

5690

2009-2010 Regular Sessions

I N S E N A T E

May 28, 2009

Introduced by Sen. PERKINS -- 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 requests for affidavit ballots including application for registration and enrollment

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

1 Section 1. Subdivision 5 of section 5-210 of the election law is  
2 amended by adding a new paragraph (m) to read as follows:

3 (M) THE FORM OF AFFIDAVIT PRESCRIBED BY THE STATE BOARD OF ELECTIONS  
4 FOR REQUESTS FOR AFFIDAVIT BALLOT PURSUANT TO SUBDIVISION THREE OF  
5 SECTION 8-302 OF THIS CHAPTER SHALL BE DEEMED TO MEET THE REQUIREMENTS  
6 OF THIS SECTION. ANY APPLICATION FOR REGISTRATION RECEIVED ON THE FORM  
7 OF AFFIDAVIT SHALL BE ACCEPTED IF THE APPLICANT IS OTHERWISE ELIGIBLE TO  
8 REGISTER TO VOTE PURSUANT TO THE PROVISIONS OF THIS ARTICLE, HOWEVER THE  
9 FAILURE TO COMPLETE THE VOTER REGISTRATION APPLICATION APPEARING ON SUCH  
10 AFFIDAVIT ENVELOPE SHALL NOT OTHERWISE INVALIDATE THE AFFIDAVIT BALLOT.

11 S 2. Subdivision 4 of section 5-304 of the election law, as amended by  
12 chapter 659 of the laws of 1994, is amended to read as follows:

13 4. Registered voters may apply for change of enrollment personally by  
14 mail to or by appearing before a county board of elections or by appear-  
15 ing before a board of inspectors. If the applicant has appeared in  
16 person and if the board finds that he OR SHE is properly registered, it  
17 shall provide the applicant with an application form for voter registra-  
18 tion by mail which shall be treated as an application for change of  
19 enrollment filed pursuant to this section. If the voter has applied  
20 personally by mail, the county board of elections shall mail him OR HER  
21 an application form for voter registration by mail as provided by this  
22 chapter. If a registered voter submits an application form for registra-  
23 tion or enrollment as provided by this chapter, from the residence  
24 address from which he OR SHE is then registered, and such form reflects  
25 a change of enrollment, the county board of elections shall treat such

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

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1 form as an application for change of enrollment filed pursuant to this  
2 section. If such application form also sets forth a new address within  
3 the same city or county, the board of elections shall also treat such  
4 form as an application for transfer of registration pursuant to section  
5 5-208 of this article. IF A VOTER HAS CAST A BALLOT IN AN AFFIDAVIT  
6 BALLOT ENVELOPE ON WHICH SUCH VOTER CLAIMS A PARTY ENROLLMENT DIFFERENT  
7 FROM THE ENROLLMENT IN THE RECORDS OF THE BOARD OF ELECTIONS, SUCH AFFI-  
8 DAVIT SHALL BE TREATED AS AN APPLICATION FOR CHANGE OF ENROLLMENT.

9 S 3. Section 5-403 of the election law is amended to read as follows:  
10 S 5-403. Rejection of ballot of unqualified voter; notice of action by  
11 board. [Whenever] IF the ballot of any person, voted in an affidavit  
12 envelope in the manner prescribed by this chapter, is rejected under the  
13 provisions of this chapter on the grounds that such person is not a  
14 qualified voter of the election district wherein he OR SHE sought to  
15 vote, or is not duly enrolled in the party in whose primary he OR SHE  
16 sought to vote AND IF SUCH PERSON HAS COMPLETED THE APPLICATION FOR  
17 REGISTRATION AND ENROLLMENT OR CHANGE OF ENROLLMENT ON SUCH AFFIDAVIT  
18 ENVELOPE, the board of elections shall PROCESS SUCH AN APPLICATION IN  
19 THE SAME MANNER AS OTHER APPLICATIONS FOR REGISTRATION AND ENROLLMENT OR  
20 CHANGE OF ENROLLMENT. THE BOARD OF ELECTIONS SHALL immediately notify  
21 such person by first class mail directed to the address given in his OR  
22 HER affidavit, of the rejection of his OR HER ballot, together with the  
23 reason [therefore] THEREFOR and, IF SUCH PERSON HAS NOT COMPLETED THE  
24 APPLICATION FOR REGISTRATION BY MAIL, the appropriate information on the  
25 times and places where he OR SHE may register, re-register, enroll, or  
26 change or correct his OR HER enrollment. Where appropriate, a form of  
27 application for personal registration by mail shall be included with  
28 such notice.

29 S 4. Subparagraph (ii) of paragraph (e) of subdivision 3 of section  
30 8-302 of the election law, as amended by chapter 200 of the laws of  
31 1996, is amended to read as follows:

32 (ii) He OR SHE may swear to and subscribe an affidavit stating that he  
33 OR SHE has duly registered to vote, the address in such election  
34 district from which he OR SHE registered, that he OR SHE remains a duly  
35 qualified voter in such election district, that his OR HER registration  
36 poll record appears to be lost or misplaced or that his OR HER name  
37 and/or his OR HER signature was omitted from the computer generated  
38 registration list or that he OR SHE has moved within the county or city  
39 since he OR SHE last registered, the address from which he OR SHE was  
40 previously registered and the address at which he OR SHE currently  
41 resides, and at a primary election, the party in which he OR SHE is  
42 enrolled. The inspectors of election shall offer such an affidavit to  
43 each such voter whose residence address is in such election district.  
44 Each such affidavit shall be in a form prescribed by the state board of  
45 elections, shall be printed on an envelope of the size and quality used  
46 for an absentee ballot envelope, SHALL REQUEST ALL THE INFORMATION  
47 NECESSARY SO THAT IT SHALL CONSTITUTE AN APPLICATION FOR REGISTRATION  
48 AND ENROLLMENT and shall contain an acknowledgment that the affiant  
49 understands that any false statement made therein is perjury punishable  
50 according to law. The voter's name and the entries required shall then  
51 be entered without delay and without further inquiry in the fourth  
52 section of the challenge report or in the place provided at the end of  
53 the computer generated registration list, with the notation that the  
54 voter has executed the affidavit hereinabove prescribed, or, if such  
55 person's name appears on the computer generated registration list, the  
56 board of elections may provide a place to make such entry next to his OR

1 HER name on such list. The voter shall then, without further inquiry, be  
2 permitted to vote an emergency ballot provided for by this chapter. Such  
3 ballot shall thereupon be placed in the envelope containing his OR HER  
4 affidavit, and the envelope sealed and returned to the board of  
5 elections in the manner provided by this chapter for protested official  
6 ballots, including a statement of the number of such ballots.  
7 S 5. This act shall take effect immediately.