

We, the undersigned Election Commissioners, who oversee County Boards of Elections from across New York State, encourage the State Assembly to pass [A642B](#) (Carroll) / [S284A](#) (Myrie). This bill would update the Election Law to protect and count, at post-election canvass, the eligible votes on affidavit ballots cast by registered voters at an unassigned polling place (but in the correct county), with respect to races such voters would be entitled to participate in based on their resident election district.

This proposal, passed by the State Senate in 2021 and 2022, would address a technicality that required New York's 58 CBOEs to disqualify a reported 13,800 votes statewide in the 2020 General Election. This comprised the largest source of disqualified affidavit ballots cast by duly registered voters in each of our counties and statewide, despite diligent efforts for over a decade of training poll workers to confirm a voter's address and redirect lost voters to their correct polling place *before* offering the affidavit ballot / court order option, as the law requires.¹ This nuance has led to confusion among voters and poll workers alike, jeopardizing rights.

Under the current law for canvassing affidavit ballots, election officials must *fully* disqualify affidavit ballots cast at an unassigned polling place, even when the voter is registered in the county they are voting in, and even where the voter would be eligible to participate in all or nearly all of the contests on the ballot style they inadvertently voted.² In several other states, policymakers have addressed the challenge of persistent 'wrong church' (out-of-precinct) voting by ensuring that the eligible votes on these ballots are canvassed and counted post-election.

As a matter of implementation, there is minimal additional burden associated with this proposal, which is limited to counting eligible votes on ballots cast in the correct county. Affidavit ballots in New York are not cast during early voting or on election day at polling places, but are stored securely before being sorted for a County Board's centralized post-election canvass, making it a relatively straightforward process to canvass the eligible votes on "wrong church" affidavits.³

During preparation for the canvass, ballots determined to have been cast in the "wrong church" would be allocated to the appropriate bipartisan board of canvassers for the voter's correct ED. These ballots would then be canvassed faithfully by bipartisan staff using a fresh ballot in the same manner as an unscannable standard ballot, to record the choices for contests the voter was eligible to participate in. A notation would also be made in the relevant logs and registration records to memorialize disposition of the vote. In the event that there are votes for contests on the affidavit that do not appear on the voter's correct ballot style, i.e., contests the voter is not entitled to participate in, those choices will not be canvassed.

Based on our experience overseeing elections in our respective counties, this proposal will improve due process and protect thousands of votes from registered, otherwise-eligible New Yorkers, improving the accuracy of election results and the public trust that all legitimate votes will be counted.

For the foregoing reasons, we encourage the State Assembly to pass [A642B](#) (Carroll) / [S284B](#) (Myrie) in time for the 2022 General Election.

¹*Impact of New York's "Wrong Church" Ballot Disqualifications Rule in the 2020 General Election,*
<https://bit.ly/2xmnsr3>.

² *N.Y. Elect. Law § 9-209(7)(d) ("if the central board of canvassers determines that a person was entitled to vote at such election, the board shall cast and canvass such affidavit ballot if such board finds that the voter appeared at the correct polling place, regardless of the fact that the voter may have appeared in the incorrect election district and regardless of whether the voter's name was in the registration poll record.)* ³ *N.Y. Elect. Law §9-209(7)(a).*

Sincerely,

Albany County Elections Commissioner
Kathleen Donovan

Broome County Elections Commissioner
Daniel Reynolds

Dutchess County Elections Commissioner
Hannah Black

Erie County Elections Commissioner
Jeremy Zellner

Monroe County Elections Commissioner
Jackie Ortiz

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