

5895

2011-2012 Regular Sessions

I N A S S E M B L Y

March 2, 2011

Introduced by M. of A. KAVANAGH, CALHOUN, P. RIVERA, STEVENSON --
Multi-Sponsored by -- M. of A. PHEFFER -- read once and referred to
the Committee on Election Law

AN ACT to amend the election law, in relation to requiring county boards
to create systems for processing electronic requests for absentee
ballots

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

1 Section 1. Paragraph (d) of subdivision 2 of section 8-400 of the
2 election law, as separately amended by chapters 97 and 104 of the laws
3 of 2010, is amended to read as follows:
4 (d) The board of elections shall mail an absentee ballot to every
5 qualified voter otherwise eligible for such a ballot, who requests such
6 an absentee ballot from such board of elections in [writing in a letter,
7 telefax indicating the address, phone number and the telefax number from
8 which the writing is sent or other written instrument] A COMMUNICATION,
9 which is signed AND CERTIFIED by the voter and received by the board of
10 elections not earlier than the thirtieth day nor later than the seventh
11 day before the election for which the ballot is first requested and
12 which states the address where the voter is registered and the address
13 to which the ballot is to be mailed; provided, however, a military voter
14 may request a military ballot or voter registration application or an
15 absentee ballot application in a letter as provided in subdivision three
16 of section 10-106 of this chapter; and provided further, a special
17 federal voter may request a special federal ballot or voter registration
18 application or an absentee ballot application in a letter as provided in
19 paragraph d of subdivision one of section 11-202 of this chapter. The
20 board of elections shall enclose with such ballot a form of application
21 for absentee ballot if the applicant is registered with such board of
22 elections.

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

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1 S 2. Section 8-400 of the election law is amended by adding a new
2 subdivision 11 to read as follows:

3 11. (A) THE BOARD OF ELECTIONS OF EACH COUNTY SHALL ENACT PROCEDURES
4 AND REGULATIONS TO ENABLE VOTERS TO REQUEST AND APPLY FOR ABSENTEE
5 BALLOTS BY MEANS OF A FORM SUBMITTED OVER A SECURE INTERNET CONNECTION
6 THROUGH THE WEBSITE OF THE BOARD AND/OR THE COUNTY.

7 (B) ANY ELECTRONIC REQUEST FOR AN ABSENTEE BALLOT SUBMITTED THROUGH
8 SUCH A WEBSITE SHALL BE DEEMED TO CONSTITUTE AN APPLICATION FOR AN
9 ABSENTEE BALLOT WITHIN THE MEANING OF THIS SECTION, PROVIDED THAT THE
10 ELECTRONIC FORM:

11 (I) REQUESTS THE VOTER TO SUPPLY THAT INFORMATION REQUIRED BY SUBDIVI-
12 SION THREE OF THIS SECTION;

13 (II) CONTAINS THE LANGUAGE REQUIRED BY SUBDIVISION FIVE OF THIS
14 SECTION;

15 (III) PROMPTS THE VOTER, UPON COMPLETION, TO SUBMIT AN ELECTRONIC
16 SIGNATURE SUFFICIENT TO REASONABLY GUARANTEE THE VOTER'S IDENTITY;

17 (IV) INFORMS THE VOTER THAT SUCH SIGNATURE HAS THE SAME LEGAL EFFECT
18 AS A SIGNATURE EXECUTED BY HAND; AND

19 (V) DOES NOT PERMIT THE SUBMISSION OF A FORM SO INCOMPLETE AS TO
20 RENDER THE BOARD UNABLE TO PROCESS IT THROUGH ITS NORMAL PROCEDURES.

21 (C) IN THE CASE OF SUCH ELECTRONIC REQUESTS, THE BOARD OF ELECTIONS
22 SHALL PROVIDE TIMELY NOTIFICATION TO THE VOTER OF ANY DEFECT IN THEIR
23 ELECTRONIC APPLICATION. SUCH NOTIFICATION MAY BE SENT TO THE VOTER BY
24 ELECTRONIC MAIL.

25 (D) NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO ALTER THE INFORMA-
26 TION REQUIRED ON AN ABSENTEE BALLOT APPLICATION, OR THE QUALIFICATIONS,
27 STATUTORY OR CONSTITUTIONAL, REQUIRED TO VOTE BY ABSENTEE BALLOT.

28 S 3. Severability. If any provision of this act or the application
29 thereof shall for any reason be adjudged by any court of competent
30 jurisdiction to be invalid, such judgment shall not affect, impair, or
31 invalidate the remainder of this act, but shall be confined in its oper-
32 ation to the provision thereof directly involved in the controversy in
33 which such judgment shall have been rendered.

34 S 4. This act shall take effect on the one hundred eightieth day after
35 it shall have become a law.