

# STATE OF NEW YORK

8226

## IN SENATE

April 27, 2020

Introduced by Sen. JACKSON -- 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 electronic applications and electronic return of certain ballots, authorizing facsimile transmission or electronic mail return of a federal post card application form, and including state and local elections on the ballots of special federal voters

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

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

4 (c) All applications [~~must be~~] requesting that a ballot be delivered  
5 to the voter or an agent by mail that are mailed to the board of  
6 elections shall be mailed not later than the seventh day before the  
7 election for which a ballot is first requested or, for applications  
8 requesting in-person delivery of the ballot to the voter or an agent at  
9 the board of elections, shall be delivered to such board not later than  
10 the day before such election. In addition to postal or personal delivery  
11 of the application to the board of elections, the board of elections  
12 shall accept delivery of absentee ballot applications: (i) by telephone  
13 facsimile transmission to a phone number which shall be designated by  
14 the board of elections; and (ii) as an attachment to an electronic mail  
15 transmission sent to an electronic mail address which shall be desig-  
16 nated by the board of elections. The website for each board of elections  
17 shall advertise the email address and telephone facsimile number  
18 required by this section. An application delivered to the board of  
19 elections by electronic means shall be an original application without  
20 necessity for a subsequent conforming paper submission and shall be  
21 deemed filed when received by the board of elections, except if received  
22 by electronic means after business hours or extended hours as designated  
23 by this chapter, such application shall be deemed received as of the  
24 next day on which the board is open to receive absentee ballot applica-  
25 tions. The board of elections shall maintain paper copies of all appli-

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

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cations delivered by electronic means. Nothing in this section shall be construed to prevent the application of the electronic signature provisions of the state technology law with respect to applications for an absentee ballot.

§ 2. Section 8-406 of the election law, as amended by chapter 296 of the laws of 1988, is amended to read as follows:

§ 8-406. Absentee ballots, delivery of. If the board shall find that the applicant is a qualified voter of the election district containing his or her residence as stated in his or her statement and that [~~his~~] such statement is sufficient, it shall, as soon as practicable after it shall have determined [~~his~~] such applicant's right thereto, mail to [~~him~~] the applicant at an address designated by [~~him~~] such applicant, or deliver to [~~him~~] the applicant, or to any person designated for such purpose in writing by [~~him~~] such applicant, at the office of the board, such an absentee voter's ballot or set of ballots and an envelope therefor. If the ballot or ballots are to be sent outside of the United States to a country other than Canada or Mexico, such ballot or ballots shall be sent by air mail. In addition to postal or personal delivery of an absentee voter's ballot to an applicant who is found to be a qualified voter, at the request of such applicant, the board of elections shall deliver such ballot or ballots: (i) by telephone facsimile transmission to a phone number which shall be designated by the applicant; or (ii) as an attachment to an electronic mail transmission sent to an electronic mail address which shall be designated by the applicant.

However, if an applicant who is eligible for an absentee ballot is a resident of a facility operated or licensed by, or under the jurisdiction of, the department of mental hygiene, or a resident of 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 a resident of a hospital or other facility operated by the Veteran's Administration of the United States, such absentee ballot need not be so mailed or delivered to any such applicant but, may be delivered to the voter in the manner prescribed by section 8-407 of this [~~chapter~~] title if such facility is located in the county or city in which such voter is eligible to vote.

§ 3. Section 8-410 of the election law, as amended by chapter 352 of the laws of 1986, is amended to read as follows:

§ 8-410. Absentee voting; method of. [~~The~~] For a ballot or ballots to be returned by mail or delivered to the board of elections of the county or city of an absentee voter's residence, the absentee voter shall mark an absentee ballot as provided for paper ballots or ballots prepared for counting by ballot counting machines. [~~He~~] The absentee voter shall make no mark or writing whatsoever upon the ballot, except as above prescribed, and shall see that it bears no such mark or writing. [~~He~~] The absentee voter shall make no mark or writing whatsoever on the outside of the ballot. After marking the ballot or ballots [~~he~~] the absentee voter shall fold each such ballot and enclose them in the envelope and seal the envelope. [~~He~~] The absentee voter shall then take and subscribe the oath on the envelope, with blanks properly filled in. The envelope, containing the ballot or ballots, shall then be mailed or delivered to the board of elections of the county or city of [~~his~~] such absentee voter's residence.

§ 4. Subdivision 7-a of section 10-106 of the election law, as added by chapter 348 of the laws of 1991, is amended to read as follows:

7-a. If a federal post card application form is received from a person who is qualified to vote as a military voter but who has not previously

1 registered pursuant to the provisions of this article, such federal post  
2 card application form shall be treated in all respects as an application  
3 for registration and enrollment as a military voter and for a military  
4 ballot pursuant to the provisions of this article. If such a federal  
5 post card application form is received from a person already registered  
6 as a military voter pursuant to the provisions of this article, such  
7 application shall be treated in all respects as an application for a  
8 military ballot pursuant to the provisions of this article. The board  
9 shall accept federal post card application forms by mail, facsimile  
10 transmission or electronic mail.

11 § 5. Section 10-107 of the election law, as added by chapter 104 of  
12 the laws of 2010, is amended to read as follows:

13 § 10-107. Military voters; designation of means of transmission by  
14 military voters. 1. A military voter may designate a preference to  
15 receive a voter registration application, a military ballot application  
16 or a military ballot by mail, facsimile transmission or electronic mail.  
17 Such designation shall remain in effect until revoked or changed by the  
18 military voter. If a military voter does not designate a preference, the  
19 board of elections shall transmit the voter registration application,  
20 military ballot application or military ballot by mail. If a military  
21 voter designates a preference for facsimile transmission or electronic  
22 mail but does not provide the necessary facsimile number or e-mail  
23 address, the board of elections shall transmit the voter registration  
24 application, military ballot application or military ballot by mail and  
25 request the omitted information. All communications to the military  
26 voter shall include the mailing address, the email address and telephone  
27 facsimile number of the board of elections.

28 2. Irrespective of the preferred method of transmission designated by  
29 a military voter, a military voter's original completed voter registra-  
30 tion application, military ballot application and military ballot [~~must~~  
31 ~~may~~ be returned by mail [~~or~~], in person [~~notwithstanding that a prior~~  
32 ~~copy was sent to the board of elections by~~], facsimile transmission or  
33 electronic mail. A completed military ballot application or military  
34 ballot submitted by facsimile transmission or electronic mail shall be  
35 an original application or ballot and no conforming paper submission  
36 shall be required. The board of elections shall maintain paper copies of  
37 all applications and ballots delivered by electronic means pursuant to  
38 this subdivision.

39 § 6. Paragraph (d) of subdivision 1 of section 10-108 of the election  
40 law, as added by chapter 104 of the laws of 2010, is amended to read as  
41 follows:

42 (d) A military voter who has received a federal write-in absentee  
43 ballot shall be entitled to receive a certified ballot notwithstanding  
44 the prior transmission of a federal write-in absentee ballot to such  
45 voter pursuant to paragraph (b) or (c) of this subdivision. Such certi-  
46 fied military ballot shall be sent by the board of elections in accord-  
47 ance with the preferred method of transmission designated by the voter  
48 pursuant to section 10-107 of this article, or expedited mail if the  
49 military voter has not expressed a preference to receive same by facsim-  
50 ile transmission or electronic mail, and [~~his or her~~] such military  
51 voter's request for a military ballot was made at least thirty-two days  
52 before the election.

53 § 7. Section 11-203 of the election law, as added by chapter 104 of  
54 the laws of 2010, is amended to read as follows:

55 § 11-203. Special federal voters; designation of means of transmission  
56 by special federal voters. 1. A special federal voter may designate a

1 preference to receive a voter registration application, a special feder-  
2 al ballot application or a special federal ballot by mail, facsimile  
3 transmission or electronic mail. Such designation shall remain in  
4 effect until revoked or changed by the special federal voter. If a  
5 special federal voter does not designate a preference, the board of  
6 elections shall transmit the voter registration application, special  
7 federal ballot application or special federal ballot by mail. If a  
8 special federal voter designates a preference for facsimile transmission  
9 or electronic mail but does not provide the necessary facsimile number  
10 or e-mail address, the board of elections shall transmit the voter  
11 registration application, special federal ballot application or special  
12 federal ballot by mail and request the omitted information. All communi-  
13 cations to the special federal voter shall include the mailing address,  
14 the email address and telephone facsimile number of the board of  
15 elections.

16 2. Irrespective of the preferred method of transmission designated by  
17 a special federal voter, a special federal voter's original completed  
18 voter registration application[~~, special federal ballot application and~~  
19 ~~special federal ballot must~~] may be returned by mail or in person  
20 notwithstanding that a prior copy was sent to the board of elections by  
21 facsimile transmission or electronic mail. A completed special federal  
22 ballot application or special federal ballot submitted by facsimile  
23 transmission or electronic mail shall be an original application or  
24 ballot and no conforming paper submission shall be required. The board  
25 of elections shall maintain paper copies of all applications and ballots  
26 delivered by electronic means pursuant to this subdivision.

27 § 8. Subdivision 1 of section 11-200 of the election law, as amended  
28 by chapter 99 of the laws of 1989, is amended to read as follows:

29 1. Every citizen of the United States now residing outside the United  
30 States whose last domicile in the United States immediately prior to his  
31 departure from the United States was in the state of New York, shall be  
32 entitled to vote from such last domicile, as a special federal voter in  
33 all primary, special and general elections for the public offices or  
34 party positions of president and vice-president of the United States,  
35 United States senator, representative in congress [~~and~~], delegates and  
36 alternate delegates to a national convention and all primary, special  
37 and general elections for any state or local public office, provided  
38 such citizen, at the time of such departure from the United States,  
39 could have met all the present qualifications of this chapter to vote in  
40 [~~federal~~] such elections from such last domicile, except the qualifica-  
41 tion with respect to minimum voting age, even though such citizen does  
42 not now maintain a place of abode or domicile in the state of New York,  
43 and provided further that such citizen does not maintain a place of  
44 abode or domicile, is not registered to vote and is not voting in any  
45 other election district, state, territory or possession of the United  
46 States and provided further that such citizen has a valid passport or  
47 card of identity and registration issued under the authority of the  
48 secretary of state of the United States.

49 § 9. This act shall take effect immediately.