

1183--B

Cal. No. 359

2015-2016 Regular Sessions

I N   A S S E M B L Y

January 8, 2015

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Introduced by M. of A. GALEF, MONTESANO, CROUCH, FINCH, STECK -- Multi-Sponsored by -- M. of A. HAWLEY, MAGEE, McDONOUGH, RIVERA, THIELE -- read once and referred to the Committee on Local Governments -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Local Governments in accordance with Assembly Rule 3, sec. 2 -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

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

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

1     Section 1. Subdivision 2 of section 175-b of the town law, as amended  
2     by chapter 401 of the laws of 1996, is amended to read as follows:  
3     2. a. [An applicant for such an absentee ballot shall submit an appli-  
4     cation setting forth (1) his or her name and residence address, includ-  
5     ing the street and number, if any, or town and rural delivery route, if  
6     any; (2) that he or she is or will be, on the day of the election, a  
7     qualified voter of the district in which he or she resides in that he or  
8     she is or will be, on such date, over eighteen years of age, a citizen  
9     of the United States and has or will have resided in the district for  
10    thirty days next preceding such date; (3) that he or she is registered  
11    in the town; (4) that he or she will be unable to appear to vote in  
12    person on the day of the election for which the absentee ballot is  
13    requested because he or she is, or will be on such day (a) a patient in  
14    a hospital, or unable to appear personally at the polling place on such  
15    day because of illness or physical disability or (b) because of his or  
16    her duties, occupation or business will require him or her to be outside  
17    of the county of his or her residence on such day, (c) because he or she  
18    will be on vacation outside the county of his or her residence on such  
19    day; or, (d) absent from his or her voting residence because he or she

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

LBD01546-03-6

1 is detained in jail awaiting action by a grand jury or awaiting trial or  
2 is confined in prison after conviction for an offense other than a felony.  
3 Such application must be received by the district secretary at  
4 least seven days before the election if the ballot is to be mailed to  
5 the voter, or the day before the election, if the ballot is to be delivered  
6 personally to the voter or his or her agent.

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

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

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

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

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

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

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

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

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

50 B. EACH PERSON ENTITLED TO VOTE AS AN ABSENTEE VOTER PURSUANT TO THIS  
51 SECTION AND DESIROUS OF OBTAINING AN ABSENTEE BALLOT SHALL MAKE WRITTEN  
52 APPLICATION THEREFOR TO THE DISTRICT SECRETARY. APPLICATION FORMS FOR  
53 USE PURSUANT TO THIS SECTION SHALL BE IN A FORM PRESCRIBED BY THE STATE  
54 BOARD OF ELECTIONS. THE USE OF ANY APPLICATION WHICH IS ON A FORM  
55 PRESCRIBED BY THE STATE BOARD OF ELECTIONS SHALL BE ACCEPTABLE. Such

1 application shall include the following statement to be signed by the  
2 voter.

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

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

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

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

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

16 (3) A STATEMENT, AS APPROPRIATE, THAT ON THE DAY OF SUCH ELECTION THE  
17 APPLICANT EXPECTS IN GOOD FAITH TO BE IN ONE OF THE FOLLOWING Catego-  
18 ries:

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

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

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

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

32 (4) SUCH APPLICATION SHALL PERMIT THE APPLICANT TO APPLY FOR AN ABSEN-  
33 TEE BALLOT IN ANY YEAR. A VOTER WHO APPLIES FOR AN ABSENTEE BALLOT  
34 SHALL BE SENT AN ABSENTEE BALLOT FOR ANY FIRE DISTRICT ELECTION THAT  
35 OCCURS DURING THE PERIOD OF ABSENCE SPECIFIED IN THE APPLICATION.

36 D. An applicant whose ability to appear personally at the polling  
37 place of the district of which he or she is a qualified voter is  
38 substantially impaired by reason of permanent illness or physical disa-  
39 bility and whose registration record has been marked "permanently disa-  
40 bled" by the board of elections pursuant to the provisions of the  
41 election law shall be entitled to receive an absentee ballot pursuant to  
42 the provisions of this section without making separate application for  
43 such absentee ballot, and the secretary of the fire district, upon being  
44 advised by the board of elections on or with the list of registered  
45 voters that the registration record of a voter is marked "permanently  
46 disabled", shall send an absentee ballot to such voter at his or her  
47 last known address by first class mail with a request to the postal  
48 authorities not to forward same but to return same in five days in the  
49 event that it cannot be delivered to the addressee. The election  
50 inspectors of the fire district shall make an appropriate entry on the  
51 registration record indicating the fact that an absentee ballot has been  
52 sent and the date of mailing.

53 E. AN APPLICATION MUST BE RECEIVED BY THE DISTRICT SECRETARY NO EARLI-  
54 ER THAN THE THIRTIETH DAY BEFORE THE ELECTION FOR WHICH AN ABSENTEE  
55 BALLOT IS SOUGHT. IF THE APPLICATION REQUESTS THAT THE ABSENTEE BALLOT  
56 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. Subdivision 2 of section 213-b of the town law, as added by chapter 400 of the laws of 1985, is amended to read as follows:

2. a. [An applicant for such an absentee ballot shall submit an application setting forth (1) his name and residence address, including the street and number, if any, or town and rural delivery route, if any; (2) that he is or will be, on the day of the election, a qualified voter of the district in which he resides in that he 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 is registered in the town; (4) that he will be unable to appear to vote in person on the day of the election for which the absentee ballot is requested because he is, or will be on such day (a) a patient in a hospital, or unable to appear personally at the polling place on such day because of illness or physical disability or (b) because his duties, occupation or business will require him to be outside of the county or city of his residence on such day, (c) because he will be on vacation outside the county or city of his residence on such day; or, (d) absent from his voting residence because he 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 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 will be on vacation elsewhere on such day, such application shall also contain the dates upon which he expects to begin and end such vacation, the place or places where he expects to be

on such vacation, the name and address of his 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 were a qualified voter, entitled to apply for the right to vote by absentee ballot under the provisions of this section, his 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 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 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 improvement 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 AN IMPROVEMENT DISTRICT ELECTION HE OR SHE EXPECTS TO 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:

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

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

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

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

14 (4) SUCH APPLICATION SHALL PERMIT THE APPLICANT TO APPLY FOR AN ABSEN-  
15 TEE BALLOT IN ANY YEAR. A VOTER WHO APPLIES FOR AN ABSENTEE BALLOT  
16 SHALL BE SENT AN ABSENTEE BALLOT FOR ANY IMPROVEMENT DISTRICT ELECTION.

17 D. An applicant whose ability to appear personally at the polling  
18 place of the district of which he is a qualified voter is substantially  
19 impaired by reason of permanent illness or physical disability and whose  
20 registration record has been marked "permanently disabled" by the board  
21 of elections pursuant to the provisions of the election law shall be  
22 entitled to receive an absentee ballot pursuant to the provisions of  
23 this section without making separate application for such absentee  
24 ballot, and the secretary of the improvement district, upon being  
25 advised by the board of elections on or with the list of registered  
26 voters that the registration record of a voter is marked "permanently  
27 disabled", shall send an absentee ballot to such voter at his last known  
28 address by first class mail with a request to the postal authorities not  
29 to forward same but to return same in five days in the event that it  
30 cannot be delivered to the addressee. The board of inspectors of the  
31 improvement district shall make an appropriate entry on the registration  
32 record indicating the fact that an absentee ballot has been sent and the  
33 date of mailing.

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

44 F. NO LATER THAN SIX DAYS BEFORE THE ELECTION FOR WHICH AN APPLICATION  
45 HAS BEEN RECEIVED AND FOR WHICH THE DISTRICT SECRETARY HAS DETERMINED  
46 THE APPLICANT TO BE QUALIFIED TO VOTE BY ABSENTEE BALLOT THE DISTRICT  
47 SECRETARY SHALL MAIL, BY REGULAR MAIL, AN ABSENTEE BALLOT TO EACH QUALI-  
48 FIED APPLICANT WHO HAS APPLIED BEFORE SUCH DAY AND WHO HAS REQUESTED  
49 THAT SUCH ABSENTEE BALLOT BE MAILED TO HIM OR HER AT THE ADDRESS SET  
50 FORTH IN HIS OR HER APPLICATION. IF THE APPLICANT OR HIS OR HER AGENT  
51 DELIVERS THE APPLICATION TO THE DISTRICT SECRETARY IN PERSON AFTER THE  
52 SEVENTH DAY BEFORE THE ELECTION AND NOT LATER THAN THE DAY BEFORE THE  
53 ELECTION, THE DISTRICT SECRETARY SHALL FORTHWITH DELIVER SUCH ABSENTEE  
54 BALLOTS FOR THOSE APPLICANTS WHOM HE OR SHE DETERMINES ARE QUALIFIED TO  
55 MAKE SUCH APPLICATIONS AND TO RECEIVE SUCH BALLOTS TO SUCH APPLICANTS OR

1 THE AGENTS NAMED IN THE APPLICATIONS WHEN SUCH APPLICANTS OR AGENTS  
2 APPEAR IN THE DISTRICT SECRETARY'S OFFICE.  
3 S 3. This act shall take effect on the first of January next succeed-  
4 ing the date on which it shall have become a law.