STATE OF NEW YORK

699

2019-2020 Regular Sessions

IN SENATE

(Prefiled)

January 9, 2019

Introduced by Sen. BOYLE -- 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 authorizing any registered voter to vote by absentee ballot and in relation to establishing a right to a final vote

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions 1, 2, 3 and 4 of section 8-400 of the election law, subdivisions 1, 3 and 4 as amended by chapter 63 of the laws of 2010, paragraph (c) of subdivision 1 and subparagraph (iii) of paragraph (c) of subdivision 3 as amended by chapter 375 of the laws of 2015, the opening paragraph of subdivision 2 as amended by chapter 216 of the laws of 1988, paragraph (a) of subdivision 2 as amended by chapter 263 of the laws of 1991, paragraph (c) of subdivision 2 as amended by chapter 321 of the laws of 1988, and paragraph (d) of subdivision 2 as separately amended by chapters 97 and 104 of the laws of 2010, are amended to read as follows:

1. [~~A qualified voter may vote as an absentee voter under this chapter if, on the occurrence of any village election conducted by the board of elections, primary election, special election, general election or New York city community school board district or city of Buffalo school district election, he or she expects to be:~~

~~(a) absent from the county of his or her residence, or, if a resident of the city of New York absent from said city; or~~

~~(b) unable to appear personally at the polling place of the election district in which he or she is a qualified voter 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~~

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

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~~(c) a resident or patient of a veterans health administration hospital; 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 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.~~] **Any person who is registered to vote and deemed a qualified voter may vote by absentee ballot.**

2. A qualified voter desiring to vote at such election as an absentee voter [~~for any reason specified in subdivision one hereof~~] must make application for an absentee ballot on a form to be obtained and filed as provided herein or by letter as provided in paragraph (d) of this subdivision.

(a) Application forms shall be furnished by and may be obtained from any board of elections at any time until the day before such election. Application forms shall also be supplied by the board of inspectors of the election district in which applicant is a qualified voter on all of the days provided for local registration. In addition, application forms shall be supplied upon the request of the person authorized to vote pursuant to this section, any such person's spouse, parent or child, a person residing with the applicant as a member of his household, or the applicant's duly authorized agent. Application forms sent outside of the United States to a country other than Canada or Mexico, shall be sent airmail. Any reference to "board of elections" in the remaining provisions of this section, except with respect to the furnishing and obtaining of applications for absentee ballots, means only the board of elections of the county or city in which the applicant is a qualified voter.

(b) Applications may be filed either with the board of elections or in person with the board of inspectors of the election district in which the applicant is a qualified voter, on one of the days provided for local registration.

(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 to such board not later than the day [~~before~~] **of** such election.

(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, which is signed 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.

3. The application for an absentee ballot when filed must contain in each instance the following information:

(a) 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 his or her town or city and an address to which the ballot shall be mailed.

(b) A statement that the applicant is a qualified and registered voter.

(c) [~~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:~~

~~(i) absent from the county of his or her residence, or if a resident of the city of New York absent from said city; provided, however, if the applicant expects to be absent from such county or city 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~~

~~(ii) 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~~

~~(iii) a resident or patient of a veterans health administration hospital; or~~

~~(iv) 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.~~

~~(d)~~] 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.

[~~4. A voter who claims permanent illness or physical disability may make application for an absentee ballot and the right to receive an absentee ballot for each election thereafter as provided herein without further application, by filing with the board of elections an application which shall contain a statement to be executed by the voter. Upon filing of such application the board of elections shall cause the registration records of the voter to be marked "Permanently Disabled" and thereafter shall send an absentee ballot for each succeeding primary, special or general election to such voter at his or her last known address by first class mail with a request to the postal authorities not to forward such ballot but to return it in five days in the event that it cannot be delivered to the addressee. The mailing of such ballot for each election shall continue until such voter's registration is cancelled.~~]

§ 2. Article 8 of the election law is amended by adding a new title 6 to read as follows:

TITLE VI
RIGHT TO A FINAL VOTE

Section 8-600. Right to a final vote.

§ 8-600. Right to a final vote. Before his or her vote is counted in an election any voter who has voted by absentee ballot or other early voting procedure shall have the right to cast a ballot on election day that would negate such earlier vote.

§ 3. This act shall take effect on the same date and in the same manner as a "CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY proposing an amendment to section 2 of article 2 of the constitution, in relation to absentee voting" takes effect, in accordance with section 1 of article 19 of the constitution.