

Library References

Elections §48.

C.J.S. Elections § 54.

Notes of Decisions**1. Vote of commissioners**

All nominating petitions filed with the state board of elections are clothed with mantle of validity and are presumptively valid so that it takes an affirmative vote of three commissioners to take official action of board to declare them invalid. In re Acto, 1976, 88 Misc.2d 55, 387 N.Y.S.2d 799.

dent candidate for President would be presumed valid where there was a two to two vote among Board members as to whether petition was in proper form and appeared to bear requisite number of signatures, authenticated as prescribed in section 138 of the former Election Law of 1949. Id.

Nominating petition filed with state board of elections by indepen-

§ 3-102. State board of elections; general powers and duties

In addition to the enforcement powers and any other powers and duties specified by law, the state board of elections shall have the power and duty to:

1. issue instructions and promulgate rules and regulations relating to the administration of the election process, election campaign practices and campaign financing practices consistent with the provisions of law;
2. visit boards of elections, examine their procedures and records and direct that any such procedures be modified in any manner consistent with the provisions of this chapter;
3. conduct any investigation necessary to carry out the provisions of this chapter;
4. conduct private or public hearings;
5. administer oaths or affirmations, subpoena witnesses, compel their attendance, examine them under oath or affirmation and require the production of any books, records, documents or other evidence it may deem relevant or material;
6. confer immunity in accordance with the provisions of section 50.20 of the criminal procedure law, in any investigation relating to any crime or offense with respect to which, by express provisions of statute, a competent authority is authorized to confer immunity; provided, however, that such immunity shall be conferred only after the attorney general and appropriate district attorney are afforded the opportunity to be heard

respecting any objections which either may have to the conferring thereof; and provided, further, that if either the attorney general or any such appropriate district attorney shall object to the conferring of immunity, immunity may be conferred only by unanimous vote of all four commissioners of the state board;

7. institute, or direct a board of elections to institute such judicial proceedings as may be necessary to enforce compliance with any provision of article fourteen of this chapter or any regulation promulgated thereunder including, but not limited to, application, on notice served upon the respondent in the manner directed by the court at least six hours prior to the time of return thereon, to a justice of the supreme court within the judicial district in which an alleged violation of any such provision or regulation occurred or is threatened, for an order prohibiting the continued or threatened violation thereof or for such other or further relief as the court may deem just and proper;

8. prepare uniform forms for the statements required by article fourteen of this chapter and uniform forms for use by local election officials in the conduct of registration and voting;

9. study and examine the administration of elections within the state including campaign financing, campaign financing reporting, and campaign practices;

10. establish rules allowing the admission of news media representatives to the area of the polling place where the canvass of ballots cast can be directly observed;

11. recommend such legislation or administrative measures as it finds appropriate to promote fair, honest and efficiently administered elections, including, but not limited to, legislation to adjust the contribution limitations set forth in article fourteen of this chapter;

12. monitor the adequacy and effectiveness of the election laws and report thereon at least annually to the governor and the legislature;

13. take all appropriate steps to encourage the broadest possible voter participation in elections;

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

L.1976, c. 233, § 1; amended L.1978, c. 8, § 2; L.1978, c. 9, § 14.

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

1. The state board of elections shall have jurisdiction of, and be responsible for, the execution and enforcement of the provisions of article fourteen of this chapter and other statutes governing campaigns, elections and related procedures.

2. Whenever the state board of elections or other board of elections shall determine, on its own initiative or upon complaint, or otherwise, that there is substantial reason to believe a violation of this chapter or any code or regulation promulgated thereunder has occurred, it shall expeditiously make an investigation which shall also include investigation of reports and statements made or failed to be made by the complainant and any political committee supporting his candidacy if the complainant is a candidate or, if the complaint was made by an officer or member of a political committee, of reports and statements made or failed to be made by such political committee and any candidates supported by it. The state board of elections, in lieu of making such an investigation, may direct the appropriate board of elections to make an investigation. The state board of elections may request, and shall receive, the assistance of the state police in any investigation it shall conduct.

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

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

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

L.1976, c. 233, § 1; amended L.1978, c. 9, § 15.

Historical Note

1978 Amendment. Subd. 1. L.1978, c. 9, § 15, eff. Mar. 7, 1978, redesignated subd. a as 1. Subd. 2. L.1978, c. 9, § 15, eff. Mar. 7, 1978, redesignated subd. b as 2 and, in subd. 2 as so redesignated,

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§ 3-106. Fair c

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