STATE OF NEW YORK

8833

2019-2020 Regular Sessions

IN ASSEMBLY

December 18, 2019

Introduced by M. of A. SOLAGES -- read once and referred to the Committee on Election Law

AN ACT to amend to the election law, in relation to the administration of challenge oaths to voter applicants

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

Section 1. Section 8-502 of the election law, as amended by chapter 373 of the laws of 1978, is amended to read as follows:

§ 8-502. Challenges; generally. **1.** Before his **or her** vote is cast at an election any person may be challenged as to his **or her** right to vote, or his **or her** right to vote by absentee, military, special federal or special presidential ballot. Such challenge may be made by an inspector or clerk, by any duly appointed watcher, or by any registered voter properly in the polling place. An inspector shall challenge every person offering to vote, whom he **or she** shall know or suspect is not entitled to vote in the district, and every person whose name appears on the list of persons to be challenged on election day which is furnished by the board of elections.

2. Prior to making a challenge to a voter as provided in this section, the person challenging the voter's right to vote shall:

(a) take a verbal oath in the presence of an inspector, clerk or duly appointed watcher affirming that he or she is making the challenge in good faith and that he or she is aware that a bad faith challenge could lead to penalties and consequences; and

(b) complete a written document in such form as is approved by the state board of elections stating his or her name and address and the name of the voter who was challenged.

§ 2. Section 8-504 of the election law, subdivisions 1, 2, 3, 4, 5, 7 and 8 as renumbered by chapter 373 of the laws of 1978, subdivisions 4 and 5 as amended by chapter 9 of the laws of 1978 and subdivision 6 as

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

LBD14365-01-9

amended by chapter 82 of the laws of 1982, is amended to read as follows:

§ 8-504. Challenges; of voter at the polling place. 1. When an applicant is challenged, an inspector shall [~~administer to him~~] **provide to the applicant** the following oath, which shall be known as "The preliminary oath": "You do solemnly swear (or affirm) that you will make true answers to such questions as may be put to you concerning your qualifications as a voter". If the applicant shall refuse to take such oath [~~he~~] **the applicant** shall not be permitted to vote.

2. If the applicant shall take the preliminary oath, the inspector shall ask the applicant such questions as may pertain to the reason [~~his~~] **the applicant's** right to vote at such election in such district was challenged. If any applicant shall refuse to answer fully any questions which may be put to [~~him, he~~] **the applicant, the applicant** shall not be permitted to vote.

3. After receiving the answers as above specified, of any applicant, the board shall, if it believes the applicant to be qualified or the challenge is withdrawn, permit [~~him~~] **the applicant** to vote. Otherwise, the board shall point out to [~~him~~] **the applicant** the qualifications, if any, in respect of which [~~he~~] **the applicant** shall appear deficient. If, after such deficiencies have been so indicated, the applicant shall persist in [~~his~~] **the applicant's** claim to vote, an inspector shall [~~administer to him~~] **provide the applicant** the following oath, which shall be known as "The Qualification Oath": "You do swear (or affirm) that you are eighteen years of age, that you are a citizen of the United States and that you have been a resident of this state, and of this county (of the city of New York) (village) for thirty days next preceding this election, that you still reside at the same address from which you have been duly registered in this election district, that you have not voted at this election, and that you do not know of any reason why you are not qualified to vote at this election. You do further declare that you are aware that it is a crime to make any false statement. That all the statements you have made to the board have been true and that you understand that a false statement is perjury and you will be guilty of a misdemeanor."

4. If the applicant shall be challenged for the causes stated in section three of article two of the constitution of this state, which would exclude [~~him~~] **the applicant** from the right to vote, such inspector shall [~~administer to him~~] **provide the applicant** the following additional oath, which shall be known as "The Bribery Oath": "You do swear (or affirm) that you have not received or offered, do not expect to receive, have not paid, offered or promised to pay or contributed, offered or promised to contribute to another, to be paid or used; any money or any other valuable thing as a compensation or reward for the giving or withholding of a vote at this election, and have not made any promise to influence the giving or withholding of any such vote, and that you have not made, or become directly or indirectly interested in any bet or wager depending upon the result of this election."

5. If the applicant shall be challenged on the ground of having been convicted of a felony, such inspector shall [~~administer to him~~] **provide the applicant** the following additional oath, which shall be known as "The Conviction Oath": "You do swear (or affirm) that you have not been convicted of any felony, or if so convicted, that you have been pardoned, or restored to all the rights of a citizen, or the maximum term of imprisonment to which you were sentenced has expired, or you have been discharged from parole or your sentence has been suspended."

6. If the applicant shall be challenged on the ground of having been adjudged incompetent, such inspector shall [~~administer to him~~] **provide the applicant** the following additional oath, which shall be known as "The Incompetency Oath": "You do swear (or affirm) that you have not been adjudged incompetent by order of competent judicial authority, or if so adjudged, that you have since been adjudged competent which fully warrants your right to vote."

7. If any [~~person~~] **applicant** shall refuse to take any oath so tendered [~~he~~] **such applicant** shall not be permitted to vote, but if [~~he~~] **the applicant** shall take the oath or oaths tendered to [~~him he~~] **the applicant, the applicant** shall be permitted to vote.

7-a. Challenge oaths described in this section shall be administered to a challenged applicant by delivery by the challenger to the applicant of a written document in a form as is approved by the state board of elections which sets forth the applicable oath and provides a space for the applicant to sign and date the document. An applicant who signs the document or documents, as applicable, shall be deemed to have taken the oath and shall be permitted to vote. Notwithstanding the foregoing, a challenge oath may be administered by the challenger orally if the challenged applicant is illiterate, has difficulty reading or does not understand the written oath or specifically requests that the oath or oaths be read to the applicant verbally.

8. The inspectors shall enter the challenge date in the space reserved therefor on the back of the voter's registration poll record and shall make a record of each challenge on the challenge report as required herein. Where registration poll records are not being used, the inspectors shall in the remarks column for the election opposite the name of the voter enter a note of the challenge and shall make a record of each challenge on the challenge report.

§ 3. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall apply to all elections occurring on or after such effective date. Effective immediately the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such date.