STATE OF NEW YORK

267

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. MYRIE, HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

AN ACT to amend the election law, in relation to authorizing electronic absentee ballot applications and absentee ballot submissions

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

Section 1. Paragraph (c) of subdivision 2 of section 8-400 of the election law, as amended by chapter 321 of the laws of 1988, is amended to read as follows:

(c) All applications **requesting that a ballot be delivered to the voter or an agent by mail** must be mailed to the board of elections not later than the seventh day before the election for which a ballot is first requested or**, for applications requesting in-person delivery of the ballot to the voter or an agent at the board of elections, must be** delivered to such board not later than the day before such election. **In addition to postal or personal delivery of the application to the board of elections, the board of elections shall accept delivery of absentee ballot applications from persons residing in a country other than the United States while maintaining eligibility to vote in elections in New York: (i) by telephone facsimile transmission to a phone number which shall be designated by the board of elections; (ii) as an attachment to an electronic mail transmission sent to an electronic mail address which shall be designated by the board of elections; and (iii) through an online electronic absentee ballot application filing system which shall be established by the state board of elections and which shall transmit each application to the appropriate board of elections for processing. The website for each board of elections shall advertise the email address and telephone facsimile number required by this section and shall provide a link to the online electronic filing system established pursuant to this section. An application delivered to the board of**

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

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elections by electronic means shall be an original application without necessity for a subsequent conforming paper submission and shall be deemed filed when received by the board of elections, except if received by electronic means after business hours or extended hours as designated by this chapter, such application shall be deemed received as of the next day on which the board is open to receive absentee ballot applications. Nothing in this section shall be construed to prevent the application of the electronic signature provisions of the state technology law with respect to applications for an absentee ballot.

§ 2. Section 8-410 of the election law, as amended by chapter 352 of the laws of 1986, is amended to read as follows:

§ 8-410. Absentee voting; method of. 1. Marking of the ballot. The absentee voter shall mark an absentee ballot as provided for paper ballots or ballots prepared for counting by ballot counting machines. He or she shall make no mark or writing whatsoever upon the ballot, except as above prescribed, and shall see that it bears no such mark or writing. He or she shall make no mark or writing whatsoever on the outside of the ballot.

2. Submission of the ballot; by mail. After marking the ballot or ballots he or she shall fold each such ballot and enclose them in the envelope and seal the envelope. He or she shall then take and subscribe the oath on the envelope, with blanks properly filled in. The envelope, containing the ballot or ballots, shall then be mailed or delivered to the board of elections of the county or city of his or her residence.

3. Submission of the ballot; by electronic mail. He or she shall then take and subscribe the oath in the email, with blanks properly filled in. He or she shall then return the ballot or ballots via electronic mail to the state board of elections using the electronic absentee ballot transmittal system.

§ 3. The election law is amended by adding a new section 8-414 to read as follows:

§ 8-414. Absentee voters; electronic absentee ballot transmittal system. 1. The state board of elections shall establish and maintain an electronic absentee ballot transmittal system through which applicants may return a marked absentee ballot via electronic mail. The state board of elections shall deliver such marked ballots to the applicable board of elections of each county or the city of New York for filing, processing and verification consistent with this chapter. In accordance with technical specifications provided by the state board of elections, each board of elections shall maintain a system capable of receiving and processing marked absentee ballot information, including digital signatures, from the electronic voter registration transmittal system established by the state board of elections. Notwithstanding any other inconsistent provision of this chapter, ballots filed using such system shall be considered filed with the applicable board of elections on the calendar date such application or ballot is initially transmitted by the voter through the electronic absentee ballot transmittal system.

2. The electronic absentee ballot transmittal system shall only be available for persons residing in a country other than the United States while maintaining eligibility to vote in elections in New York.

§ 4. Section 11-203 of the election law, as added by chapter 104 of the laws of 2010, is amended to read as follows:

§ 11-203. Special federal voters; designation of means of transmission by special federal voters. [~~1.~~] A special federal voter may designate a preference to receive a voter registration application, a special federal ballot application or a special federal ballot by mail, facsimile

transmission or electronic mail. Such designation shall remain in effect until revoked or changed by the special federal voter. If a special federal voter does not designate a preference, the board of elections shall transmit the voter registration application, special federal ballot application or special federal ballot by mail. If a special federal voter designates a preference for facsimile transmission or electronic mail but does not provide the necessary facsimile number or e-mail address, the board of elections shall transmit the voter registration application, special federal ballot application or special federal ballot by mail and request the omitted information. All communications to the special federal voter shall include the mailing address of the board of elections.

[~~2. Irrespective of the preferred method of transmission designated by a special federal voter, a special federal voter's original completed voter registration application, special federal ballot application and special federal ballot must be returned by mail or in person notwithstanding that a prior copy was sent to the board of elections by facsimile transmission or electronic mail.~~]

§ 5. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.