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

5595

2009-2010 Regular Sessions

I N S E N A T E

May 20, 2009

Introduced by Sens. SMITH, ADAMS, ADDABBO, AUBERTINE, BRESLIN, DIAZ, DILAN, DUANE, ESPADA, FOLEY, HASSELL-THOMPSON, HUNTLEY, C. JOHNSON, KLEIN, KRUEGER, KRUGER, MONSERRATE, MONTGOMERY, ONORATO, OPPENHEIMER, PARKER, PERKINS, SAMPSON, SAVINO, SCHNEIDERMAN, SERRANO, SQUADRON, STACHOWSKI, STAVISKY, STEWART-COUSINS, THOMPSON, VALESKY -- (at request of the Governor) -- 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 military voting, and to amend chapter 237 of the laws of 2005 amending the election law relating to military voting, in relation to making such provisions permanent

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

Section 1. Paragraph (d) of subdivision 2 of section 8-400 of the election law, as added by chapter 216 of the laws of 1988, is amended to read as follows:

(d) The board of elections shall mail an absentee ballot to every qualified voter otherwise eligible for such a ballot, who requests such an absentee ballot from such board of elections in a letter, which is signed by the voter and received by the board of elections not earlier than the thirtieth day nor later than the seventh day before the election for which the ballot is first requested and which states the address where the voter is registered and the address to which the ballot is to be mailed; PROVIDED, HOWEVER, A MILITARY VOTER MAY REQUEST A MILITARY BALLOT IN A LETTER AS PROVIDED IN SUBDIVISION THREE OF SECTION 10-106 OF THIS CHAPTER; AND PROVIDED FURTHER, A SPECIAL FEDERAL VOTER MAY REQUEST A SPECIAL FEDERAL BALLOT IN A LETTER AS PROVIDED IN PARAGRAPH D OF SUBDIVISION ONE OF SECTION 11-202 OF THIS CHAPTER. The board of elections shall enclose with such ballot a form of application for absentee ballot.

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

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S 2. Paragraph a of subdivision 1 of section 9-209 of the election law, as amended by chapter 237 of the laws of 2005, is amended to read as follows:

a. The board of elections shall designate itself or such of its employees as it shall deem appropriate as a set of poll clerks to cast and canvass such ballots, and fix a time and place for their meeting for such purpose, provided that such meeting shall be no more than [thirteen] FOURTEEN days after a general OR SPECIAL election and no more than eight days after a [special or] primary election at which such ballots are voted. The board may designate additional sets of poll clerks and if it designates more than one such set shall apportion among all such sets the election districts from which such ballots have been received, provided that all such ballots from a single election district shall be assigned to a single set of clerks, and that each such set shall be divided equally between representatives of the two major political parties. Each such set of clerks shall be deemed a central board of inspectors for purposes of this section.

S 3. Section 10-106 of the election law is amended by adding a new subdivision 3 to read as follows:

3. A MILITARY VOTER MAY APPLY FOR A MILITARY BALLOT BY FACSIMILE TRANSMISSION PURSUANT TO THE UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT OR ELECTRONIC MAIL.

S 4. Subdivision 1 of section 10-114 of the election law, as amended by chapter 237 of the laws of 2005, is amended to read as follows:

1. The board of elections shall cause all military ballots received by it before the close of the polls on election day and all ballots contained in envelopes showing a cancellation mark of the United States postal service or a foreign country's postal service, or showing a dated endorsement of receipt by another agency of the United States government or are signed and dated by the voter and one witness thereto, with a date which is ascertained to be not later than the day before election and received by such board of elections not later than seven days following the day of a primary [or special] election and not later than thirteen days following the day of a general OR SPECIAL election to be cast and counted.

S 5. Subdivision 1 of section 11-202 of the election law is amended by adding a new paragraph d to read as follows:

D. A SPECIAL FEDERAL VOTER MAY APPLY FOR A SPECIAL FEDERAL BALLOT BY FACSIMILE TRANSMISSION PURSUANT TO THE UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT OR ELECTRONIC MAIL.

S 6. Section 11-212 of the election law, as amended by chapter 155 of the laws of 1994, is amended to read as follows:

S 11-212. Special federal ballots; deadline for receipt, and delivery to polling place. All special federal ballots received by the board of elections before the close of the polls on election day may be delivered to the inspectors of the election districts in which the voters are registered, in the manner prescribed by this chapter for absentee ballots, or retained by the board of elections and cast and canvassed pursuant to section 9-209 of this chapter as the board of elections, in its discretion, shall determine by resolution adopted at least thirty days before election day. All ballots contained in envelopes showing a cancellation mark of the United States postal service or a foreign country's postal service, or showing a dated endorsement of receipt by another agency of the United States government, with a date which is ascertained to be not later than the day before election, shall be cast and counted if received by the board of elections not later than seven

days following the day of A PRIMARY election OR THIRTEEN DAYS FOLLOWING THE DAY OF A GENERAL OR SPECIAL ELECTION except that the special federal ballot of a voter who requested such ballot by letter, rather than application, shall not be counted unless a valid application form, signed by such voter, is received by the board of elections with such ballot. All ballots received by the board of elections [between election day and the seventh day after election day] and all federal write-in ballots received from special federal voters NOT LATER THAN SEVEN DAYS FOLLOWING THE DAY OF A PRIMARY ELECTION OR THIRTEEN DAYS FOLLOWING THE DAY OF A GENERAL OR SPECIAL ELECTION, shall be retained at the board and shall be cast and canvassed in the same manner as other ballots retained by such board.

S 7. Section 4 of chapter 237 of the laws of 2005 amending the election law relating to military voting, as amended by chapter 188 of the laws of 2008, is amended to read as follows:

S 4. This act shall take effect immediately [and shall expire December 31, 2009; when upon such date the provisions of this act shall be deemed repealed].

S 8. This act shall take effect immediately.