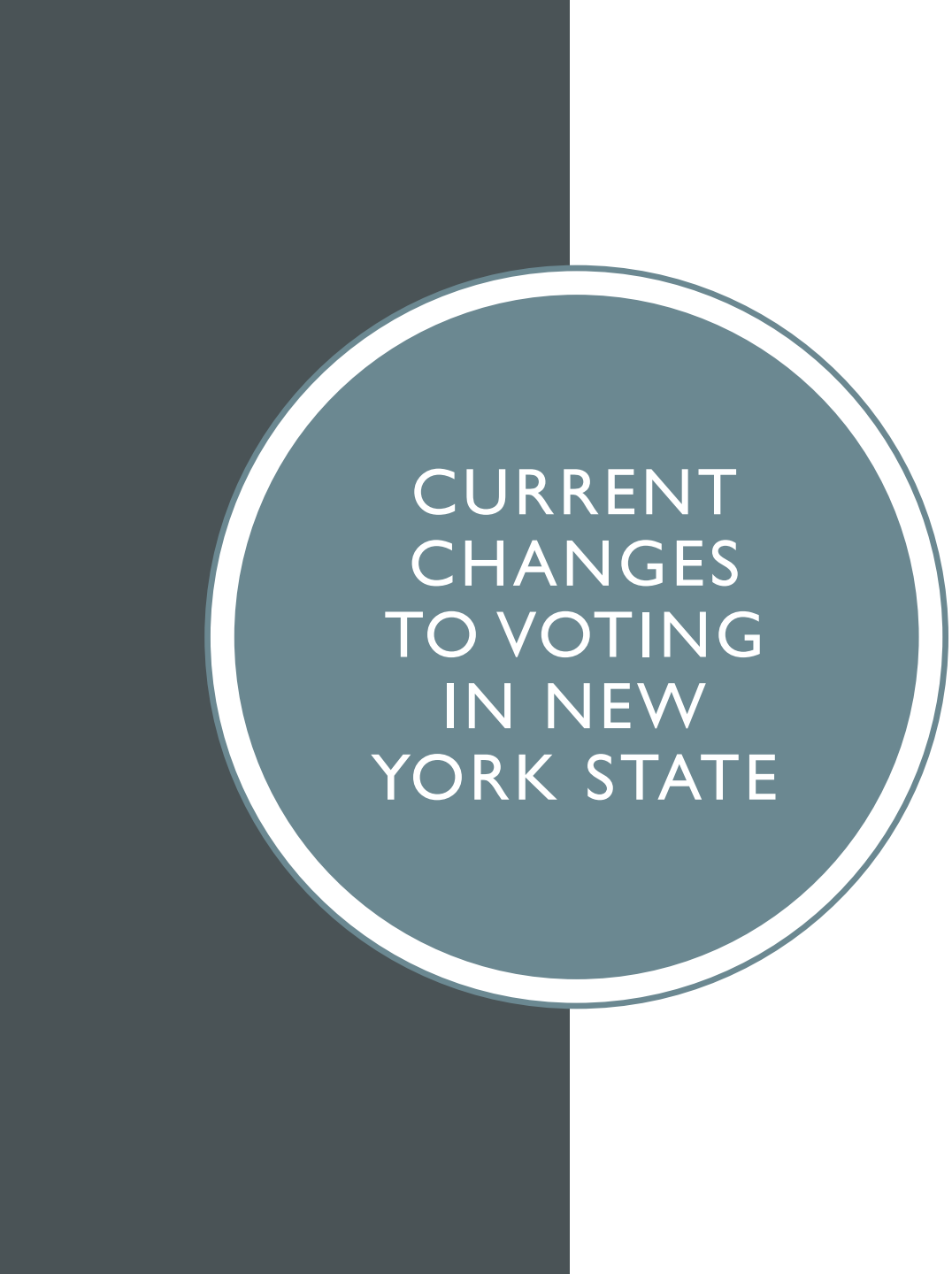


# VOTING IN NEW YORK DURING COVID-19 HEALTH CRISIS

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CURRENT  
CHANGES  
TO VOTING  
IN NEW  
YORK STATE

- Governor has introduced several Executive Orders altering voting procedures during COVID-19:
  - **Reducing the Signature Requirement for Candidate Petitions**
  - **Postponement of April Primary**
    - Postponing village and school board elections but without a clear rescheduled date
  - **Expanding Absentee Voting**
    - Anyone can request an absentee ballot by marking “temporary illness”
    - A signature is not required to request ballot
    - Will expire after June elections

# UNCERTAINTY SURROUNDING NEW POLICIES

- Do the Executive Orders alter all procedures surrounding elections such as registration deadlines?
- Will previously submitted absentee requests still be valid?
- Will completed absentee ballot submitted for the presidential primary still be valid?
- Will voters be required to complete an absentee application on paper when they receive their ballot if they file electronically?
- **Governor must issue additional guidance to make his policy intentions clear.**



1

Voter sends absentee ballot request to county BOE. The application must be signed by the voter and include postage paid for by the voter. The voter must also indicate why they are requesting to vote by absentee.

*\*\*Can now request electronically without signature\*\**

2

County BOE processes application and sends ballot to voter either 32 days ahead of the election or as soon as request is received if after 32 days.

3

Voter must return the ballot completed, signed, and post marked which must be paid for by the voter.

Each ballot has a unique bar code to identify the voter once the ballot is returned but there is no way for the voter or board of elections to track the ballot in the mail.

4

Once the ballot is received by the county BOE it is processed.

Ballots that are not postmarked by the day before the election or arrive later than 7 days following the election will not be counted.

## WHAT IS THE TYPICAL PROCESS TO GET AN ABSENTEE BALLOT?

## CHALLENGES TO EXISTING SYSTEM

- Currently less than 5% of the NYS electorate vote via absentee.
- Ballots are frequently lost in the mail and either never arrive at the board of elections or arrive many weeks later.
- County boards of elections lack the necessary materials to scale up absentee voting in such a short time frame.
- Although the law has been expanded there is limited public education coming from boards of elections.



## PUBLIC AWARENESS TO PROCESS CHANGES

### **In a survey of all 62 county board of elections websites:**

- 32 Counties do not mention on their websites that absentee voting has been expanded to allow any voter to request a ballot.
- 3 counties only a link to the absentee request form with not further directions.
- 8 counties indicated voters could call to request an application be mailed to them.
- 2 counties are allowing voters to submit their requests through an electronic system (Erie, Livingston)

# GUIDANCE FROM THE STATE BOARD OF ELECTIONS

The federal Presidential Primary was postponed and rescheduled to be held on: June 23, 2020 (See EO 202.12 below).

## Executive Order 202.15

Executive Order 202.15 allows voters who are affected by COVID-19 pandemic and wish to apply to vote by absentee ballot to utilize the [absentee ballot application](#) (📎 484KB) and check the box for "Temporary illness or physical disability" with no requirement for in-person signature or appearance to be able to access an absentee ballot. The Order contains no change in the application deadlines. Applications for absentee ballots may be made by mail, email, fax or in person.

Delivery of absentee ballots to voters still remains the same – via mail or in person. There is no change in the return methods: mail or in person. Applications for elections conducted after June 23rd revert back to the original process, unless further modified by an executive order or by law.

The link for the Executive 202.15 is: <https://www.governor.ny.gov/news/no-20215-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>

## Executive Orders 202.12 and 202.13

Executive Orders 202.12 and 202.13 have modified the Election Law by:

- Postponing and rescheduling the federal Presidential Primary from April 28, 2020 to June 23, 2020;
- Postponing and rescheduling the special elections in the 27th CD, 50th SD, 12th AD, 31st AD and 136th AD from April 28, 2020 to June 23, 2020; and
- Beginning March 31, 2020, postponing the circulation and filing of all independent nominating petitions;
- modifying the annual mail check requirements.

The link for the Executive 202.12 is: <https://www.governor.ny.gov/news/no-20212-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>

The link for the Executive 202.13 is: <https://www.governor.ny.gov/news/no-20213-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>

# ADDITIONAL CHALLENGES

- How will boards of election ensure voters with **disabilities** or **language barriers** are not **disenfranchised**?
- How will boards of **election track ballots and applications**?  
Do they have the capacity to do this?
- Can county boards of election **pay for absentee ballot return postage**?
- Will the Governor **extend his Executive Orders until November**?





## STATE LEGISLATIVE FIXES

- **A.10203A (Jacobson) /S.8015A (Biaggi)** an act to amend the election law, in relation to permitting absentee voting in the event of a public health risk.
  - Section 1 amends subdivision 1 and subdivision 3 of section 8-400 of the election law to include within the definition of "illness" the spread or potential spread of any communicable disease during a declared state of emergency.

**FOR PURPOSES OF THIS PARAGRAPH, THE TERM "ILLNESS" SHALL INCLUDE THE SPREAD OR POTENTIAL SPREAD OF ANY COMMUNICABLE DISEASE, AT A TIME OF DECLARATION OF A STATE OF EMERGENCY WITHIN THE JURISDICTION WHERE THE ELECTION IS TAKING PLACE**

- Would still be applicable for November elections.

## STATE LEGISLATIVE FIXES

- **S8130A (Myrie)** Permits electronic application for absentee ballots no later than two days prior to an election; removes requirement that such application be signed by the voter.
- This bill permits absentee ballots to be received on election day if it is received and timestamped by the board of elections by the close of election day. Current law provides that absentee ballots must be postmarked no later than the day before election day and received by the board of elections no later than seven days following election day.
- This legislation shortens the deadline to request an absentee ballot from seven days ahead of election day to two days before elections day.
- This bill also expands absentee ballot requests to be received electronically.

## STATE LEGISLATIVE FIXES

- **A.2327 (Dinowitz)/ S.8004 (Sanders)** Requires the board of elections to provide a return postage guaranteed envelope with absentee ballots.
- Counties would be left to bear this cost.

# FEDERAL FUNDING OPPORTUNITIES

- The CARES Act stimulus package includes \$400 million in new Help America Vote Act (HAVA) funds for states to utilize to prevent, prepare for, and respond to the coronavirus for the 2020 election cycle.
- States can use these funds to purchase cleaning supplies, protective masks for staff and poll workers, resources to meet the increased demand for absentee ballots due to self-isolation and quarantine in response to COVID-19, and temporary staff to process the increased absentee ballot demand.
- New York State is eligible for \$20 million but must commit to a 20% match (\$4 million) to be paid over two years.
- **New York State has not committed to that match and therefore may not receive these funds**

# WILL THE LEGISLATURE RETURN?

- Senate and Assembly passed remote voting procedures.
- Both houses have conferenced remotely during April break.
- No word as to whether new technology for remote voting has been onboarded or whether they plan to come back before June.



# FINAL POLICY CONSIDERATIONS

**Mailing a ballot to all registered voters in a party** – not viable in New York State where our voter rolls are incomplete.

**Expanded early in person voting** – can reduce lines on election day and circumvent procedural burden of processing absentee ballots but requires additional poll staff.

**Absentee ballot dropboxes** – work well in other states (Colorado, Washington) but require funds to set up and ensure security.

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THANK YOU