

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:

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

7 2. A qualified voter desiring to vote at such election as an absentee
8 voter for any reason specified in subdivision one hereof must make
9 application for an absentee ballot on a form to be obtained and filed as
10 provided herein [~~or~~], by letter as provided in paragraph (d) of this
11 subdivision, or through the electronic absentee ballot application tran-
12 smittal system pursuant to section 8-408 of this title.

13 (a) Application forms shall be furnished by and may be obtained from
14 any board of elections at any time until the day before such election,
15 or on the electronic absentee ballot application transmittal system.
16 Application forms shall also be supplied by the board of inspectors of
17 the election district in which applicant is a qualified voter on all of
18 the days provided for local registration. In addition, application forms
19 shall be supplied upon the request of the person authorized to vote
20 pursuant to this section, any such person's spouse, parent or child, a
21 person residing with the applicant as a member of his household, or the
22 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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1 United States to a country other than Canada or Mexico, shall be sent
2 airmail. Any reference to "board of elections" in the remaining
3 provisions of this section, except with respect to the furnishing and
4 obtaining of applications for absentee ballots, means only the board of
5 elections of the county or city in which the applicant is a qualified
6 voter.

7 (b) Applications may be filed [~~either~~] with the board of elections,
8 through the electronic absentee ballot application transmittal system or
9 in person with the board of inspectors of the election district in which
10 the applicant is a qualified voter[7] on one of the days provided for
11 local registration.

12 (c) All applications requesting an absentee ballot by mail or through
13 the electronic absentee ballot application transmittal system must be
14 [~~mailed to~~] received by the board of elections not later than the
15 [~~seventh~~] fifteenth day before the election for which a ballot is first
16 requested [~~or delivered to~~]. Applications for an absentee ballot that
17 will be delivered in person at the board of election to the voter or to
18 an agent of the voter must be received by such board not later than the
19 day before such election.

20 (d) The board of elections shall mail an absentee ballot to every
21 qualified voter otherwise eligible for such a ballot, who requests such
22 an absentee ballot from such board of elections in writing in a letter,
23 telefax indicating the address, phone number and the telefax number from
24 which the writing is sent or other written instrument, or an electronic
25 application submitted by the voter through the electronic absentee
26 ballot application transmittal system established by the state board of
27 elections, which is signed by the voter and received by the board of
28 elections not [~~earlier than the thirtieth day nor~~] later than the
29 [~~seventh~~] fifteenth day before the election for which the ballot is
30 first requested and which states the address where the voter is regis-
31 tered and the address to which the ballot is to be mailed; provided,
32 however, a military voter may request a military ballot or voter regis-
33 tration application or an absentee ballot application in a letter as
34 provided in subdivision three of section 10-106 of this chapter; and
35 provided further, a special federal voter may request a special federal
36 ballot or voter registration application or an absentee ballot applica-
37 tion in a letter as provided in paragraph d of subdivision one of
38 section 11-202 of this chapter. The board of elections shall enclose
39 with such ballot a form of application for absentee ballot if the appli-
40 cant is registered with such board of elections.

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

43 § 8-408. Electronic absentee ballot application transmittal system. 1.
44 Establishment. In addition to any other means of applying for an absen-
45 tee ballot, the state board of elections shall establish and maintain an
46 electronic absentee ballot application transmittal system through which
47 voters may apply for an absentee ballot online. The state board of
48 elections shall electronically transmit such applications to the appli-
49 cable board of elections of each county or the city of New York for
50 processing consistent with this chapter. In accordance with technical
51 specifications provided by the state board of elections, each board of
52 elections shall maintain an absentee ballot application system capable
53 of receiving and processing electronic absentee ballot applications,
54 including, but not limited to, electronic signatures, from the electron-
55 ic absentee ballot application transmittal system established by the
56 state board of elections pursuant to this section. Such transmittal

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

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

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

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

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

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

30 (c) The online absentee ballot application process shall provide
31 reasonable accommodations to improve accessibility for persons with
32 disabilities and shall be compatible for use with standard online acces-
33 sibility assistance tools for persons with visual, physical or percep-
34 tive disabilities.

35 (d) The state board of elections shall promulgate rules and regu-
36 lations for the creation and administration of an online absentee ballot
37 registration system pursuant to this section.

38 3. Failure to provide exemplar signature not to prevent application.

39 (a) If an absentee ballot exemplar signature is not provided by an
40 applicant who submits an absentee ballot application pursuant to this
41 section, the local board shall seek to obtain such exemplar signature
42 from the statewide voter registration database, the state board of
43 elections, or a state or local agency designated by section 5-211 or
44 5-212 of this chapter.

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

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

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

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