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

5398

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sens. STEWART-COUSINS, HASSELL-THOMPSON, MONTGOMERY -- 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 making technical corrections thereto

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

Section 1. Section 5-702 of the election law, subdivisions 1 and 6 as amended by chapter 339 of the laws of 1986 and subdivisions 7 and 9 as amended by chapter 659 of the laws of 1994, is amended to read as follows:

S 5-702. Voters' check cards; investigation. 1. The board of elections shall cause a bipartisan team of regular or special employees of such board to conduct an investigation of the qualifications to register and vote, or cause a voter's check card to be prepared for each voter who was registered after being challenged or who was challenged after registration and, if requested by any member of the board, for any other voter. [The board shall forthwith deliver each such voter's check card to the head of the police department in the city, town or village in which the voter resides, or, if there be no such police department, to the sheriff or head of the police department of the county. The board shall make and retain an inventory list of all cards so delivered.]

2. The [head of the police department or sheriff] COUNTY OR STATE BOARD OF ELECTIONS, forthwith shall cause an investigation to be made to determine, in each instance, whether the registrant resides, and how long he OR SHE has resided, at the address at which he OR SHE claims a residence, and to check the facts relating to why the voter was challenged. Such investigation shall be completed within five days after receipt of such check cards. Each check card shall be signed with the title or rank, badge number, if any, and signature of the [police officer, sheriff or deputy] INVESTIGATING OFFICER FOR THE BOARD OF ELECTIONS

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

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making the investigation, who shall note above such signature whether he OR SHE personally interviewed the registrant and, if not, the full name of at least one other person whom he OR SHE personally interviewed at the registrant's claimed residence or place of employment; the place, date and hour of such interview; the family relationship, if any, between the registrant and the person interviewed; and any reason he OR SHE may have to believe that the registrant does not reside at the address given or does not possess the qualifications prescribed by this chapter for eligibility for registration. If he OR SHE is satisfied that the registrant resides at such address and does possess such qualifications [he] THE INVESTIGATING OFFICER shall write the word "valid" above his OR HER signature. If [the] SUCH INVESTIGATING officer charged with or actually making such investigation knows [of his] WITH personal knowledge that the registrant is a qualified voter in the election district in which such registrant claims a residence, he OR SHE may, without further investigation, endorse on such check card[, above his title or rank, badge number, if any, and signature,] the words "Valid; Personal knowledge." [Such endorsement shall be considered for all purposes as a statement under oath by such officer that the registrant is qualified to vote from the residence claimed.]

3. [No later than the sixth day after receipt of such check cards from the board of elections the head of the police department or sheriff shall return them, in sealed wrappers and in each instance endorsed as required by subdivision two of this section, to the board of elections. Each wrapper shall contain all of the check cards for a single election district, alphabetically arranged in two groups.] AN INVESTIGATION SHALL BE CONDUCTED WITHIN A SEVEN DAY PERIOD. THE CHECK CARDS SHALL BE DIVIDED INTO TWO GROUPS. The first group shall contain all the check cards marked "Valid" or "Valid: Personal knowledge." The second group shall contain the remainder of such check cards. On the face of [the] EACH wrapper such [forwarding] officer shall cause to be noted his OR HER name and [the title of his office, the city, town or village, assembly district or ward, if any, and] the election district of the cards in the wrapper[, the total number of check cards marked "Valid" and "Valid; Personal knowledge", the number of other check cards, and the total of all check cards contained in such wrapper. With each such wrapper the forwarding officer shall present to the board of elections a receipt, containing the information required to be stated on such wrapper. The original of such receipt shall be retained by the forwarding officer. The duplicate of such receipt shall be filed in the board of elections].

4. The board of elections forthwith shall compare such check cards for each election district with the [inventory list prepared as directed by subdivision one of this section, the] certificates executed by the registration board, the challenge affidavits executed in such district and returned to the board of elections and the registration cards of all applicants for whom check cards were executed and shall investigate any discrepancies.

5. The board of elections shall file all such check cards which are marked "Valid" or "Valid: Personal knowledge" in a separate file maintained by it for such purpose. Within such file, all cards shall be arranged by election districts and alphabetically within such districts.

6. The board of elections shall likewise file all such check cards which are not marked "Valid" or "Valid: Personal knowledge" in a separate file or ledgers maintained by it for such purpose.

7. If it appears from the check card that the registrant does not reside at the address from which he OR SHE is registered, the board shall proceed in the manner prescribed by section 5-402 of this article.

8. Whenever it appears to the satisfaction of a board of elections that any voter or witness has made a false statement, whether or not under oath, affecting his OR HER qualifications to be registered or has given false testimony at any hearing affecting such registration, such board forthwith shall forward such statement or testimony to the district attorney and the district attorney forthwith shall present the matter to the grand jury.

9. Check cards. The state board of election shall prescribe a form of registration check card for use pursuant to this article.

S 2. Section 5-220 of the election law, subdivision 1 as amended by chapter 373 of the laws of 1978, is amended to read as follows:

S 5-220. Registration; challenge after registered. [1.] Any person may challenge the registration of a voter by executing and delivering to the board of elections or a board taking registrations, his OR HER affidavit that he OR SHE has reason to believe that such voter's registration should be cancelled. Such affidavit shall contain the affiant's full name, residence, and business address, the name of his OR HER employer, the registration serial number of the person challenged and a recital of the reasons and the facts supporting affiant's belief that the person challenged lacks the qualifications for voting prescribed in this chapter and specified in such affidavit. The affidavit shall state if the reasons for challenge are based upon the affiant's personal knowledge, or upon information received from another person. If the affiant's belief is based upon information furnished by another, the affidavit shall recite the name of the person furnishing the information and the basis for his OR HER information. After the affiant has signed such affidavit a member of such board shall read to him OR HER and request him OR HER to sign the following oath, which shall be subscribed by such affiant AS FOLLOWS: "I do solemnly swear (or affirm) UNDER PENALTY OF PERJURY that the foregoing statement made by me on (insert day, month and year) is a truthful disclosure of the reasons for my belief that the registered voter therein named is not qualified to continue to be registered in the election district in which he OR SHE is now registered." If the affiant shall take and sign such oath, the members of the board shall sign their names as witnesses below the affiant's subscription to such oath. Each such affidavit shall be directed toward the challenge of only one registrant. The board shall give full assistance to any person desiring to execute such an affidavit. The board of elections shall furnish the necessary forms. Upon receipt of such affidavit the board of elections forthwith shall conduct an investigation of the voter's qualifications to remain registered in the same manner as provided for applications for personal registration by mail. Any person whose registration is so challenged shall be notified thereof by the board of elections by registered or certified mail within five days after the affidavit is received by it. UPON A FINDING AND DETERMINATION BY THE BOARD OF ELECTIONS AFTER SUCH AN INVESTIGATION HAS BEEN CONDUCTED, AND AFTER NOTICE HAS BEEN PROVIDED TO SUCH VOTER PURSUANT TO SECTION 5-402 OF THIS ARTICLE THE VOTER'S REGISTRATION SHALL BE CANCELLED. IN ADDITION TO THE VOTER'S RIGHT TO REREGISTER PROVIDED UNDER SECTION 5-402 OF THIS ARTICLE, A VOTER WHOSE REGISTRATION HAS BEEN CANCELLED PURSUANT TO THIS SECTION SHALL BE ENTITLED TO A HEARING ON NOTICE.

[2. If the board of elections cannot complete its investigation, or cannot make a determination before the next election at which the regis-

trant could vote, it shall place his name on a challenge list as a person to be challenged when voting.]

S 3. The state board of elections shall immediately promulgate any rules and regulations necessary for the implementation of this act on or before its effective date, specifically pertaining to the hearings and notice requirement set forth in section 5-220 of the election law.

S 4. This act shall take effect on the one hundred twentieth day after it shall have become a law.