

ASSEMBLY, No. 2815

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED FEBRUARY 16, 2016

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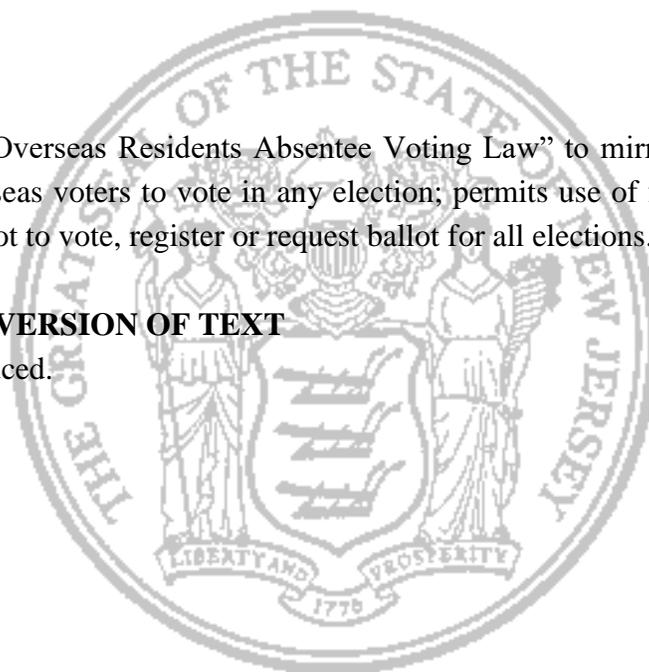
Assemblywoman Downey, Assemblyman Conaway, Assemblywoman Lampitt, Assemblymen Chiaravalloti, Eustace and Barclay

SYNOPSIS

Revises "Overseas Residents Absentee Voting Law" to mirror federal law; permits overseas voters to vote in any election; permits use of federal write-in absentee ballot to vote, register or request ballot for all elections.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/21/2016)

A2815 MOSQUERA, JONES

2

1 AN ACT concerning voting by New Jersey's overseas residents, and
2 amending and supplementing various parts of the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.1976, c.23 (C.19:59-2) is amended to read
8 as follows:

9 2. As used in this act:

10 a. "United States" means each of the several states, the District
11 of Columbia, Commonwealth of Puerto Rico, Guam, American
12 Samoa and the United States Virgin Islands; the term does not mean
13 or include the Canal Zone or any other territory or possession of the
14 United States.

15 b. "Residing abroad" means residing outside the United States.

16 c. **["Federal election"** means any general, special or primary
17 held for the purpose of nominating or electing any candidate for the
18 office of President or Vice President of the United States,
19 Presidential elector, United States Senator or member of the United
20 States House of Representatives] "Election" shall have the same
21 meaning as defined in R.S.19:1-1, and include any federal, State, or
22 local election, and any public question placed before the voters.

23 d. "Overseas voter" means any person in military service, or
24 that person's spouse, partner in civil union, domestic partner, or
25 dependent, who, by reason of the person's active duty or service,
26 is, in the case of the person, absent on the date of an election from
27 the place of residence in New Jersey where the person is or would
28 be qualified to vote, [and] or in the case of the person's spouse,
29 partner in civil union, domestic partner, or dependent, absent on the
30 date of an election from the place of residence in New Jersey where
31 that spouse, partner in civil union, domestic partner, or dependent,
32 is or would be qualified to vote.

33 The term also means any citizen of the United States residing
34 abroad who (1) immediately prior to **[his]** departure from the
35 United States was domiciled in New Jersey and (a) was last
36 registered to vote, or [had all the qualifications] last eligible to
37 register and vote, in New Jersey; or (b) **[had all the qualifications]**
38 would have been eligible to register and vote in New Jersey **[other**
39 **than having]** except that the citizen had not attained 18 years of age
40 **[but has since attained that age]** the requirement of which has since
41 been met; or (c) would have been eligible to register and vote in
42 New Jersey [, but for residence , have the qualifications to register
43 and vote in New Jersey] except that the citizen had not met the
44 residency requirement; (2) [does not maintain a residence in the

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 United States and] is not registered or qualified to vote elsewhere
2 in the United States; and (3) holds a valid passport or passport card
3 [of identity and registration] or other proof of citizenship issued
4 under authority of the Secretary of State of the United States.

5 The term also means any citizen of the United States who was
6 born outside of the United States, is not described above, and,
7 except for the residency requirement of New Jersey, otherwise
8 satisfies the State's voter eligibility requirements, if the last place
9 where a parent or legal guardian of the voter was, or under
10 P.L.1976, c.23 (C.19:59-1 et seq.) would have been, eligible to
11 register and vote before departure from the United States is within
12 New Jersey and the voter has not previously registered to vote
13 elsewhere in the United States.

14 e. "Electronic means" means any transmission made by an
15 electronic telefacsimile machine or a similar device or by any other
16 form of electronic transmission including, but not exclusive to
17 electronic mail, that transports an authentic copy of a document
18 from one user to another.

19 f. "Dependent" means an individual recognized as a dependent
20 by a military service.

21 g. "Federal postcard application" means the application
22 prescribed under section 101 of Pub.L.99-410 (42 U.S.C.
23 s.1973ff(b)(2)).

24 h. "Federal write-in absentee ballot" means the ballot described
25 under section 103 of Pub.L.99-410 (42 U.S.C. s.1973ff-2).

26 i. "Military service" means the active and reserve components
27 of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the
28 United States; the Merchant Marine; the commissioned corps of the
29 Public Health Service or the commissioned corps of the National
30 Oceanic and Atmospheric Administration of the United States; or
31 the National Guard or State militia.

32 (cf: P.L.2008, c.61, s.2)

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34 2. Section 3 of P.L.1976, c.23 (C.19:59-3) is amended to read
35 as follows:

36 3. Upon compliance with the provisions of this act, P.L.1976,
37 c.23 (C.19:59-1 et seq.), any person meeting the qualifications of an
38 **["Overseas voter"]** overseas voter may register to vote and may
39 apply for and vote by absentee ballot in any election held in the
40 election district of this State in which the voter, or in the case of an
41 overseas voter who was born outside of the United States described
42 in paragraph (3) of subsection d. of section 2 of P.L.1976, c.23
43 (C.19:59-2), in which the voter's parent or legal guardian, was
44 formerly domiciled.

45 (cf: P.L.2008, c.61, s.3)

46

47 3. Section 4 of P.L.1976, c.23 (C.19:59-4) is amended to read
48 as follows:

1 4. a. Requests for an application to vote in an election as an
2 overseas voter may be made by or on behalf of an applicant to the
3 county clerk of the county in which the applicant, or in the case of
4 an overseas voter who was born outside of the United States
5 described in paragraph (3) of subsection d. of section 2 of
6 P.L.1976, c.23 (C.19:59-2), in which the applicant's parent or legal
7 guardian, was formerly domiciled, or to the Secretary of State of
8 New Jersey if the applicant does not know the county of **【the**
9 **applicant's】** former domicile. All such applications shall be
10 forwarded to such voters by air mail or electronic means, if so
11 requested by the voter. Any overseas voter requesting that an
12 application for a ballot be sent to that voter by electronic means
13 shall supply in the request to the Secretary of State or the county
14 clerk, as appropriate, the telephone number and location to which
15 the application is to be sent or the electronic address of the voter, as
16 may be appropriate, and, if known, the address where the voter, or
17 the voter's parent or legal guardian, as appropriate, was domiciled
18 before departure from the United States. To qualify **【an applicant】**
19 for a ballot to be sent **【a ballot】** by air mail **【in order to vote in an**
20 **election】**, the applicant's completed application shall be received by
21 the appropriate county clerk or the Secretary of State on or before
22 the thirtieth day preceding the election. To qualify **【an applicant to**
23 **be sent】** for a ballot to be distributed by electronic means **【in order**
24 **to vote in an election】**, the applicant's completed application shall
25 be received by the appropriate county clerk **【on or before the fourth**
26 **day】** or the Secretary of State by 3:00 p.m. on the day preceding the
27 election.

28 b. An overseas voter may use the federal postcard application
29 form to register to vote or to apply for an overseas ballot for **【a**
30 **federal】** any election. The voter may send the form by air mail or
31 electronic means to either the appropriate county clerk or the
32 Secretary of State and, in the case of **【an】** the use of a federal
33 postcard application for a ballot, may request that the ballot be sent
34 by air mail or electronic means. Any voter sending the form by
35 electronic means shall also mail simultaneously the federal postcard
36 application form to the appropriate county clerk or the Secretary of
37 State. Any federal postcard application for a ballot sent by an
38 overseas voter and received by a county clerk or the Secretary of
39 State shall also be considered a request for registration if that voter
40 is not already registered.

41 c. An overseas voter may use the federal write-in absentee
42 ballot to vote in an election or to vote in favor or against any public
43 question placed before the voters in an election. An overseas voter
44 may use the federal write-in absentee ballot to register to vote, if
45 that voter is not already registered, or to request an overseas ballot
46 for all elections held during the calendar year in which the request
47 is made. The voter may send the federal write-in absentee ballot by

1 air mail or electronic means to either the appropriate county clerk or
2 the Secretary of State and, in the case of the use of a federal write-
3 in absentee ballot as an application for an overseas ballot, may
4 request that the ballot be sent by air mail or electronic means. Any
5 voter sending the federal write-in absentee ballot by electronic
6 means shall also mail it simultaneously to the appropriate county
7 clerk or the Secretary of State.

8 (cf: P.L.2008, c.61, s.4)

9

10 4. Section 5 of P.L.1976, c.23 (C.19:59-5) is amended to read
11 as follows:

12 5. a. **【An】** Other than a federal postcard application or federal
13 write-in absentee ballot, an application for an overseas ballot shall
14 be in substantially the following form:

15 APPLICATION FOR AN OVERSEAS BALLOT

16 I, the undersigned, certify the following as a basis for an
17 application as citizen of the United States residing outside the
18 United States to receive a ballot to be voted at the election to be
19 held on (date of election) **【that is to say】** for (fill in
20 elected office or public question, or both):

21 1. I am a citizen of the United States;

22 2. I presently reside at (if mail should be
23 addressed other than to my residence, also provide address for
24 mail);

25 3. I was born on (month, day, year)

26 4. **【a.】** I hold a:

27 a. valid U.S. Passport #, dated, or

28 b. **【I hold a United States Citizens Identity and Registration**
29 Card (Form FS 225) dated issued by (name and
30 location of U.S. Embassy or Consulate) **】** valid U.S. Passport Card #
31, dated, or

32 c. valid Certificate of Citizenship (Form N-600), dated
33, or

34 d. other valid form of identification recognized as such under
35 federal or state law: (form of identification), dated

36 5. a. Immediately prior to taking up residence abroad I was
37 domiciled in New Jersey and resided at (street address),
38 (municipality), (county) (If formerly registered
39 to vote from that address check here ()) , or

40 b. I was born outside of the United States and my parent or
41 legal guardian, before leaving the United States, was last domiciled
42 in New Jersey, residing at (street address), (
43 municipality),(county).

44 6. I **【do not maintain a domicile in the United States and】** am
45 not registered, entitled or applying to vote in any state other than
46 New Jersey.

1 shall be mailed postage prepaid to the county board of elections
2 whose address is printed thereon.

3 b. For overseas ballots sent to the voter by electronic means,
4 the procedure for completing the ballot shall be as follows:

5 After the ballot is received and completed by the voter by
6 indicating that person's choice of candidates for the offices named
7 or that person's choice regarding a public question, or both, the
8 ballot shall be placed in a secure envelope. Upon completion and
9 signing in the voter's handwriting of the certificate sent to the voter
10 pursuant to section 8 of P.L.1976, c.23 (C.19:59-8), it shall be
11 placed in the same envelope as the voted ballot. The envelope shall
12 then be sealed securely and sent immediately by air mail to the
13 appropriate county board of elections in this State.

14 c. Notwithstanding the provisions of subsections a. and b. of
15 this section, a copy of a voted overseas ballot may be transmitted by
16 electronic means to the appropriate county board of elections in this
17 State. Such a ballot shall be subject to the provisions of sections 3
18 and 4 of P.L.1995, c.195 (C.19:59-14 and C.19:59-15).

19 (cf: P.L.2008, c.61, s.11)

20

21 8. Section 12 of P.L.1976, c.23 (C.19:59-12) is amended to
22 read as follows:

23 12. An overseas voter may request, on any application form
24 used, an overseas ballot for all elections held during the calendar
25 year in which the request is made. Any instructions sent to an
26 applicant pursuant to section 5 of P.L.1976, c.23 (C.19:59-5) shall
27 inform the applicant that such a request may be made. If such a
28 request is made, an overseas ballot shall be sent in a timely manner
29 to the voter for all such elections and by the transmission method
30 first requested by the voter unless the voter instructs otherwise.

31 (cf: P.L.2008, c.61, s.13)

32

33 9. (New section) An electronic address provided by an
34 overseas voter to the county clerk or the Secretary of State shall not
35 be made available to the public or any individual or organization
36 other than an authorized agent of the county clerk or the Secretary
37 of State and shall be exempt from disclosure under
38 P.L.1963, c.73 (C.47:1A-1 et seq.). The address may be used only
39 for official communications with the voter that are related to the
40 voting process, including transmitting ballots and election materials
41 if the voter has requested electronic transmission, and verifying the
42 voter's mailing address and physical location. The request for an
43 electronic address shall describe the purposes for which the
44 electronic address may be used and include a statement that any
45 other use or disclosure of the electronic address is prohibited.

46

47 10. (New section) If a voter's mistake or omission in the
48 completion of a document does not prevent a determination of

1 whether a voter is eligible to vote, the mistake or omission shall not
2 invalidate the document. Failure to satisfy a technical requirement,
3 such as using paper or envelopes of a specified size or weight, shall
4 not invalidate the submitted document. In the case of a federal
5 write-in absentee ballot or a vote for a write-in candidate on a
6 regular ballot, if the intention of the voter is discernable, an
7 abbreviation, misspelling, or other minor variation in the form of
8 the name of a candidate or a political party shall be accepted as a
9 valid vote.

10 This section shall be applied consistent with the requirements of
11 subsection d. of section 4 of P.L.1995, c.195 (C.19:59-15).

12

13 11. (New section) A court may issue an injunction or grant
14 other appropriate equitable relief to ensure substantial compliance
15 with, or enforcement of, the “Overseas Residents Absentee Voting
16 Law,” P.L.1976, c.23 (C.19:59-1 et seq.) on application by a voter
17 alleging a grievance under that law or by an election official in this
18 State.

19

20 12. Section 26 of P.L.2011, c.37 (C.19:59-16) is amended to
21 read as follows:

22 26. For the purpose of complying with the federal “Uniformed
23 and Overseas Citizens Absentee Voting Act,” 42 U.S.C. s.1973ff-1
24 et seq., the office of the Secretary of State shall:

25 a. be designated as the single State office responsible for
26 providing information to all overseas voters who wish to register to
27 vote or vote in any jurisdiction in the State with respect to voter
28 registration procedures and vote by mail procedures to be used by
29 overseas voters for all elections **【for federal offices】** ;

30 b. work with the federal Election Assistance Commission and
31 the federal Department of Defense to develop standards to report
32 data on the number of overseas voter ballots transmitted and
33 received by mail or electronic means pursuant to the “Overseas
34 Residents Absentee Voting Law,” P.L.1976, c.23 (C.19:59-1 et
35 seq.) and section 7 of P.L.2004, c.88 (C.19:61-7); and

36 c. provide such additional information relating to voting by
37 overseas voters from this State as the Department of Defense
38 determines is necessary.

39 (cf: P.L.2011, c.37, s.26)

40

41 13. R.S.19:31-6 is amended to read as follows:

42 19:31-6. Any person qualified to vote in an election shall be
43 entitled to vote in the election if the person shall have registered to
44 vote on or before the 21st day preceding the election by:

45 a. registering in person at any offices designated by the
46 commissioner of registration for providing and receiving
47 registration forms;

- 1 b. completing a voter registration form while applying for a
2 motor vehicle driver's license from an agent of the New Jersey
3 Motor Vehicle Commission, as provided for in section 24 of
4 P.L.1994, c.182 (C.39:2-3.2);
- 5 c. completing and returning to the **【Attorney General】**
6 Secretary of State or having returned thereto a voter registration
7 form received from a voter registration agency, as defined in
8 subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11), while
9 applying for services or assistance or seeking a recertification,
10 renewal or change of address at an office of that agency;
- 11 d. completing and returning to the **【Attorney General】**
12 Secretary of State a voter registration form obtained from a public
13 agency, as defined in subsection a. of section 15 of P.L.1974, c.30
14 (C.19:31-6.3);
- 15 e. completing and returning to the **【Attorney General】**
16 Secretary of State or having returned thereto a voter registration
17 form received from a door-to-door canvass or mobile registration
18 drive, as provided for in section 19 of P.L.1974, c.30 (C.19:31-6.7);
- 19 f. completing and returning to the **【Attorney General】**
20 Secretary of State a federal mail voter registration form, as
21 prescribed in subsection (b) of section 9 of the "National Voter
22 Registration Act of 1993," (42 U.S.C. s.1973gg et seq.);
- 23 g. completing and returning to the **【Attorney General】**
24 Secretary of State or the appropriate county clerk an application for
25 a federal postcard application form to register to vote, or a federal
26 write-in absentee ballot, as **【provided for in】** permitted pursuant to
27 the "Overseas Absentee Voting Act" (42 U.S.C. s.1973ff-1 et seq.)
28 and section 4 of P.L.1976, c.23 (C.19:59-4);or
- 29 h. completing a provisional ballot affirmation statement and
30 voting the provisional ballot in the previous election, if the person
31 who submitted the provisional ballot in that election is determined
32 not to be a registered voter .

33 When the commissioner has designated a place or places other
34 than his office for receiving registrations, the commissioner shall
35 cause to be published a notice in a newspaper circulated in the
36 municipality wherein such place or places of registration shall be
37 located. Such notice shall be published pursuant to R.S.19:12-7.

38 Any office designated by the commissioner of registration for
39 receiving registration forms shall have displayed, in a conspicuous
40 location, registration and voting instructions. These instructions
41 shall be the same as those provided for polling places under
42 R.S.19:9-2 and shall be provided by the commissioner.

43 (cf: P.L.2005, c.139, s.8)

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45 14. This act shall take effect on the 90th day after the date of
46 enactment.

STATEMENT

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This bill revises the “Overseas Residents Absentee Voting Law” to more closely resemble the federal overseas voting laws. Based on the federal Uniform Military and Overseas Voters Act, which was approved and recommended for enactment by the Uniform Law Commission in 2010, this bill would incorporate into New Jersey law those provisions that have not yet been adopted. The bill adds definitions for previously undefined statutory terms, and expands the definition of “overseas voter” to expressly include legally recognized partners of military service personnel, voters born outside of the United States, and overseas voters with a residence in New Jersey.

The bill permits an overseas voter to use the federal write-in absentee ballot to vote, to register to vote, and to request an overseas ballot for all elections held in the State. Under current law, such ballots can be used to vote only in elections for federal offices.

Additionally, the bill permits the use of the federal postcard application to apply for an overseas ballot or to register to vote in all elections. Under the bill, for a ballot to be distributed via electronic means, the completed application must be received by 3 p.m. on the day preceding the election. Under current law, the application must be received on or before the fourth day preceding the election.

The bill also eliminates references to an outdated form of identification and adds other types of valid identification that may be used in an application for an overseas ballot. In addition to using a valid U.S. Passport, the bill permits an individual to use a valid U.S. Passport Card, a valid Certificate of Citizenship, or any other valid form of identification recognized under federal or State law.

The bill expressly limits the permitted uses, or disclosures, of a voter’s electronic address and requires that these limitations be described on the request to use an electronic address. In completing any document under the provisions of this bill, a voter’s mistake or omission that is not substantive in nature would not invalidate the document. On write-in ballots, where the intention of the voter is discernable, the ballot would not be invalidated.