STATE OF NEW YORK

4564

2021-2022 Regular Sessions

IN ASSEMBLY

February 4, 2021

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

AN ACT to amend the election law, in relation to absentee voting

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~~] **when such voter** 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, **or an electronic application submitted by the voter by electronic mail or through an electronic transmittal system or web portal established by the state board of elections or city or county board of elections,** 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.

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

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§ 2. Subdivision 1 of section 8-412 of the election law, as amended by chapter 140 of the laws of 2020, is amended to read as follows:

1. The board of elections shall cause all absentee ballots received by it before the close of the polls on election day and all ballots contained in envelopes showing a cancellation mark of the United States postal service or a foreign country's postal service, or showing a dated endorsement of receipt by another agency of the United States government, with a date which is ascertained to be not later than the day of the election and received by such board of elections not later than seven days following the day of election to be cast and counted [~~except that the absentee ballot of a voter who requested such ballot by letter, rather than application, shall not be counted unless a valid application form, signed by such voter, is received by the board of elections with such ballot~~]. For purposes of this section, any absentee ballot received by the board of elections by mail that does not bear or display a dated postmark shall be presumed to have been timely mailed or delivered if such ballot bears a time stamp of the receiving board of elections indicating receipt by such board on the day after the election.

§ 3. Subparagraph (iii) of paragraph (b) of subdivision 2 of section 9-209 of the election law, as amended by chapter 104 of the laws of 2010, is amended to read as follows:

(iii) If such a federal write-in absentee ballot is received after election day, the envelope in which it is received must contain: (A) a cancellation mark of the United States postal service or a foreign country's postal service; (B) a dated endorsement of receipt by another agency of the United States government; or (C) if cast by a military voter, the signature and date of the voter and one witness thereto with a date which is ascertained to be not later than the day [~~before~~] **of the** election [~~day~~].

§ 4. Subdivision 1 of section 10-114 of the election law, as amended by chapter 165 of the laws of 2009, is amended to read as follows:

1. The board of elections shall cause all military ballots received by it before the close of the polls on election day and all ballots contained in envelopes showing a cancellation mark of the United States postal service or a foreign country's postal service, or showing a dated endorsement of receipt by another agency of the United States government or are signed and dated by the voter and one witness thereto, with a date which is ascertained to be not later than the day [~~before~~] **of the** election and received by such board of elections not later than seven days following the day of a primary election and not later than thirteen days following the day of a general or special election to be cast and counted.

§ 5. Subdivision 1 of section 11-110 of the election law, as amended by chapter 99 of the laws of 1989, is amended to read as follows:

1. To be counted, any ballot cast under the provisions of this article must be received by the appropriate board of elections not later than the close of the polls on election day except that all ballots contained in envelopes showing a cancellation mark of the United States postal service, or a foreign country's postal service with a date which is ascertained to be not later than the day [~~before~~] **of the** election, shall be cast and counted if received by the board of elections not later than seven days following the day of election.

§ 6. Section 11-212 of the election law, as amended by chapter 163 of the laws of 2010, is amended to read as follows:

§ 11-212. Special federal ballots; deadline for receipt. All special federal ballots received by the board of elections before the close of

the polls on election day shall be retained by the board of elections and cast and canvassed pursuant to section 9-209 of this chapter. All ballots contained in envelopes showing a cancellation mark of the United States postal service or a foreign country's postal service, or showing a dated endorsement of receipt by another agency of the United States government, with a date which is ascertained to be not later than the day [~~before~~] **of the** election, shall be cast and counted if received by the board of elections not later than seven days following the day of a primary election or thirteen days following the day of a general or special election [~~except that the special federal ballot of a voter who requested such ballot by letter, rather than application, shall not be counted unless a valid application form, signed by such voter, is received by the board of elections with such ballot~~]. All ballots received by the board of elections and all federal write-in ballots received from special federal voters not later than seven days following the day of a primary election or thirteen days following the day of a general or special election, shall be retained at the board and shall be cast and canvassed in the same manner as other ballots retained by such board.

§ 7. This act shall take effect immediately.