

STATE OF NEW YORK

5566

2021-2022 Regular Sessions

IN ASSEMBLY

February 19, 2021

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:

1 Section 1. Section 8-502 of the election law, as amended by chapter
2 373 of the laws of 1978, is amended to read as follows:

3 § 8-502. Challenges; generally. 1. Before his or her vote is cast at
4 an election any person may be challenged as to his or her right to vote,
5 or his or her right to vote by absentee, military, special federal or
6 special presidential ballot. Such challenge may be made by an inspector
7 or clerk, by any duly appointed watcher, or by any registered voter
8 properly in the polling place. An inspector shall challenge every person
9 offering to vote, whom he or she shall know or suspect is not entitled
10 to vote in the district, and every person whose name appears on the list
11 of persons to be challenged on election day which is furnished by the
12 board of elections.

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

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

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

22 § 2. Section 8-504 of the election law, subdivisions 1, 2, 3, 4, 5, 7
23 and 8 as renumbered by chapter 373 of the laws of 1978, subdivisions 4
24 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.

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

3 § 8-504. Challenges; of voter at the polling place. 1. When an appli-
4 cant is challenged, an inspector shall ~~[administer to him]~~ provide to
5 the applicant the following oath, which shall be known as "The prelimi-
6 nary oath": "You do solemnly swear (or affirm) that you will make true
7 answers to such questions as may be put to you concerning your quali-
8 fications as a voter". If the applicant shall refuse to take such oath
9 ~~[he]~~ the applicant shall not be permitted to vote.

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

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

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

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

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

8 7. If any ~~[person]~~ applicant shall refuse to take any oath so tendered
9 ~~[he]~~ such applicant shall not be permitted to vote, but if ~~[he]~~ the
10 applicant shall take the oath or oaths tendered to ~~[him he]~~ the appli-
11 cant, the applicant shall be permitted to vote.

12 7-a. Challenge oaths described in this section shall be administered
13 to a challenged applicant by delivery by the challenger to the applicant
14 of a written document in a form as is approved by the state board of
15 elections which sets forth the applicable oath and provides a space for
16 the applicant to sign and date the document. An applicant who signs the
17 document or documents, as applicable, shall be deemed to have taken the
18 oath and shall be permitted to vote. Notwithstanding the foregoing, a
19 challenge oath may be administered by the challenger orally if the chal-
20 lenged applicant is illiterate, has difficulty reading or does not
21 understand the written oath or specifically requests that the oath or
22 oaths be read to the applicant verbally.

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

30 § 3. This act shall take effect on the one hundred eightieth day after
31 it shall have become a law and shall apply to all elections occurring on
32 or after such effective date. Effective immediately the addition, amend-
33 ment and/or repeal of any rule or regulation necessary for the implemen-
34 tation of this act on its effective date are authorized to be made and
35 completed on or before such date.