

**PROGRAM BILL # 4**

S. ....  
Senate  
.....

IN SENATE--Introduced by Sen

--read twice and ordered printed,  
and when printed to be committed  
to the Committee on

..... A.  
Assembly  
.....

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the  
Committee on

**\*ELECLA\***

(Relates to board of elections  
enforcement counsel and change of  
party enrollment provisions; repeal-  
er)

.....  
Elect. BOE enforcement counsel

**AN ACT**

to amend the election law, in  
relation to the state board of  
elections chief enforcement counsel;  
and to amend the criminal procedure  
law, in relation to the chief  
enforcement counsel of the state  
board of elections (Part A); to  
amend the election law, in relation  
to candidates for office who are not  
enrolled in a party and repealing  
section 6-120 of such law relating  
thereto (Part B); and to amend the

**IN SENATE**

**Senate introducer's signature**

The senators whose names are circled below wish to join me in the sponsorship  
of this proposal:

- |                 |                      |                |                  |                     |
|-----------------|----------------------|----------------|------------------|---------------------|
| s20 Adams       | s17 Felder           | s63 Kennedy    | s25 Montgomery   | s23 Savino          |
| s15 Addabbo     | s02 Flanagan         | s34 Klein      | s54 Nozzolio     | s29 Serrano         |
| s11 Avella      | s08 Fuschillo        | s28 Krueger    | s55 O'Brien      | s51 Seward          |
| s40 Ball        | s59 Gallivan         | s24 Lanza      | s58 O'Mara       | s09 Skelos          |
| s42 Bonacic     | s12 Gianaris         | s39 Larkin     | s21 Parker       | s14 Smith           |
| s04 Boyle       | s41 Gipson           | s37 Latimer    | s13 Peralta      | s26 Squadron        |
| s44 Breslin     | s22 Golden           | s01 LaValle    | s30 Perkins      | s16 Stavisky        |
| s38 Carlucci    | s47 Griffo           | s52 Libous     | s61 Ranzenhofers | s35 Stewart-Cousins |
| s50 DeFrancisco | s60 Grisanti         | s45 Little     | s48 Ritchie      | s46 Tkaczyk         |
| s32 Diaz        | s06 Hannon           | s05 Marcellino | s33 Rivera       | s53 Valesky         |
| s18 Dilan       | s36 Hassell-Thompson | s43 Marchione  | s56 Robach       | s57 Young           |
| s31 Espaillet   |                      | s07 Martins    | s19 Sampson      | s03 Zeldin          |
| s49 Farley      | s27 Hoylman          | s62 Maziarz    | s10 Sanders      |                     |

**IN ASSEMBLY**

**Assembly introducer's signature**

The Members of the Assembly whose names are circled below wish to join me in the  
multi-sponsorship of this proposal:

- |                   |                  |                  |                     |                  |
|-------------------|------------------|------------------|---------------------|------------------|
| a049 Abbate       | a081 Dinowitz    | a135 Johns       | a039 Moya           | a016 Schimel     |
| a092 Abinanti     | a147 DiPietro    | a113 Jordan      | a133 Nojay          | a140 Schimminger |
| a084 Arroyo       | a115 Duprey      | a094 Katz        | a037 Nolan          | a087 Sepulveda   |
| a035 Aubry        | a004 Englebright | a074 Kavanagh    | a130 Oaks           | a065 Silver      |
| a120 Barclay      | a054 Espinal     | a142 Kearns      | a069 O'Donnell      | a027 Simanowitz  |
| a106 Barrett      | a109 Fahy        | a076 Kellner     | a051 Ortiz          | a036 Simotas     |
| a060 Barron       | a071 Farrell     | a040 Kim         | a091 Otis           | a104 Skartados   |
| a082 Benedetto    | a126 Finch       | a131 Kolb        | a132 Palmesano      | a099 Skoufis     |
| a117 Blankenbush  | a008 Fitzpatrick | a105 Lalor       | a088 Paulin         | a022 Solages     |
| a062 Borelli      | a124 Friend      | a013 Lavine      | a141 Peoples-Stokes | a114 Stec        |
| a055 Boyland      | a143 Gabryszak   | a050 Lentol      |                     | a110 Steck       |
| a026 Braunstein   | a095 Galef       | a125 Lifton      | a058 Perry          | a079 Stevenson   |
| a044 Brennan      | a137 Gantt       | a102 Lopez, P.   | a089 Pretlow        | a127 Stirpe      |
| a119 Brindisi     | a007 Garbarino   | a053 Lopez, V.   | a073 Quart          | a011 Sweeney     |
| a138 Bronson      | a077 Gibson      | a123 Lupardo     | a019 Ra             | a112 Tedisco     |
| a046 Brook-Krasny | a148 Giglio      | a010 Lupinacci   | a098 Rabbit         | a101 Tenney      |
| a093 Buchwald     | a080 Gjonaj      | a121 Magee       | a012 Raia           | a001 Thiele      |
| a118 Butler       | a066 Glick       | a129 Magnarelli  | a006 Ramos          | a061 Titone      |
| a103 Cahill       | a023 Goldfeder   | a059 Maisel      | a134 Reilich        | a031 Titus       |
| a043 Camara       | a150 Goodell     | a064 Malliotakis | a078 Rivera         | a146 Walter      |
| a145 Ceretto      | a075 Gottfried   | a030 Markey      | a128 Roberts        | a041 Weinstein   |
| a033 Clark        | a005 Graf        | a090 Mayer       | a056 Robinson       | a020 Weisenberg  |
| a047 Colton       | a100 Gunther     | a108 McDonald    | a068 Rodriguez      | a024 Weprin      |
| a032 Cook         | a139 Hawley      | a014 McDonough   | a072 Rosa           | a070 Wright      |
| a144 Corwin       | a083 Heastie     | a017 McKeivitt   | a067 Rosenthal      | a096 Zebrowski   |
| a085 Crespo       | a003 Hennessey   | a107 McLaughlin  | a025 Rozic          | a002             |
| a122 Crouch       | a028 Hevesi      | a038 Miller      | a116 Russell        | a086             |
| a021 Curran       | a048 Hikind      | a052 Millman     | a149 Ryan           |                  |
| a063 Cusick       | a018 Hooper      | a015 Montesano   | a009 Saladino       |                  |
| a045 Cymbrowitz   | a042 Jacobs      | a136 Morelle     | a111 Santabarbara   |                  |
| a034 DenDekker    | a097 Jaffee      | a057 Mosley      | a029 Scarborough    |                  |

1) Single House Bill (introduced and printed separately in either or  
both houses). Uni-Bill (introduced simultaneously in both houses and printed  
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2  
signed copies of bill and 4 copies of memorandum in support (single house);  
or 4 signed copies of bill and 8 copies of memorandum  
in support (uni-bill).

election law, in relation to change of enrollment; and to repeal subdivision 3 of section 5-304 of such law relating thereto (Part C)

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

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1 Section 1. This act enacts into law major components of legislation  
2 relating to election reforms. Each component is wholly contained within  
3 a Part identified as Parts A through C. The effective date for each  
4 particular provision contained within such Part is set forth in the last  
5 section of such Part. Any provision in any section contained within a  
6 Part, including the effective date of the Part, which makes a reference  
7 to a section "of this act", when used in connection with that particular  
8 component, shall be deemed to mean and refer to the corresponding  
9 section of the Part in which it is found. Section four of this act sets  
10 forth the general effective date of this act.

11 PART A

12 BOARD OF ELECTIONS ENFORCEMENT COUNSEL

13 Section 1. Subdivision 1 of section 14-126 of the election law, as  
14 amended by section 3 of part E of chapter 399 of the laws of 2011, is  
15 amended to read as follows:

16 1. Any person who fails to file a statement required to be filed by  
17 this article shall be subject to a civil penalty, not in excess of one  
18 thousand dollars, to be recoverable in a special proceeding or civil  
19 action to be brought by the state board of elections [or other board of  
20 elections] chief enforcement counsel pursuant to section 16-114 of this  
21 chapter. Any person who, three or more times within a given election  
22 cycle for such term of office, fails to file a statement or statements  
23 required to be filed by this article, shall be subject to a civil penal-  
24 ty, not in excess of ten thousand dollars, to be recoverable as provided  
25 for in this subdivision.

1 § 2. Subdivision 3 of section 3-100 of the election law, as amended by  
2 chapter 220 of the laws of 2005, is amended to read as follows:

3 3. The commissioners of the state board of elections shall have no  
4 other public employment. The commissioners shall receive an annual sala-  
5 ry of twenty-five thousand dollars, within the amounts made available  
6 therefor by appropriation. The board shall, for the purposes of sections  
7 seventy-three and seventy-four of the public officers law, be a "state  
8 agency", and such commissioners shall be "officers" of the state board  
9 of elections for the purposes of such sections. Within the amounts made  
10 available by appropriation therefor, the state board of elections shall  
11 appoint two co-executive directors, and such other staff members as are  
12 necessary in the exercise of its functions, and may fix their compen-  
13 sation. [Anytime after the effective date of the chapter of the laws of  
14 two thousand five which amended this subdivision, the] The commissioners  
15 or, in the case of a vacancy on the board, the commissioner of each of  
16 the major political parties shall appoint one co-executive director.  
17 Each co-executive director shall serve a term of four years. The gover-  
18 nor shall appoint a chief enforcement counsel with the advice and  
19 consent of the senate, who shall have a fixed term of four years and  
20 shall be removed only for good cause and solely by the governor. Such  
21 consent shall be determined by vote of the senate within thirty days of  
22 the nomination by the governor. The chief enforcement counsel shall  
23 have sole authority over personnel decisions within the enforcement  
24 unit. All hiring decisions made by the chief enforcement counsel shall  
25 be made without regard to political party affiliation. Any vacancy in  
26 the office of co-executive director shall be filled by the commissioners  
27 or, in the case of a vacancy on the board, the commissioner of the same

1 major political party as the vacating incumbent for the remaining period  
2 of the term of such vacating incumbent.

3 § 3. Subdivision 3, paragraph (c) of subdivision 9-A and subdivision  
4 17 of section 3-102 of the election law, subdivisions 3 and 17 as  
5 amended by chapter 9 of the laws of 1978, paragraph (c) of subdivision  
6 9-A as added by chapter 430 of the laws of 1997 and subdivision 17 as  
7 renumbered by chapter 23 of the laws of 2005, are amended to read as  
8 follows:

9 3. conduct any investigation necessary to carry out the provisions of  
10 this chapter, provided, however, that the state board of elections chief  
11 enforcement counsel, established pursuant to section 3-100 of this arti-  
12 cle, shall conduct any investigation necessary to enforce the provisions  
13 of this chapter on behalf of the board of elections;

14 (c) establish [a] an educational and training program on all reporting  
15 requirements including but not limited to the electronic reporting proc-  
16 ess and make it easily and readily available to any such candidate or  
17 committee;

18 17. hear and vote upon the recommendations of the state board of  
19 elections chief enforcement counsel regarding the enforcement of  
20 violations of this chapter;

21 18. perform such other acts as may be necessary to carry out the  
22 purposes of this chapter.

23 § 4. Section 3-104 of the election law, subdivisions 1, 3, 4 and 5 as  
24 redesignated and subdivision 2 as amended by chapter 9 of the laws of  
25 1978, is amended to read as follows:

26 § 3-104. State board of elections; enforcement powers.

1 1. (a) There shall be a unit known as the state board of elections  
2 enforcement unit established within the state board of elections. The  
3 head of such unit shall be the chief enforcement counsel.

4 (b) The state board of elections shall have jurisdiction of, and be  
5 responsible for, the execution and enforcement of the provisions of  
6 article fourteen of this chapter and other statutes governing campaigns,  
7 elections and related procedures; provided however that the chief  
8 enforcement counsel shall have authority within the state board of  
9 elections to investigate on his or her own initiative or upon complaint  
10 alleged violations of such statutes and all complaints alleging  
11 violations shall be forwarded to the enforcement unit.

12 2. (a) Whenever [the state board of elections or other] a local board  
13 of elections shall determine, on its own initiative or upon complaint,  
14 or otherwise, that there is substantial reason to believe a violation of  
15 this chapter or any code or regulation promulgated thereunder has  
16 [occurred] been committed by a candidate or political committee or other  
17 person or entity that files statements required by article fourteen of  
18 this chapter solely with such local board, it shall expeditiously make  
19 an investigation which shall also include investigation of reports and  
20 statements made or failed to be made by the complainant and any poli-  
21 tical committee supporting his candidacy if the complainant is a candi-  
22 date or, if the complaint was made by an officer or member of a poli-  
23 tical committee, of reports and statements made or failed to be made by  
24 such political committee and any candidates supported by it. [The state  
25 board of elections, in lieu of making such an investigation, may direct  
26 the appropriate board of elections to make an investigation.] The local  
27 board shall report the results of its investigation to the state board  
28 of elections chief enforcement counsel within ninety days of the start

1 of such investigation. The state board of elections chief enforcement  
2 counsel may direct the local board of elections at any time to suspend  
3 its investigation so that the state board of elections enforcement unit  
4 can investigate the matter.

5 (b) The state board of elections or the chief enforcement counsel may  
6 request, and shall receive, the assistance of the state police in any  
7 investigation it shall conduct.

8 [3. If, after an investigation, the state or other board of elections  
9 finds reasonable cause to believe that a violation warranting criminal  
10 prosecution has taken place, it shall forthwith refer the matter to the  
11 district attorney of the appropriate county and shall make available to  
12 such district attorney all relevant papers, documents, testimony and  
13 findings relevant to its investigation.

14 4. The state or other board of elections may, where appropriate,  
15 commence a judicial proceeding with respect to the filing or failure to  
16 file any statement of receipts, expenditures, or contributions, under  
17 the provisions of this chapter, and the state board of elections may  
18 direct the appropriate other board of elections to commence such  
19 proceeding.

20 5.] 3. Upon receipt of a complaint and supporting information alleging  
21 any other violation of this chapter, the chief enforcement counsel shall  
22 analyze the complaint to determine if an investigation should be under-  
23 taken. The chief enforcement counsel shall, if necessary, obtain addi-  
24 tional information from the complainant or from other sources to assist  
25 such counsel in making this determination. Such analysis shall include  
26 the following: first, whether the allegations, if true, would constitute  
27 a violation of this chapter and, second, whether the allegations are  
28 supported by credible evidence.

1 4. If the chief enforcement counsel determines that the allegations,  
2 if true, would not constitute a violation of this chapter or that the  
3 allegations are not supported by credible evidence, he or she shall  
4 issue a letter to the complainant dismissing the complaint.

5 5. If the chief enforcement counsel determines that the allegations,  
6 if true, would constitute a violation of this chapter and that the alle-  
7 gations appear to be supported by credible evidence, he or she shall  
8 notify the state board of elections of (a) his or her intent to resolve  
9 the matter extra-judicially due to the de minimis nature of the  
10 violation; or (b) his or her intent to commence a full investigation, no  
11 later than the board's next regularly scheduled meeting. Notification  
12 shall summarize the relevant facts and the applicable law and shall  
13 protect from public disclosure the identity of the complainant and the  
14 individual subject to the complaint. The state board shall not have the  
15 authority to require the chief enforcement counsel to refrain from such  
16 investigation.

17 6. The chief enforcement counsel shall have the power to fully inves-  
18 tigate violations of this chapter, including the power to issue subpoe-  
19 nas and to apply for search warrants pursuant to article six hundred  
20 ninety of the criminal procedure law, and, except in exigent circum-  
21 stances, shall give prior notice of the application to the district  
22 attorney of the county in which such a warrant is to be executed, and in  
23 such exigent circumstances shall give such notice as soon thereafter as  
24 is practicable; provided, however that the failure to give notice of a  
25 search warrant application to a district attorney shall not be a ground  
26 to suppress the evidence seized in executing the warrant. The chief  
27 enforcement counsel shall be further authorized to use the full investi-

1 gative powers of the state board of elections, as provided for in subdi-  
2 visions four, five and six of section 3-102 of this title.

3 7. The chief enforcement counsel may, after consultation with the  
4 district attorney as to the time and place of such attendance or appear-  
5 ance, attend in person any term of the county court or supreme court  
6 having appropriate jurisdiction, including an extraordinary special or  
7 trial term of the supreme court when one is appointed pursuant to  
8 section one hundred forty-nine of the judiciary law, or appear before  
9 the grand jury thereof, for the purpose of managing and conducting in  
10 such court or before such jury a criminal action or proceeding concerned  
11 with a criminal violation of this chapter. In such case, such chief  
12 enforcement counsel or his or her assistant so attending may exercise  
13 all the powers and perform all the duties in respect of such actions or  
14 proceedings which the district attorney would otherwise be authorized or  
15 required to exercise or perform.

16 8. At the conclusion of its investigation, the chief enforcement coun-  
17 sel shall provide the state board of elections with a written recommen-  
18 dation as to: (a) whether substantial reason exists to believe a  
19 violation of this chapter has occurred and, if so, the nature of the  
20 violation and any applicable penalty, based on the nature of the  
21 violation; (b) whether the matter should be resolved extra-judicially;  
22 (c) whether a special proceeding should be commenced in the supreme  
23 court to recover a civil penalty; and (d) whether a criminal indictment  
24 or information should be sought in consultation with a district attorney  
25 pursuant to subdivision ten of this section because reasonable cause  
26 exists to believe a violation warranting criminal prosecution has taken  
27 place.

1 9. The state board of elections shall accept, modify, or reject the  
2 chief enforcement counsel's recommendation no later than ninety days  
3 after receipt of such recommendation by majority vote. In making its  
4 determination, the board shall consider not only the evidence of a  
5 violation but also: (a) whether the complaint alleges a de minimis  
6 violation; (b) whether the subject of the complaint has made a good  
7 faith effort to correct the violation; and (c) whether the subject of  
8 the complaint has a history of similar violations. All such determi-  
9 nations shall be made on a fair and equitable basis, without regard to  
10 the status, identity, or position of the subject of the complaint.

11 10. (a) If the state board of elections determines, as provided in  
12 subdivision nine of this section, that substantial reason exists to  
13 believe that a person, acting as or on behalf of a candidate or poli-  
14 tical committee under circumstances evincing an intent to violate such  
15 law, has unlawfully accepted a contribution in excess of a contribution  
16 limitation established in article fourteen of this chapter or has unlaw-  
17 fully violated any provision of this chapter, the board shall direct the  
18 commencement of a special proceeding in the supreme court pursuant to  
19 section 16-120 of this chapter.

20 (b) If the state board of elections determines, as provided in subdi-  
21 vision nine of this section, that reasonable cause exists to believe a  
22 violation warranting criminal prosecution has taken place, the chief  
23 enforcement counsel shall commence a criminal action as such term is  
24 defined in the criminal procedure law.

25 11. If the state board of elections does not accept, modify, or reject  
26 the chief enforcement counsel's recommendations within ninety days,  
27 either because it took no action or because it could not reach a majori-

1 ty vote, the chief enforcement counsel shall proceed as if the state  
2 board of elections had approved such recommendations.

3 12. Upon notification that a special proceeding has been commenced by  
4 a party other than the state board of elections, pursuant to section  
5 16-114 of this chapter, the state board of elections shall direct the  
6 chief enforcement counsel to investigate the alleged violations unless  
7 otherwise directed by the court.

8 13. The chief enforcement counsel shall prepare a report, to be  
9 included in the annual report to the governor and legislature, summariz-  
10 ing the activities of the unit during the previous year. Such report  
11 shall include: (a) the number of complaints or referrals received; (b)  
12 the number of complaints and referrals that were found to need investi-  
13 gation and the nature of each complaint; and (c) the number of matters  
14 that have been resolved. The report shall not contain any information  
15 for which disclosure is not permitted.

16 14. The state board of elections may promulgate rules and regulations  
17 consistent with law to effectuate the provisions of this section.

18 § 5. Subdivision 32 of section 1.20 of the criminal procedure law, as  
19 amended by section 4 of part A of chapter 501 of the laws of 2012, is  
20 amended to read as follows:

21 32. "District attorney" means a district attorney, an assistant  
22 district attorney or a special district attorney, and, where appropri-  
23 ate, the attorney general, an assistant attorney general, a deputy  
24 attorney general, a special deputy attorney general, [or] the special  
25 prosecutor and inspector general for the protection of people with  
26 special needs or his or her assistants when acting pursuant to their  
27 duties in matters arising under article twenty of the executive law, or  
28 the chief enforcement counsel of the state board of elections when

1 acting pursuant to his or her duties in matters arising under the  
2 election law.

3 § 6. This act shall take effect on the ninetieth day after it shall  
4 have become a law; provided, however, that if the amendments made to  
5 subdivision 32 of section 1.20 of the criminal procedure law by section  
6 4 of part A of chapter 501 of the laws of 2012 have not yet taken effect  
7 on such date, then section five of this act shall take effect on the  
8 same date as section 4 of part A of such chapter takes effect.

9 PART B

10 WILSON PAKULA

11 Section 1. Section 6-120 of the election law is REPEALED and a new  
12 section 6-120 is added to read as follows:

13 § 6-120. Designation and nomination; nonparty members. A person who is  
14 a candidate for any office who is not enrolled as a member of such poli-  
15 tical party as provided in this section may be designated or nominated  
16 for such office by filing designating petitions pursuant to section  
17 6-136 of this article.

18 § 2. This act shall take effect on the ninetieth day after it shall  
19 have become a law.

20 PART C

21 CHANGE OF ENROLLMENT

22 Section 1. Subdivision 2 of section 5-302 of the election law, as  
23 amended by chapter 164 of the laws of 1985, is amended to read as  
24 follows:

1 2. If the application form is for a voter who has changed his enroll-  
2 ment or a voter who has previously registered and not enrolled, then the  
3 board of elections shall compare the information and the signature  
4 appearing on each application form received with that on the registra-  
5 tion poll record of the applicant and if found to correspond in all  
6 particulars shall, [not earlier than the Tuesday following the next  
7 general election and not later than the thirtieth day preceding the last  
8 day for publishing enrollment lists,] proceed in the manner specified in  
9 subdivision one [hereof] of this section to enter such enrollment on  
10 such voter's registration poll card ninety days after receipt.

11 § 2. Subdivision 3 of section 5-304 of the election law is REPEALED.

12 § 3. This act shall take effect on the ninetieth day after it shall  
13 have become a law.

14 § 2. Severability. If any clause, sentence, subdivision, paragraph,  
15 section, subpart or part of this act be adjudged by any court of compe-  
16 tent jurisdiction to be invalid, such judgment shall not affect, impair  
17 or invalidate the remainder thereof, but shall be confined in its opera-  
18 tion to the clause, sentence, subdivision, paragraph, section, subpart  
19 or part thereof directly involved in the controversy in which such judg-  
20 ment shall have been rendered. It is hereby declared to be the intent of  
21 the legislature that this act would have been enacted even if such  
22 invalid provisions had not been included herein.

23 § 3. This act shall take effect immediately, provided, however, that  
24 the applicable effective dates of Parts A through C of this act shall be  
25 as specifically set forth in the last section of such Parts.