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

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:

Section 1. Paragraph (c) of subdivision 2 of section 8-400 of the election law, as amended by chapter 321 of the laws of 1988, is amended to read as follows:

(c) All applications must be mailed to the board of elections not later than the seventh day before the election for which a ballot is first requested or delivered IN PERSON OR BY OVERNIGHT DELIVERY SERVICE to such board not later than the day before such election.

S 2. Subdivision 10 of section 8-400 of the election law, as amended by chapter 373 of the laws of 1986 and as renumbered by chapter 40 of the laws of 2009, is amended to read as follows:

10. The state board of elections shall prescribe a standard application form for use under this section. The use of any application form which substantially complies with the provisions of this section shall be acceptable and any application filed on such a form shall be accepted for filing. NOTHING IN THIS SECTION SHALL PROHIBIT THE PRINTING OF MATERIAL ON THE REVERSE SIDE OF THE APPLICATION BY PARTIES OR CANDIDATES ADVISING OF A PENDING ELECTION.

S 3. Subdivision 1 of section 8-407 of the election law, as amended by chapter 195 of the laws of 2001, is amended to read as follows:

1. The board of elections of a county or city in which there is located at least one facility operated or licensed, or under the jurisdiction of, the department of mental hygiene, or a facility defined as a nursing home or residential health care facility pursuant to subdivisions two and three of section two thousand eight hundred one of the 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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title two of article seven of the social services law, or a hospital or other facility operated by the Veteran's Administration of the United States shall provide that residents of each such facility for which such board has received twenty-five or more applications for absentee ballots from voters who are eligible to vote by absentee ballot in such city or county at such election, may vote by absentee ballot only in the manner provided for in this section OR SECTION 8-406 OF THIS TITLE. Such board may, in its discretion, provide that the procedure described in this subdivision shall be applicable to all such facilities in such county or city without regard to the number of absentee ballot applications received from the residents of any such facility.

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

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

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

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

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