



Legislation Text

File #: Res 1495-2020, **Version:** *

Res. No. 1495

Resolution calling on the New York State Legislature to pass, and the Governor to sign, A.10844, which would require valid absentee ballots that are missing a dated postmark to be counted if they are received within three days following the day of the election.

By Council Members Cabrera, Kallos and Yeger

Whereas, The sanctity of the United States' electoral process is the bedrock of our national democracy;
and

Whereas, A basic tenet of the electoral process is ensuring that each valid ballot cast will be counted;
and

Whereas, In early 2020, the rapid spread of the SARS-CoV-2 virus led many states and localities, including New York, to restrict in-person gatherings in order to stem viral spread; and

Whereas, On April 9, Governor Cuomo issued an emergency executive order that expanded access to absentee ballots in the June primary elections, allowing New York voters to request such a ballot based on a fear of contracting COVID-19; and

Whereas, In the June Primary Election, New York City reported historic numbers of absentee ballots cast: roughly 38 percent of all ballots cast, or 318,707, were absentee or military ballots, as compared to just 27,941 absentee or military ballots cast in the 2016 Primary Election; and

Whereas, Forty-five percent of the absentee ballot applications received by the City Board of Election arrived in the two weeks prior to the June 23 election; and

Whereas, The Board was still mailing thousands of absentee ballots to voters up until the day before the election; and

Whereas, Some voters who did not receive their absentee ballots in time decided to vote in person while others chose not to vote at all; and

Whereas, In the June Primary, 4,800 Brooklyn absentee ballots did not receive a postmark when they went through the mail, due to a lack of coordination with the United States Postal Service, and were thrown out; and

Whereas, In a Manhattan congressional race, Federal District Court Judge Torres ruled that at least 1,000 absentee ballots without dated postmarks were to be counted so long as the Board of Election received them by the second day after the election and bore no other dated postmark; and

Whereas, In response to this issue and in preparation for the November Election, Governor Cuomo signed S.8799A (Gianaris)/A.10808-A (Bichotte) into law on August 20, 2020; and

Whereas, S.8799A/A.10808-A allows absentee ballots that are missing a dated postmark, but which are otherwise valid, to be counted if they are received by the boards of election on the day after the election; and

Whereas, Receipt one day after the election does not give enough time for otherwise valid absentee ballots to be received by the local boards of elections; and

Whereas, In the lead-up to the 2020 General Election, the United States Postal Service warned voters not to mail absentee ballots within one week of the November 3 election day, as significant stress on the mail system had led to delays that could affect absentee ballot delivery; and

Whereas, Absentee ballots are typically treated as first-class mail, with a one- to three-day delivery window; and

Whereas, First-class mail on-time delivery rates have steadily declined since June, particularly in urban cities, such as New York City; and

Whereas, The United States Postal Service's inconsistent ballot postmarking marking practices, along with the timeliness of mail delivery, could cause thousands of valid absentee ballots to be discounted; and

Whereas, On July 24, 2020, Assemblymember Dinowitz introduced A.10844, which would allow

absentee ballots that are missing a dated postmark, but which are otherwise valid, to be counted if received by the third day after an Election; and

Whereas, A.10844 better responds to the delay created by an overburdened postal service, while ensuring that a missing dated postmark does not unnecessarily discount a valid ballot; now, therefore, be it

Resolved, That the Council of the City of New York calls on the New York State Legislature to pass, and the Governor to sign, A.10844, which would require valid absentee ballots that are missing a dated postmark to be counted if they are received within three days following the day of the election.

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11.25.2020