

1094

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. KOLB -- Multi-Sponsored by -- M. of A. GIGLIO --
read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to absentee voting

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

1 Section 1. Paragraph (c) of subdivision 2 of section 8-400 of the
2 election law, as amended by chapter 321 of the laws of 1988, is amended
3 to read as follows:
4 (c) All applications must be mailed to the board of elections not
5 later than the seventh day before the election for which a ballot is
6 first requested or delivered IN PERSON OR BY OVERNIGHT DELIVERY SERVICE
7 to such board not later than the day before such election.
8 S 2. Subdivision 10 of section 8-400 of the election law, as amended
9 by chapter 373 of the laws of 1986 and as renumbered by chapter 40 of
10 the laws of 2009, is amended to read as follows:
11 10. The state board of elections shall prescribe a standard applica-
12 tion form for use under this section. The use of any application form
13 which substantially complies with the provisions of this section shall
14 be acceptable and any application filed on such a form shall be accepted
15 for filing. NOTHING IN THIS SECTION SHALL PROHIBIT THE PRINTING OF
16 MATERIAL ON THE REVERSE SIDE OF THE APPLICATION BY PARTIES OR CANDIDATES
17 ADVISING OF A PENDING ELECTION.
18 S 3. Subdivision 1 of section 8-407 of the election law, as amended by
19 chapter 195 of the laws of 2001, is amended to read as follows:
20 1. The board of elections of a county or city in which there is
21 located at least one facility operated or licensed, or under the juris-
22 diction of, the department of mental hygiene, or a facility defined as a
23 nursing home or residential health care facility pursuant to subdivi-
24 sions two and three of section two thousand eight hundred one of the
25 public health law or an adult care facility subject to the provisions of

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

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1 title two of article seven of the social services law, or a hospital or
2 other facility operated by the Veteran's Administration of the United
3 States shall provide that residents of each such facility for which such
4 board has received twenty-five or more applications for absentee ballots
5 from voters who are eligible to vote by absentee ballot in such city or
6 county at such election, may vote by absentee ballot only in the manner
7 provided for in this section OR SECTION 8-406 OF THIS TITLE. Such board
8 may, in its discretion, provide that the procedure described in this
9 subdivision shall be applicable to all such facilities in such county or
10 city without regard to the number of absentee ballot applications
11 received from the residents of any such facility.

12 S 4. Subdivision 2 of section 9-108 of the election law is amended to
13 read as follows:

14 2. If the ballots found in any box OR ENVELOPE shall be more than the
15 number of ballots so shown to have been deposited therein, such ballots
16 shall all be replaced, without being unfolded, in the box OR ENVELOPE
17 from which they were taken, and shall be thoroughly mingled therein, and
18 one of the inspectors shall, with his back to the box OR ENVELOPE,
19 publicly draw out as many ballots as shall be equal to such excess and,
20 without unfolding them forthwith shall enclose them in an envelope which
21 he shall then and there seal and endorse "excess ballots from the box
22 for ballots for the general election, presidential electors, or party
23 ballots or otherwise", as the case may be, and shall sign his name ther-
24 eto, and place such envelope in the box for defective or spoiled
25 ballots.

26 S 5. Subdivision 1 of section 9-112 of the election law, as amended by
27 chapter 352 of the laws of 1986, is amended to read as follows:

28 1. The whole ballot is void if the voter (a) does any act INTEN-
29 TIONALLY OR RECKLESSLY extrinsic to the ballot such as enclosing any
30 paper or other article in the folded ballot or (b) defaces or tears the
31 ballot except that a ballot card which is in perforated sections shall
32 not be void because it has been separated into sections or (c) makes any
33 erasure thereon or (d) makes any mark thereon other than a cross X mark
34 or a check V mark in a voting square, or filling in the voting square,
35 or punching a hole in the voting square of a ballot intended to be
36 counted by machine or (e) writes, other than in the space provided, a
37 name for the purpose of voting; except that an erasure or a mark other
38 than a valid mark made in a voting square shall not make the ballot
39 void, but shall render it blank as to the office, party position or
40 ballot proposal in connection with which it is made. No ballot shall be
41 declared void or partially blank because a mark thereon is irregular in
42 form WHERE THE INTENT OF THE VOTER IS MANIFESTLY CLEAR. The term "voting
43 square" shall include the voting space provided for a voter to mark his
44 vote for a candidate or ballot proposal. NO BALLOT SHALL BE DECLARED
45 VOID OR PARTIALLY BLANK IF SUCH BALLOT HAS BEEN TORN OR DEFACED AFTER
46 SUCH BALLOT HAS BEEN MAILED BY THE VOTER BUT PRIOR TO ITS RECEPTION BY
47 THE BOARD OF ELECTIONS.

48 S 6. This act shall take effect January 1, 2012 and shall apply to all
49 elections or primaries conducted on or after such date; provided, howev-
50 er, that effective immediately the addition, amendment and/or repeal of
51 any rule or regulation necessary for the implementation of this act on
52 its effective date is authorized and directed to be made and completed
53 on or before such effective date.