

5276--B

Cal. No. 370

2009-2010 Regular Sessions

I N A S S E M B L Y

February 11, 2009

Introduced by M. of A. GALEF, HOYT, KAVANAGH, DINOWITZ, THIELE, BRENNAN, ENGLEBRIGHT, MAGNARELLI, PEOPLES-STOKES, PAULIN, PHEFFER, SCHIMEL, JAFFEE, REILLY, KOLB, DelMONTE, ROSENTHAL, ALFANO, GORDON, ZEBROWSKI, ESPAILLAT -- Multi-Sponsored by -- M. of A. BARRA, BOYLAND, BURLING, CAHILL, CALHOUN, CLARK, COLTON, CONTE, CORWIN, DenDEKKER, DUPREY, ERRIGO, FIELDS, FINCH, GIGLIO, GOTTFRIED, GUNTHER, LIFTON, LUPARDO, MAGEE, MAYERSOHN, McDONOUGH, McENENY, J. MILLER, MOLINARO, POWELL, P. RIVERA, ROBINSON, SCARBOROUGH, SPANO, SWEENEY, WEINSTEIN, WEISENBERG -- read once and referred to the Committee on Election Law -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the election law, in relation to absentee ballots

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivisions 1, 3 and 4 of section 8-400 of the election
2 law, the opening paragraph of subdivision 1 as amended by chapter 359 of
3 the laws of 1989, paragraph (c) of subdivision 1 as amended by chapter
4 426 of the laws of 2009, subparagraph (i) of paragraph (c) of subdivi-
5 sion 3 as amended by chapter 234 of the laws of 1976, subparagraph (iii)
6 of paragraph (c) of subdivision 3 as amended by chapter 426 of the laws
7 of 2009, paragraph (d) of subdivision 3 as added by chapter 373 of the
8 laws of 1986, subdivision 4 as amended by chapter 163 of the laws of
9 1985, are amended to read as follows:
10 1. A qualified voter may vote as an absentee voter under this chapter
11 if, on the occurrence of any village election conducted by the board of
12 elections, primary election, special election, general election or New
13 York city community school board district or city of Buffalo school
14 district election, he [will] OR SHE EXPECTS TO be:

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

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1 (a) [unavoidably] absent from the county of his OR HER residence, or,
2 if a resident of the city of New York absent from said city[, because
3 his duties, occupation, business, or studies require him to be elsewhere
4 on the day of election]; or

5 (b) [absent from such county or city because he is on vacation else-
6 where on the day of election; or

7 (c)] unable to appear personally at the polling place of the election
8 district in which he or she is a qualified voter because of illness or
9 physical disability[, whether permanent or temporary,] or duties related
10 to the primary care of one or more individuals who are ill or physically
11 disabled, or because he or she will be or is a patient in a hospital; or

12 [(d) he is a person entitled to a ballot because he is a qualified
13 voter registered as] (C) an inmate or patient of a veteran's adminis-
14 tration hospital; or

15 [(e) absent from the county of his residence, or if a resident of the
16 city of New York, absent from said city, because of his accompanying a
17 spouse, parent or child who would be entitled to apply for the right to
18 vote by absentee ballot if a qualified voter; or

19 (f)] (D) absent from his OR HER voting residence because he OR SHE is
20 detained in jail awaiting action by a grand jury or awaiting trial, or
21 confined in JAIL OR prison after a conviction for an offense other than
22 a felony, provided that he OR SHE is qualified to vote in the election
23 district of his OR HER residence.

24 3. The application for an absentee ballot when filed must contain in
25 each instance the following information:

26 (a) Applicant's full name, DATE OF BIRTH, and residence address,
27 including the street and number, if any, rural delivery route, if any,
28 mailing address if different from the residence address and his OR HER
29 town or city and an address to which the ballot shall be mailed.

30 (b) A statement that the applicant is a qualified and registered
31 voter[, and that he does not know of any reason why he is no longer
32 qualified to vote].

33 (c) A statement, as appropriate, that on the day of such election the
34 applicant expects in good faith to be in one of the following catego-
35 ries:

36 (i) [unavoidably] absent from the county of his OR HER residence, or
37 if a resident of the city of New York absent from said city[, because
38 his duties, occupation, business or studies require him to be elsewhere
39 on such day, and where such duties, occupation, business or studies are
40 not of such a nature as ordinarily to require such absence, a statement
41 briefly describing the special circumstances requiring such absence
42 and]; PROVIDED, HOWEVER, IF THE APPLICANT EXPECTS TO BE ABSENT FROM SUCH
43 COUNTY OR CITY FOR A DURATION COVERING MORE THAN ONE ELECTION AND SEEKS
44 AN ABSENTEE BALLOT FOR EACH ELECTION, HE OR SHE SHALL STATE the dates
45 when he OR SHE expects to begin and end such absence; or

46 (ii) [absent from the county of his residence, or if a resident of the
47 city of New York absent from said city, because he will be on vacation
48 elsewhere on such day, the dates upon which he expects to begin and end
49 such vacation, the place or places where he expects to be on such vaca-
50 tion, the name and address of his employer, if any, or if self-employed
51 or retired a statement to such effect; or

52 (iii)] unable to appear at a polling place because of illness or phys-
53 ical disability or duties related to the primary care of one or more
54 individuals who are ill or physically disabled; or

1 [(iv) entitled to a ballot because he is a qualified voter registered
2 as] (III) an inmate or patient of a veteran's [administraion] ADMINIS-
3 TRATION hospital; or

4 [(v)] (IV) detained in jail awaiting action by a grand jury or await-
5 ing trial or confined in JAIL OR prison after a conviction for an
6 offense other than a felony and stating the place where he OR SHE is so
7 detained or confined[; or

8 (vi) absent from the county of his residence, or if a resident of the
9 city of New York absent from said city, because of his accompanying his
10 spouse, parent or child who falls within one of the foregoing catego-
11 ries; a statement that the applicant resides in the same election
12 district as such spouse, parent or child, the name and address of such
13 spouse, parent or child, and, unless the application accompanies the
14 application of such spouse, parent or child, the information as to the
15 status of such spouse, parent or child required by the applicable cate-
16 gory].

17 (d) Such application shall permit the applicant to apply for an absen-
18 tee ballot for either a primary election or the general election in any
19 year and for those persons who will be continuously absent from their
20 county of residence during the period between the fall primary election
21 and the general election in any year to apply for ballots for both such
22 elections in such year. A VOTER WHO APPLIES FOR AN ABSENTEE BALLOT
23 SHALL BE SENT AN ABSENTEE BALLOT FOR ANY SPECIAL ELECTION OR WINTER
24 PRIMARY THAT OCCURS DURING THE PERIOD OF ABSENCE SPECIFIED IN THE APPLI-
25 CATION.

26 4. A voter who claims permanent illness or physical disability may
27 make application for an absentee ballot and the right to receive an
28 absentee ballot for each election thereafter as provided herein without
29 further application, by filing with the board of elections an applica-
30 tion which shall contain a statement to be executed by the voter [show-
31 ing the particulars of his illness or disability]. Upon filing of such
32 application the board of elections shall [investigate the facts stated
33 therein and if satisfied as to the truth thereof, shall] cause the
34 registration records of the voter to be marked "Permanently Disabled"
35 and thereafter shall send an absentee ballot for each succeeding prima-
36 ry, special or general election to such voter at his OR HER last known
37 address by first class mail with a request to the postal authorities not
38 to forward such ballot but to return it in five days in the event that
39 it cannot be delivered to the addressee. The mailing of such ballot for
40 each election shall continue until such voter's registration is
41 cancelled.

42 S 2. This act shall take effect immediately.