend the election law and the education law, in relation to providing public school districts the authority to decline or change a school building's designation as a polling location

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 3 of section 4-104 of the election law, as
2 amended by chapter 694 of the laws of 1989, is amended to read as
3 follows:
4 3. A building exempt from taxation shall be used whenever possible as
5 a polling place if it is situated in the same or a contiguous election
6 district, and may contain as many distinctly separate polling places as
7 public convenience may require. The expense, if any, incidental to its
8 use, shall be paid like the expense of other places of registration and
9 voting. If a board or body empowered to designate polling places chooses
10 a public school building for such purpose, the board or agency which
11 controls such building must make available a room or rooms in such
12 building which are suitable for registration and voting and which are as
13 close as possible to a convenient entrance to such building and must
14 make available any such room or rooms which the board or body designat-
15 ing such building determines are accessible to physically disabled
16 voters as provided in subdivision one-a of this section; provided,
17 however, not later than thirty days after a public school building
18 receives notice of its designation as a polling place, the board or
19 agency controlling such building may file a written request for a
20 cancellation of such designation. Upon receipt of such request, the
21 board or body empowered to so designate shall cancel such designation.
22 Notwithstanding the provisions of any general, special or local law, if
23 a board or body empowered to designate polling places chooses a publicly
24 owned or leased building, other than a public school building, for such

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 purposes the board or body which controls such building must make avail-
2 able a room or rooms in such building which are suitable for registra-
3 tion and voting and which are as close as possible to a convenient
4 entrance to such building, and must make available any such room or
5 rooms which the board or body designating such building determines are
6 accessible to physically disabled voters unless, not later than thirty
7 days after notice of its designation as a polling place, the board or
8 body controlling such building, files a written request for a cancella-
9 tion of such designation with the board or body empowered to designate
10 polling places on such form as shall be provided by the board or body
11 making such designation. The board or body empowered to so designate
12 shall, within twenty days after such request is filed, determine whether
13 the use of such building as a polling place would unreasonably interfere
14 with the usual activities conducted in such building and upon such
15 determination, may cancel such designation.

16 § 2. Subdivision 1 of section 2002 of the education law, as amended by
17 section 5 of part C of chapter 58 of the laws of 1998, is amended to
18 read as follows:

19 1. The annual meeting and election of each school district shall be
20 held on the third Tuesday of May in each year, provided, however that
21 such annual meeting and election shall be held on the second Tuesday in
22 May if the commissioner at the request of a local school board certifies
23 no later than March first that such election would conflict with reli-
24 gious observances. Unless the hour and place thereof shall have been
25 fixed by a vote of a previous district meeting, the same shall be held
26 in the schoolhouse at seven-thirty o'clock in the evening in the case of
27 a school district that is not divided into election districts and
28 conducts its election or vote by recording the ayes or noes of the qual-
29 ified voters attending, or, in the case of all other districts, during
30 at least six consecutive hours after six a.m., two of which hours shall
31 be after six p.m. as determined by resolution of the trustees or board
32 of education, provided, however, that the trustees or board of education
33 of any school district that conducted its annual meeting at seven-thirty
34 p.m. in nineteen hundred ninety-seven may conduct its annual election
35 and budget vote at such time in nineteen hundred ninety-eight. If a
36 district possesses more than one schoolhouse, it shall be held in the
37 one usually employed for that purpose, unless the trustees or board of
38 education designate another, provided that if the school district is
39 divided into election districts such annual meeting and election shall
40 be held at such place in each election district as the board of educa-
41 tion may designate. If by resolution of the trustees or board of educa-
42 tion the district [possesses no schoolhouse, or if the schoolhouse shall
43 not be accessible or adequate, then the] elects to designate a publicly
44 accessible location within district boundaries that is not a school
45 building for purposes of conducting the annual meeting and election,
46 such annual meeting and election shall be held at such place as the
47 trustees or board of education, or the clerk, shall designate in the
48 notice.

49 § 3. Section 2604 of the education law, as amended by chapter 741 of
50 the laws of 1954, is amended to read as follows:

51 § 2604. Division of city school district into school election
52 districts; elections held in schoolhouses. The board of education of
53 each city school district shall adopt a resolution on or before the
54 first day of April, preceding the first annual school election held
55 hereunder, dividing the city school district into school election
56 districts. The city school district shall be so divided that if circum-

1 stances will permit, school election districts will be coterminous with
2 one or more general election districts, and that, if practicable, there
3 shall be a schoolhouse in each election district. The election
4 districts thus formed shall continue in existence until modified by
5 resolution of the board of education. Such resolution shall accurately
6 describe the boundaries of such election districts by streets, alleys
7 and highways, when practicable. School elections shall be held in such
8 school election districts so far as may be possible in the public
9 schoolhouses therein[. If there is no public schoolhouse in a school
10 election district,]; provided, however, the board of education [shall]
11 may by resolution designate [the place] a publicly accessible alterna-
12 tive location where the election in such district shall be held.
13 Notwithstanding the foregoing provisions of this section, the board of
14 education of any city school district of a city of less than ten thou-
15 sand inhabitants may, by resolution, designate the entire city school
16 district as a single school district.

17 § 4. This act shall take effect immediately.

