S T A T E O F N E W Y O R K

1059

2009-2010 Regular Sessions

I N S E N A T E

January 22, 2009

Introduced by Sen. ADDABBO -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

AN ACT to amend the election law, in relation to implementing a statewide voting system using paper ballots, precinct-based optical scanners and ballot marking devices for voters with special needs; and to repeal certain provisions of such law relating to voting machines

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

Section 1. Subdivision 1 of section 7-106 of the election law is amended to read as follows:

1. Paper ballots shall be printed on paper of a quality, size, color, and weight approved by the state board of elections UNDER THE REQUIREMENTS OF THE HELP AMERICA VOTE ACT OF 2002 (HAVA) P.L. 107-252.

S 2. Section 7-104 of the election law is REPEALED and a new section 7-104 is added to read as follows:

S 7-104. OPTICAL SCANNERS; ACCESSIBLE BALLOT MARKING DEVICES. 1. EVERY ELECTION DISTRICT SHALL PROVIDE FOR AN OPTICAL BASED SCANNER TO PROVIDE PROTECTION AGAINST OVERVOTES AND UNDERVOTES. AFTER A VOTER HAS COMPLETED MARKING HIS OR HER BALLOT IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER THE PAPER BALLOT SHALL BE INSERTED INTO THE OPTICAL SCANNER TO EITHER ACCEPT OR REJECT THE BALLOT. WHERE A BALLOT IS ACCEPTED IT SHALL BE SECURED IN A LOCKED STORAGE BOX AND HELD BY ELECTION DISTRICT OFFICIALS AS SET FORTH IN THIS CHAPTER. WHERE A BALLOT IS REJECTED BY THE OPTICAL SCANNER THE VOTER SHALL BE GIVEN THE OPPORTUNITY TO CORRECT THE BALLOT. IN THE CASE OF AN OVERVOTE THE VOTER SHALL RECEIVE A NEW BALLOT AND IN THE CASE OF AN UNDERVOTE THE VOTER MAY CORRECT HIS OR HER BALLOT. IF A VOTER SHALL DECLINE TO CORRECT ANY UNDERVOTE ERRORS ON HIS OR HER BALLOT IT SHALL BE SECURED AS OTHERWISE PROVIDED IN THIS SECTION.

2. EVERY ELECTION DISTRICT SHALL PROVIDE ACCESSIBLE BALLOT MARKING DEVICES FOR USE BY DISABLED VOTERS. SUCH DEVICES SHALL INCLUDE FULL ACCESSIBILITY FEATURES INCLUDING AUDIO INTERFACE, SIP/PUFF INPUT, MULTI-

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

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PLE LANGUAGES, ALTERNATE FONT AND COLORS AND OTHER MEASURES TO MEET THE NEEDS OF DISABLED VOTERS TO PERMIT THEIR USE OF PAPER BALLOTS FOR VOTING. SUCH DEVICE SHALL BE CAPABLE OF MARKING A STANDARD OPTICAL SCAN BALLOT SO THAT THE BALLOT USED IS IDENTICAL TO BALLOTS USED BY OTHER VOTERS. ANY VOTER SHALL HAVE THE OPTION OF USING THE ACCESSIBLE BALLOT MARKING DEVICE.

S 3. Section 7-110 of the election law, as amended by chapter 647 of the laws of 1982, is amended to read as follows:

S 7-110. Ballots; form for ballot proposals. Ballot proposals shall appear on the [voting machine or] ballot in a separate section. At the left of, or below or above, each proposal shall appear two voting levers or two voting squares, each at least one-half inch square. Next to the first lever or square shall be printed the word "Yes," and next to the second lever or square shall be printed the word "No." The proposals shall be numbered consecutively on the [voting machine or] ballot. The number of each proposal shall appear in front of its designation as an amendment, proposition or question in the following form: "Proposal one, an amendment; proposal two, a proposition; proposal three, a question".

S 4. Section 7-118 of the election law, as amended by chapter 157 of the laws of 1996, is amended to read as follows:

S 7-118. Ballots; facsimile and sample. The board of elections shall provide facsimile and sample ballots [which shall be arranged in the form of a diagram showing such part of the face of the voting machine as shall be] in use at that election. Such facsimile and sample ballots shall be either in full or reduced size and shall contain suitable illustrated directions for voting [on the voting machine]. Such facsimile ballots shall be mounted and displayed for public inspection at each polling place during election day. Sample ballots may be mailed by the board of elections to each eligible voter at least three days before the election, or in lieu thereof, a copy of such sample ballot may be published at least once within one week preceding the election in newspapers representing the major political parties. One copy of such facsimile shall be sent to each school in the county, providing the ninth through the twelfth years of compulsory education, and in the city of New York to each such school in the city of New York, at least one week before each general election for posting at a convenient place in such school. The board of elections shall also send a facsimile ballot to any other school requesting such a ballot.

S 5. Sections 7-120 and 7-130 of the election law are REPEALED.

S 6. Section 7-121 of the election law, as added by chapter 352 of the laws of 1986, is amended to read as follows:

S 7-121. Ballots which are counted by machine. A board of elections may provide, by resolution adopted at least two months before an election at which voting machines are used, that all ballots cast for such election[, other than on the voting machines,] shall be counted by a machine of a type approved by the state board of elections and that all ballots printed for use at such election may be printed and arranged in a manner which would permit them to be counted by such machine.

S 7. Section 8-308 of the election law is REPEALED.

S 8. Section 8-310 of the election law, as amended by chapter 43 of the laws of 1988, is amended to read as follows:

S 8-310. Voting; paper ballot, delivery to voter. [If paper ballots are being used, one] ONE of the clerks, or if there be no clerks the inspector assigned to the duty of delivering ballots, shall deliver to the voter one paper ballot or set of paper ballots, in the numerical

order of the ballot or set, beginning with number one, and shall at the same time announce, loudly and distinctly, the number on the stub or stubs thereof. If the ballots are in sets, they shall be delivered in sets. If a new ballot or set of ballots be lawfully delivered to the same voter, a similar announcement shall be made as to the number of the stub or stubs of each new ballot or set delivered. Each ballot, when delivered, shall be folded in the proper manner for voting, which is: first, by bringing the bottom of the ballot up to the perforated line, and second, by folding both sides to the center or toward the center in such manner that when folded the face of each ballot shall be concealed, and the printed number on the stub and the indorsement on the back of the ballot shall be visible, so that the stub can be removed without removing any other part of the ballot and without exposing any part of the face of the ballot below the stub, and so that when folded the ballot shall not be more than four inches wide. The number on each ballot or set of ballots so delivered, as printed on the stub or stubs, shall be entered forthwith opposite the name of the voter in the proper place in the registration poll record or next to his name on the computer generated registration list. No person other than an inspector or clerk shall deliver to any voter within the guard rail any ballot, and they shall deliver only such ballots as the voter is legally entitled to vote, other than sample ballots.

S 9. Section 8-312 of the election law is amended to read as follows:

S 8-312. Voting; paper ballots, marking and casting. 1. On receiving his OR HER ballot, the voter forthwith and without leaving the enclosed space shall retire alone, unless he [be entitled to] OR SHE REQUESTS assistance in voting, to an unoccupied voting booth and mark his OR HER ballot, using a pen having blue or black ink or a pencil having black lead. He OR SHE shall not occupy a booth more than five minutes if other voters are waiting to occupy it. If the voter wrongly marks, defaces or tears a ballot or one of a set of ballots, he OR SHE may successively obtain others, one set at a time, not exceeding three sets in all, upon returning to the inspectors or clerks each set of ballots already received.

2. When the voter shall have prepared his OR HER ballot or ballots, he OR SHE shall leave the booth with each ballot [folded so as to conceal the face thereof but to show the indorsement and facsimile of the official signature on the back, and keeping the same so folded, shall proceed at once to the inspector in charge of the ballot box,] and shall offer such ballot or ballots to such inspector. [If the ballot or ballots are properly folded, and have no mark or tear visible on the outside thereof, except the printed number on the stub and the printed indorsement on the back, and if such number is the same as that entered in the registration poll record, as the number on the stub or stubs of the official ballot or set of ballots last delivered to him, such inspector shall receive such ballot or ballots, and after removing the stub or stubs therefrom in plain view of the voter, and without removing any other part of the ballot, and without unfolding the ballot or in any way exposing any part of the face of the ballot below the stub, shall deposit each ballot in the proper ballot box for the reception of voted ballots of the kind so received, and the stubs in the box for detached stubs.] THE INSPECTOR SHALL SCAN THE BALLOT IN ACCORDANCE WITH SECTION 7-104 OF THIS CHAPTER AND THEN DEPOSIT THE BALLOT IN THE SECURED BALLOT BOX.

3. Upon voting, the voter forthwith shall pass outside the guardrail, unless he OR SHE is a person authorized to remain for other purposes than voting.

4. When a person shall have received a paper ballot from any clerk, or inspector, as hereinbefore provided, he OR SHE shall be deemed to have commenced the act of voting, and if, after receiving such official ballot, he OR SHE shall leave the space enclosed by the guard-rail before the deposit of his OR HER ballot in the ballot box, as hereinbefore provided, he OR SHE shall not be entitled to pass again within the guard-rail for the purpose of voting, or to receive any further ballots.

5. No ballot without the official indorsement shall be allowed to be deposited in the ballot box except for emergency ballots as provided for herein. No person to whom any paper ballot shall be delivered shall leave the space within the guard-rail until after he OR SHE shall have delivered back all such ballots received by him OR HER either to the inspectors or to the clerks.

S 10. Title 2 of article 7 of the election law is REPEALED.

S 11. This act shall take effect on the first of December next succeeding the date on which it shall have become a law.