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

5127

2011-2012 Regular Sessions

I N  S E N A T E

May 3, 2011

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph (d) of subdivision 2 of section 8-400 of the election law, as separately amended by chapters 97 and 104 of the laws of 2010, is amended to read as follows:

(d) The board of elections shall mail an absentee ballot to every qualified voter otherwise eligible for such a ballot, who requests such an absentee ballot from such board of elections in [writing in a letter, telefax indicating the address, phone number and the telefax number from which the writing is sent or other written instrument] A COMMUNICATION, which is signed AND CERTIFIED by the voter and received by the board of elections not earlier than the thirtieth day nor later than the seventh day before the election for which the ballot is first requested and which states the address where the voter is registered and the address to which the ballot is to be mailed; provided, however, a military voter may request a military ballot or voter registration application or an absentee ballot application in a letter as provided in subdivision three of section 10-106 of this chapter; and provided further, a special federal voter may request a special federal ballot or voter registration application or an absentee ballot application in a letter as provided in paragraph d of subdivision one of section 11-202 of this chapter. The board of elections shall enclose with such ballot a form of application for absentee ballot if the applicant is registered with such board of elections.

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

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

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

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

(I) REQUESTS THE VOTER TO SUPPLY THAT INFORMATION REQUIRED BY SUBDIVISION THREE OF THIS SECTION;

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

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

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

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

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

(D) NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO ALTER THE INFORMATION REQUIRED ON AN ABSENTEE BALLOT APPLICATION, OR THE QUALIFICATIONS, STATUTORY OR CONSTITUTIONAL, REQUIRED TO VOTE BY ABSENTEE BALLOT.

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

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