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

5988

2009-2010 Regular Sessions

I N S E N A T E

June 19, 2009

Introduced by Sen. KLEIN -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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:

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

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

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

4. Registered voters may apply for change of enrollment personally by mail to or by appearing before a county board of elections or by appearing before a board of inspectors. If the applicant has appeared in person and if the board finds that he OR SHE is properly registered, it shall provide the applicant with an application form for voter registration by mail which shall be treated as an application for change of enrollment filed pursuant to this section. If the voter has applied personally by mail, the county board of elections shall mail him OR HER an application form for voter registration by mail as provided by this chapter. If a registered voter submits an application form for registration or enrollment as provided by this chapter, from the residence address from which he OR SHE is then registered, and such form reflects

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

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

S 3. Section 5-403 of the election law is amended to read as follows:

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

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

(ii) He OR SHE may swear to and subscribe an affidavit stating that he OR SHE has duly registered to vote, the address in such election district from which he OR SHE registered, that he OR SHE remains a duly qualified voter in such election district, that his OR HER registration poll record appears to be lost or misplaced or that his OR HER name and/or his OR HER signature was omitted from the computer generated registration list or that he OR SHE has moved within the county or city since he OR SHE last registered, the address from which he OR SHE was previously registered and the address at which he OR SHE currently resides, and at a primary election, the party in which he OR SHE is enrolled. The inspectors of election shall offer such an affidavit to each such voter whose residence address is in such election district. Each such affidavit shall be in a form prescribed by the state board of elections, shall be printed on an envelope of the size and quality used for an absentee ballot envelope, and shall contain an acknowledgment that the affiant understands that any false statement made therein is perjury punishable according to law. SUCH FORM PRESCRIBED BY THE STATE BOARD OF ELECTIONS SHALL REQUEST INFORMATION REQUIRED TO REGISTER SUCH VOTER SHOULD THE COUNTY BOARD DETERMINE THAT SUCH VOTER IS NOT REGISTERED AND SHALL CONSTITUTE AN APPLICATION TO REGISTER TO VOTE. The voter's name and the entries required shall then be entered without delay and without further inquiry in the fourth section of the challenge report or in the place provided at the end of the computer generated registration list, with the notation that the voter has executed the

affidavit hereinabove prescribed, or, if such person's name appears on the computer generated registration list, the board of elections may provide a place to make such entry next to his OR HER name on such list. The voter shall then, without further inquiry, be permitted to vote an emergency ballot provided for by this chapter. Such ballot shall thereupon be placed in the envelope containing his OR HER affidavit, and the envelope sealed and returned to the board of elections in the manner provided by this chapter for protested official ballots, including a statement of the number of such ballots.

S 5. This act shall take effect immediately.