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

2585--D

2011-2012 Regular Sessions

I N  A S S E M B L Y

January 19, 2011

Introduced by M. of A. GALEF, ENGLEBRIGHT, MAGEE, PAULIN, KOLB -- Multi-Sponsored by -- M. of A. BOYLAND, CALHOUN, COOK, CROUCH, DUPREY, FINCH, GIGLIO, JORDAN, LUPARDO, McKEVITT, J. MILLER, ORTIZ, REILLY, ROBINSON, SAYWARD, SWEENEY, THIELE -- read once and referred to the Committee on Local Governments -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Local Governments in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the town law, in relation to absentee ballots for fire district elections

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

Section 1. Subdivision 2 of section 175-b of the town law, as amended by chapter 401 of the laws of 1996, is amended to read as follows:

2. a. [An applicant for such an absentee ballot shall submit an application setting forth (1) his or her name and residence address, including the street and number, if any, or town and rural delivery route, if any; (2) that he or she is or will be, on the day of the election, a qualified voter of the district in which he or she resides in that he or she is or will be, on such date, over eighteen years of age, a citizen of the United States and has or will have resided in the district for thirty days next preceding such date; (3) that he or she is registered in the town; (4) that he or she will be unable to appear to vote in person on the day of the election for which the absentee ballot is requested because he or she is, or will be on such day (a) a patient in a hospital, or unable to appear personally at the polling place on such

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

LBD00364-05-2

day because of illness or physical disability or (b) because of his or her duties, occupation or business will require him or her to be outside of the county of his or her residence on such day, (c) because he or she will be on vacation outside the county of his or her residence on such day; or, (d) absent from his or her voting residence because he or she is detained in jail awaiting action by a grand jury or awaiting trial or is confined in prison after conviction for an offense other than a felony. Such application must be received by the district secretary at least seven days before the election if the ballot is to be mailed to the voter, or the day before the election, if the ballot is to be delivered personally to the voter or his or her agent.

b. (1) Where such duties, occupation or business are of such a nature as ordinarily to require such absence, a brief description of such duties, occupation or business shall be set forth in such affidavit. (2) Where such duties, occupation or business are not of such a nature as ordinarily to require such absence, such application shall contain a statement of the special circumstances on account of which such absence is required.

c. Where the applicant expects in good faith to be absent on the day of the election because he or she will be on vacation elsewhere on such day, such application shall also contain the dates upon which he or she expects to begin and end such vacation, the place or places where he or she expects to be on such vacation, the name and address of his or her employer, if any, and if self-employed, a statement to that effect.

d. Where the absence is because of detention or confinement to jail, such affidavit shall state whether the voter is detained awaiting action of the grand jury or is confined after conviction for an offense other than a felony.

e. Where a person is or would be, if he or she were a qualified voter, entitled to apply for the right to vote by absentee ballot under the provisions of this section, his or her spouse, parent or child, if a qualified voter and a resident of the same district, shall be entitled to vote as an absentee voter upon personally making and signing an application in accordance with the preceding provisions of this subdivision and showing that he or she expects to be absent from the district on the day of the district election by reason of accompanying or being with the spouse, child or parent who is or would be, if he or she were a qualified voter, so entitled to apply for the right to vote by absentee ballot, and, in the event no application is made by such spouse, child or parent, such further information as the fire district shall require.

f.] A QUALIFIED VOTER MAY VOTE AS AN ABSENTEE VOTER UNDER THIS SECTION IF DURING ALL THE HOURS OF VOTING ON THE DAY OF A FIRE DISTRICT ELECTION HE OR SHE WILL BE:

(1) ABSENT FROM THE COUNTY OF HIS OR HER RESIDENCE; OR

(2) UNABLE TO APPEAR AT THE POLLING PLACE BECAUSE OF ILLNESS OR PHYSICAL DISABILITY, OR DUTIES RELATED TO THE PRIMARY CARE OF ONE OR MORE INDIVIDUALS WHO ARE ILL OR PHYSICALLY DISABLED, OR BECAUSE HE OR SHE WILL BE OR IS A PATIENT IN A HOSPITAL; OR

(3) AN INMATE OR PATIENT OF A VETERAN'S ADMINISTRATION HOSPITAL; OR

(4) ABSENT FROM HIS OR HER VOTING RESIDENCE BECAUSE HE OR SHE IS DETAINED IN JAIL AWAITING ACTION BY A GRAND JURY OR AWAITING TRIAL, OR CONFINED IN JAIL OR PRISON AFTER A CONVICTION FOR AN OFFENSE OTHER THAN A FELONY, PROVIDED THAT HE OR SHE IS QUALIFIED TO VOTE IN THE ELECTION DISTRICT OF HIS OR HER RESIDENCE.

B. EACH PERSON ENTITLED TO VOTE AS AN ABSENTEE VOTER PURSUANT TO THIS SECTION AND DESIROUS OF OBTAINING AN ABSENTEE BALLOT SHALL MAKE WRITTEN

APPLICATION THEREFOR TO THE DISTRICT SECRETARY. APPLICATION FORMS FOR USE PURSUANT TO THIS SECTION SHALL BE IN A FORM PRESCRIBED BY THE STATE BOARD OF ELECTIONS. THE USE OF ANY APPLICATION WHICH IS ON A FORM PRESCRIBED BY THE STATE BOARD OF ELECTIONS SHALL BE ACCEPTABLE. Such application shall include the following statement to be signed by the voter.

I hereby declare that the foregoing is a true statement to the best of my knowledge and belief, and I understand that if I make any material false statement in the foregoing statement of application for absentee ballots, I shall be guilty of a misdemeanor.

Date.....Signature of Voter.....

[g.] C. THE APPLICATION FOR AN ABSENTEE BALLOT WHEN FILED MUST CONTAIN IN EACH INSTANCE THE FOLLOWING INFORMATION:

(1) APPLICANT'S FULL NAME, DATE OF BIRTH, AND RESIDENCE ADDRESS, INCLUDING THE STREET AND NUMBER, IF ANY, RURAL DELIVERY ROUTE, IF ANY, MAILING ADDRESS IF DIFFERENT FROM THE RESIDENCE ADDRESS AND AN ADDRESS TO WHICH THE BALLOT SHALL BE MAILED.

(2) A STATEMENT THAT THE APPLICANT IS A QUALIFIED AND REGISTERED VOTER.

(3) A STATEMENT, AS APPROPRIATE, THAT ON THE DAY OF SUCH ELECTION THE APPLICANT EXPECTS IN GOOD FAITH TO BE IN ONE OF THE FOLLOWING CATEGORIES:

(A) ABSENT FROM THE COUNTY OF HIS OR HER RESIDENCE; PROVIDED, HOWEVER, IF THE APPLICANT EXPECTS TO BE ABSENT FROM SUCH COUNTY FOR A DURATION COVERING MORE THAN ONE ELECTION AND SEEKS AN ABSENTEE BALLOT FOR EACH ELECTION, HE OR SHE SHALL STATE THE DATES WHEN HE OR SHE EXPECTS TO BEGIN AND END SUCH ABSENCE; OR

(B) UNABLE TO APPEAR AT A POLLING PLACE BECAUSE OF ILLNESS OR PHYSICAL DISABILITY OR DUTIES RELATED TO THE PRIMARY CARE OF ONE OR MORE INDIVIDUALS WHO ARE ILL OR PHYSICALLY DISABLED; OR

(C) AN INMATE OR PATIENT OF A VETERAN'S ADMINISTRATION HOSPITAL; OR

(D) DETAINED IN JAIL AWAITING ACTION BY A GRAND JURY OR AWAITING TRIAL OR CONFINED IN JAIL OR PRISON AFTER A CONVICTION FOR AN OFFENSE OTHER THAN A FELONY AND STATING THE PLACE WHERE HE OR SHE IS SO DETAINED OR CONFINED.

(4) SUCH APPLICATION SHALL PERMIT THE APPLICANT TO APPLY FOR AN ABSENTEE BALLOT FOR EITHER A PRIMARY ELECTION OR THE GENERAL ELECTION IN ANY YEAR AND FOR THOSE PERSONS WHO WILL BE CONTINUOUSLY ABSENT FROM THEIR COUNTY OF RESIDENCE DURING THE PERIOD BETWEEN THE FALL PRIMARY ELECTION AND THE GENERAL ELECTION IN ANY YEAR TO APPLY FOR BALLOTS FOR BOTH SUCH ELECTIONS IN SUCH YEAR. A VOTER WHO APPLIES FOR AN ABSENTEE BALLOT SHALL BE SENT AN ABSENTEE BALLOT FOR ANY SPECIAL ELECTION OR WINTER PRIMARY THAT OCCURS DURING THE PERIOD OF ABSENCE SPECIFIED IN THE APPLICATION.

D. An applicant whose ability to appear personally at the polling place of the district of which he or she is a qualified voter is substantially impaired by reason of permanent illness or physical disability and whose registration record has been marked "permanently disabled" by the board of elections pursuant to the provisions of the election law shall be entitled to receive an absentee ballot pursuant to the provisions of this section without making separate application for such absentee ballot, and the secretary of the fire district, upon being advised by the board of elections on or with the list of registered voters that the registration record of a voter is marked "permanently disabled", shall send an absentee ballot to such voter at his or her last known address by first class mail with a request to the postal authorities not to forward same but to return same in five days in the

event that it cannot be delivered to the addressee. The election inspectors of the fire district shall make an appropriate entry on the registration record indicating the fact that an absentee ballot has been sent and the date of mailing.

E. AN APPLICATION MUST BE RECEIVED BY THE DISTRICT SECRETARY NO EARLIER THAN THE THIRTIETH DAY BEFORE THE ELECTION FOR WHICH AN ABSENTEE BALLOT IS SOUGHT. IF THE APPLICATION REQUESTS THAT THE ABSENTEE BALLOT BE MAILED, SUCH APPLICATION MUST BE RECEIVED NOT LATER THAN SEVEN DAYS BEFORE THE ELECTION. IF THE APPLICANT OR HIS OR HER AGENT DELIVERS THE APPLICATION TO THE DISTRICT SECRETARY IN PERSON, SUCH APPLICATION MUST BE RECEIVED NOT LATER THAN THE DAY BEFORE THE ELECTION. THE DISTRICT SECRETARY SHALL EXAMINE EACH APPLICATION AND SHALL DETERMINE FROM THE INFORMATION CONTAINED THEREIN WHETHER THE APPLICANT IS QUALIFIED UNDER THIS SECTION TO RECEIVE AN ABSENTEE BALLOT.

F. NO LATER THAN SIX DAYS BEFORE THE ELECTION FOR WHICH AN APPLICATION HAS BEEN RECEIVED AND FOR WHICH THE DISTRICT SECRETARY HAS DETERMINED THE APPLICANT TO BE QUALIFIED TO VOTE BY ABSENTEE BALLOT THE DISTRICT SECRETARY SHALL MAIL, BY REGULAR MAIL, AN ABSENTEE BALLOT TO EACH QUALIFIED APPLICANT WHO HAS APPLIED BEFORE SUCH DAY AND WHO HAS REQUESTED THAT SUCH ABSENTEE BALLOT BE MAILED TO HIM OR HER AT THE ADDRESS SET FORTH IN HIS OR HER APPLICATION. IF THE APPLICANT OR HIS OR HER AGENT DELIVERS THE APPLICATION TO THE DISTRICT SECRETARY IN PERSON AFTER THE SEVENTH DAY BEFORE THE ELECTION AND NOT LATER THAN THE DAY BEFORE THE ELECTION, THE DISTRICT SECRETARY SHALL FORTHWITH DELIVER SUCH ABSENTEE BALLOTS FOR THOSE APPLICANTS WHOM HE OR SHE DETERMINES ARE QUALIFIED TO MAKE SUCH APPLICATIONS AND TO RECEIVE SUCH BALLOTS TO SUCH APPLICANTS OR THE AGENTS NAMED IN THE APPLICATIONS WHEN SUCH APPLICANTS OR AGENTS APPEAR IN THE DISTRICT SECRETARY'S OFFICE.

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.