

5398

2009-2010 Regular Sessions

I N   S E N A T E

April 27, 2009

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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 ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 5-702 of the election law, subdivisions 1 and 6 as  
2     amended by chapter 339 of the laws of 1986 and subdivisions 7 and 9 as  
3     amended by chapter 659 of the laws of 1994, is amended to read as  
4     follows:  
5     S 5-702. Voters' check cards; investigation. 1. The board of elections  
6     shall cause a bipartisan team of regular or special employees of such  
7     board to conduct an investigation of the qualifications to register and  
8     vote, or cause a voter's check card to be prepared for each voter who  
9     was registered after being challenged or who was challenged after regis-  
10    tration and, if requested by any member of the board, for any other  
11    voter. [The board shall forthwith deliver each such voter's check card  
12    to the head of the police department in the city, town or village in  
13    which the voter resides, or, if there be no such police department, to  
14    the sheriff or head of the police department of the county. The board  
15    shall make and retain an inventory list of all cards so delivered.]  
16    2. The [head of the police department or sheriff] COUNTY OR STATE  
17    BOARD OF ELECTIONS, forthwith shall cause an investigation to be made to  
18    determine, in each instance, whether the registrant resides, and how  
19    long he OR SHE has resided, at the address at which he OR SHE claims a  
20    residence, and to check the facts relating to why the voter was chal-  
21    lenged. Such investigation shall be completed within five days after  
22    receipt of such check cards. Each check card shall be signed with the  
23    title or rank, badge number, if any, and signature of the [police offi-  
24    cer, 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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1 making the investigation, who shall note above such signature whether he  
2 OR SHE personally interviewed the registrant and, if not, the full name  
3 of at least one other person whom he OR SHE personally interviewed at  
4 the registrant's claimed residence or place of employment; the place,  
5 date and hour of such interview; the family relationship, if any,  
6 between the registrant and the person interviewed; and any reason he OR  
7 SHE may have to believe that the registrant does not reside at the  
8 address given or does not possess the qualifications prescribed by this  
9 chapter for eligibility for registration. If he OR SHE is satisfied that  
10 the registrant resides at such address and does possess such qualifica-  
11 tions [he] THE INVESTIGATING OFFICER shall write the word "valid" above  
12 his OR HER signature. If [the] SUCH INVESTIGATING officer charged with  
13 or actually making such investigation knows [of his] WITH personal know-  
14 ledge that the registrant is a qualified voter in the election district  
15 in which such registrant claims a residence, he OR SHE may, without  
16 further investigation, endorse on such check card[, above his title or  
17 rank, badge number, if any, and signature,] the words "Valid; Personal  
18 knowledge." [Such endorsement shall be considered for all purposes as a  
19 statement under oath by such officer that the registrant is qualified to  
20 vote from the residence claimed.]

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

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

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

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

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

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

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

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

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

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

1 trant could vote, it shall place his name on a challenge list as a  
2 person to be challenged when voting.]  
3 S 3. The state board of elections shall immediately promulgate any  
4 rules and regulations necessary for the implementation of this act on or  
5 before its effective date, specifically pertaining to the hearings and  
6 notice requirement set forth in section 5-220 of the election law.  
7 S 4. This act shall take effect on the one hundred twentieth day after  
8 it shall have become a law.