STATE OF NEW YORK

7761--A

2021-2022 Regular Sessions

IN ASSEMBLY

May 21, 2021

Introduced by M. of A. ABINANTI, GALEF -- read once and referred to the Committee on Election Law -- reported and referred to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, in relation to write-in ballots

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

Section 1. Section 6-164 of the election law, as amended by chapter 440 of the laws of 2019, is amended to read as follows:

§ 6-164. Primary, uncontested; opportunity to ballot. Enrolled members of a party entitled to vote in the nomination of a candidate for public office or the election of a candidate for party position in a primary election of such party, and equal in number to at least the number of signers required to designate a candidate for such office or position may file with the officer or board with whom or which are filed designating petitions for such office or position a petition requesting an opportunity to write in the name of a candidate or candidates **enrolled in such party**, who need not be specified, for such office or position. Upon the receipt of such a petition, such office or position shall be deemed contested and the primary ballots of the party shall afford an opportunity to vote thereon. Requests for an opportunity to write in the names of candidates for two or more offices or positions may be included in the same petition. Such petitions shall be subject to objections and court determination thereof in the same manner as designating petitions so far as the provisions therefor are applicable. All required notices shall be served on the members of the committee named in the petition, and such committee shall have capacity to bring a proceeding under this chapter as if such committee was a candidate named on a petition. A signature to a petition for an opportunity to ballot in primary elections made earlier than sixteen days before the last day to file designating petitions for the primary election shall not be counted.

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

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§ 2. Subdivision 2 of section 6-166 of the election law, as amended by chapter 235 of the laws of 2000, is amended to read as follows:

2. Each sheet of such petition shall be signed in ink and shall be substantially in the following form:

I, the undersigned, do hereby state that I am a duly enrolled voter of the ..... party and entitled to vote at the next primary election of such party, that my place of residence is truly stated opposite my signature hereto, and I do hereby request an opportunity to write in the name of an undesignated candidate or candidates **enrolled in such party** for nomination to the public office or offices or for election to the party position or positions, in the political unit or units of representation hereinafter set forth, of such party to be voted on the .....day of ..... 20...., as hereinafter specified.

Public Office or party position ..... Political unit or unit of representation.....

The appointment of a committee to receive notices, the signatures on the petition with all required information and the signed statement of a witness or authentication by a notary public or commissioner of deeds, shall be in the form prescribed for a designating petition.

§ 3. Section 8-308 of the election law, subdivision 2 as amended and subdivision 3 as renumbered by chapter 13 of the laws of 1988, and subdivision 4 as amended by chapter 395 of the laws of 2015, is amended to read as follows:

§ 8-308. Voting; voting [~~machine~~] write-in. 1. Ballots voted for any person whose name does not appear on the [~~machine~~] **ballot** as a nominated or designated candidate for public office or party position are referred to in this article as write-in ballots.

2. No write-in ballot shall be voted for any person for any office whose name appears on the [~~machine~~] **ballot** as a nominated or designated candidate for the office or position in question; any write-in ballot so voted shall not be counted.

3. A write-in ballot must be cast in its appropriate place on the [~~machine~~] **ballot**, or it shall be void and not counted.

4. **A write-in ballot cast in a party primary for a candidate not enrolled in such party shall be void and not counted.**

5. A write-in ballot may also be cast by the use of a name stamp. The use of name stickers, labels or pasters is prohibited.

§ 4. This act shall take effect immediately.