STATE OF NEW YORK

6970--A

Cal. No. 271

2021-2022 Regular Sessions

IN ASSEMBLY

April 16, 2021

Introduced by M. of A. WALKER, JACOBSON, OTIS, BICHOTTE HERMELYN, PERRY, STIRPE -- read once and referred to the Committee on Election Law -- reported and referred to the Committee on Ways and Means -- 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 election law, in relation to establishing an electronic absentee ballot application transmittal system

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

Section 1. Subdivision 2 of section 8-400 of the election law, the opening paragraph as amended by chapter 216 of the laws of 1988, paragraph (a) as amended by chapter 263 of the laws of 1991, paragraph (c) as amended by chapter 321 of the laws of 1988 and paragraph (d) as separately amended by chapters 97 and 104 of the laws of 2020, is amended to read as follows:

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**, or through the electronic absentee ballot application transmittal system pursuant to section 8-408 of this title**.

(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**, or on the electronic absentee ballot application transmittal system**. 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

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

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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, **through the electronic absentee ballot application transmittal system** 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 **requesting an absentee ballot by mail or through the electronic absentee ballot application transmittal system** must be [~~mailed to~~] **received by** the board of elections not later than the [~~seventh~~] **fifteenth** day before the election for which a ballot is first requested [~~or delivered to~~]**. Applications for an absentee ballot that will be delivered in person at the board of election to the voter or to an agent of the voter must be received by** such board not later than the day before 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, **or an electronic application submitted by the voter through the electronic absentee ballot application transmittal system established by the state 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~~] **fifteenth** 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.

§ 2. The election law is amended by adding a new section 8-408 to read as follows:

§ 8-408. Electronic absentee ballot application transmittal system. 1. Establishment. In addition to any other means of applying for an absentee ballot, the state board of elections shall establish and maintain an electronic absentee ballot application transmittal system through which voters may apply for an absentee ballot online. The state board of elections shall electronically transmit such applications to the applicable board of elections of each county or the city of New York for processing consistent with this chapter. In accordance with technical specifications provided by the state board of elections, each board of elections shall maintain an absentee ballot application system capable of receiving and processing electronic absentee ballot applications, including, but not limited to, electronic signatures, from the electronic absentee ballot application transmittal system established by the state board of elections pursuant to this section. Such transmittal

system shall be fully integrated with each county board of elections and the city of New York board of elections so that a voter may apply online directly either through the website of his or her board of elections or the state board of elections. Notwithstanding any other inconsistent provision of this chapter, applications filed using such system shall be considered filed with the applicable board of elections on the calendar date the application is initially transmitted by the voter through the electronic absentee ballot application transmittal system.

2. Online absentee ballot application. (a) A voter shall be able to apply for an absentee ballot using a personal online voter registration application submitted through the electronic absentee ballot application transmittal system when the voter:

(i) completes an electronic absentee ballot application promulgated by the state board of elections which shall include all of the information required by section 8-400 of this title; and

(ii) affirms, subject to penalty of perjury, by means of electronic or manual signature, that the information contained in the absentee ballot application is true; and

(iii) consents to the use of an electronic copy of the individual's manual signature that is in the custody of the department of motor vehicles, the state board of elections, or other agency designated by section 5-211 or 5-212 of this chapter, as the individual's absentee ballot exemplar signature, or provides such a signature by direct upload in a manner that complies with the New York state electronic signature and records act and the rules and regulations promulgated by the state board of elections.

(b) The board of elections shall provide the personal online absentee ballot application in any language required by the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10503) in any county in the state.

(c) The online absentee ballot application process shall provide reasonable accommodations to improve accessibility for persons with disabilities and shall be compatible for use with standard online accessibility assistance tools for persons with visual, physical or perceptive disabilities.

(d) The state board of elections shall promulgate rules and regulations for the creation and administration of an online absentee ballot registration system pursuant to this section.

3. Failure to provide exemplar signature not to prevent application. (a) If an absentee ballot exemplar signature is not provided by an applicant who submits an absentee ballot application pursuant to this section, the local board shall seek to obtain such exemplar signature from the statewide voter registration database, the state board of elections, or a state or local agency designated by section 5-211 or 5-212 of this chapter.

(b) If such exemplar signature is not available from the statewide voter registration database, the state board of elections, or a state or local agency designated by section 5-211 or 5-212 of this chapter, the local board of elections shall, absent another reason to reject the application, require the voter to provide an exemplar signature by any one of the following methods: in person, by electronic mail, or by electronic upload to the board of elections through the electronic absentee ballot application transmittal system.

(c) If such voter does not provide the required exemplar signature, the board of elections shall proceed to issue an absentee ballot to the voter along with an absentee ballot application form requiring such

voter to submit a signature upon such application form and return it to the board of elections with the voter's ballot.

§ 3. This act shall take effect January 1, 2022. Effective immediately, the state board of elections shall be authorized to promulgate any rules or regulations required to carry out the provisions of this act prior to such effective date.