ASSEMBLY, No. 4116

STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED JANUARY 29, 2015

Sponsored by:
Assemblyman TIMOTHY J. EUSTACE
District 38 (Bergen and Passaic)

SYNOPSIS
Permits primary elections to be conducted by mail.

CURRENT VERSION OF TEXT
As introduced.
AN ACT permitting primary elections to be conducted by mail and
supplementing Title 19 of the Revised Statutes.

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

1. Notwithstanding any other law, rule or regulation to the
contrary, a county may conduct primary elections for the general
election by mail, provided the governing body of the county adopts
an ordinance or resolution, as may appropriate, for that purpose.
The provisions of P.L.2005, c.148 (C.19:62-1 et seq.) regarding the
holding of elections by mail in certain municipalities are hereby
superseded to the extent that those provisions apply to primary
elections.

2. a. Any qualified voter entitled to vote and registered in a
county holding a primary election by mail, pursuant to section 1 of
P.L. , c. (C. ) (pending before the Legislature as this bill), that
seeks to vote by mail in such an election shall apply to the clerk of
the county for a ballot to do so not less than seven days before the
day of the election.

b. Any qualified voter who seeks to vote in a primary election
conducted by mail but does not wish to vote by mail in such an
election shall be permitted to vote pursuant to section 3 of P.L. ,
c. (C. ) (now pending before the Legislature as this bill).

3. If a primary election by mail is authorized pursuant to
section 1 of P.L. , c. (C. ) (pending before the Legislature
as this bill), the county clerk shall:

a. consult with the county board of elections with respect to the
conduct of the election, as provided for in section 2 of P.L. ,
c. (C. ) (pending before the Legislature as this bill);

b. publish, in advance of the election and pursuant to rules and
regulations promulgated by the Secretary of State, official notice
that the election shall be conducted by mail together with such other
information regarding the conduct of the election as deemed
necessary by the Secretary of State;

c. mail an application for a ballot to each person registered to
vote in the county who requests such a ballot;

d. mail, starting on the 45th day before the day of the election,
a ballot for the election to each voter whose application therefore
has been approved;

e. designate the county clerk’s office, or one or more locations
within the county, as the place or places to obtain a replacement
ballot pursuant to section 5 of P.L. , c. (C. ) (pending
before the Legislature as this bill);

f. designate, pursuant to criteria established by the Secretary of
State, places within the county that shall be available for the deposit
of ballots for the election, pursuant to section 9 of P.L.  , c. (C. ) (pending before the Legislature as this bill);

g. designate, pursuant to criteria established by the Secretary of State and Title 19 of the Revised Statutes, places within the county for those persons to vote by voting machine who do not wish to vote in the election by mail;

h. make provisional ballots available at the office of the county clerk, and at one or more other places within the county, so that a person may vote if that person has been a resident of the county in which the person seeks to vote at least 21 days before the day of the election and has moved to another location within the county after that 21st day and before the day of the election;

i. suspend distribution to each voter in the county applying to vote in the election by mail of samples of the official ballot of a primary election, but transmit to each voter in the county whose application to vote by mail has been approved a copy of the voter information notice provided in section 1 of P.L.2005, c.149 (C.19:12-7.1), and such information about the completion of the ballot deemed necessary by the Secretary of State; and

j. make certain that all qualified voters requesting a mail-in ballot between the 45th day and the 21st day before the day of an election, pursuant to P.L.2009, c.79 (C.19:63-1 et seq.), receive such a ballot after the 20th day before the day of the election.

4. If a primary election by mail is authorized pursuant to section 1 of P.L. , c. (C. ) (pending before the Legislature as this bill), the county board of elections shall:

a. consult with the county clerk with respect to the conduct of the election, as provided for in section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill);

b. receive all applications for ballots for the election, process such applications, return ballots by United States mail to each voter in the county whose application has been approved, and collect all ballots for the election mailed or deposited in designated places before the time established for the closing of the polls;

c. verify the signature of the voter on the outer envelope of each voted ballot returned by comparing it with the signature on that person's voter registration form, in accordance with the rules and regulations adopted by the Secretary of State, and if it is determined that the voter to whom a ballot or a replacement ballot has been issued has voted more than once, not count any ballot by that voter;

d. remove the inner envelope from the outer envelope of each ballot on the day of the election and proceed with the canvass of such ballots; and

e. conduct the canvass of the ballots and the certification of the results of the election in accordance with the procedure provided for in section 11 of this act, P.L. , c. (C. )(pending before the
5. A registered voter may obtain a replacement ballot if a ballot has not been received by that person, or if it has been destroyed, spoiled, or lost. A registered voter seeking a replacement ballot shall proceed to the office of the county clerk, or any other office designated thereby, to obtain such a ballot and sign a sworn statement that the ballot has not been received by that person, was destroyed, spoiled, or lost, and present the statement to the county clerk prior to the time designated by law for the closing of the polls for that election. If the clerk determines that the statement is valid, the clerk shall provide the voter with a replacement ballot. The county clerk shall keep a record of each replacement ballot provided.

Nothing in this section shall prevent a voter seeking a replacement ballot from obtaining such a ballot from the county clerk anytime after ballots have been mailed to registered voters approved to receive such ballots pursuant to section 3 of P.L. (pending before the Legislature as this bill) and the day of the election, or from mailing a replacement ballot to the county board of elections prior to the day of the election.

6. Each ballot obtained from the county clerk shall have printed or stamped on it in an appropriate location the following statement:

ANY PERSON WHO, BY USE OF FORCE OR ANY OTHER MEANS, UNDULY INFLUENCES A VOTER TO VOTE IN ANY PARTICULAR MANNER OR TO REFRAIN FROM VOTING IS GUILTY OF A CRIME OF THE FOURTH DEGREE.

7. a. The county clerk shall mail the ballot of a political party to each voter in the county who has applied for and is qualified to receive such a ballot and is registered as being affiliated with the political party as of the 21st day before the day of the primary election; and

b. a voter who is not affiliated with any political party but who wishes to vote in the primary of a political party shall so notify the county clerk in writing no later than the 21st day before the day of the election and request the ballot of the political party in whose primary the voter wishes to vote. After review of such application by the clerk, the ballot shall be transmitted to the requestor by United States mail if it is received by the clerk on or before the seventh day before the day of the election. An application may also be presented to the county clerk after that seventh day and up to 3 p.m. of the day before the election, and the applicant shall be eligible to receive a mail-in ballot to vote, pursuant to section 3 of P.L.2009, c.79 (C.19:63-3).

8. Prior to transmitting a ballot to the county board of
elections, the voter shall mark it and place it in the inner envelope. The inner envelope shall then be placed in the outer envelope and that envelope shall be signed and certified by the voter pursuant to instructions provided with the ballot. The voter may return the envelopes containing the marked ballot to the county board by United States mail, or by depositing it at the office of the county clerk or any other place of deposit designated for that purpose. If the voter returns the ballot by United States mail, the voter shall provide the postage.

9. The office of the county clerk, and such other offices designated by the clerk, shall be open from 6:00 a.m. to 8:00 p.m. on the day of the primary election to:
   a. provide replacement ballots or provisional ballots to qualified voters;
   b. receive voted ballots being deposited in person by voters;
   c. permit individuals with disabilities to vote using a voting machine that is fully accessible to such individuals; and
   d. permit any qualified voter who does not wish to vote by mail in the election to vote using a voting machine.

During this time, such appropriate staff shall be available for election purposes at the office of the county clerk, or the offices designated by the county clerk, as may be required by the county board of elections and Title 19 of the Revised Statutes to ensure the proper administration of the election process.

10. For a ballot to be counted, it shall be received by the county board of elections no later than the time established for the closing of the polls for that election, pursuant to R.S.19:2-1. Nothing in this section shall preclude the board from starting to count the ballots it has received for the election before the time designated for the closing of the polls for that election.

11. If received in a timely manner, a ballot shall be counted only if:
   a. the ballot is returned in the inner envelope and the inner envelope is enclosed in the outer envelope;
   b. the envelopes in which it is returned manifest no signs of tampering or improper handling;
   c. the outer envelope is signed by the registered voter to whom the ballot has been issued; and
   d. the signature is verified as provided in section 4 of P.L.  (pending before the Legislature as this bill).

12. Any ballot and any voter casting a ballot in an election held by mail may be challenged pursuant to rules and regulations adopted by the Secretary of State pursuant to Title 19 of the Revised Statutes.
13. The Secretary of State shall promulgate, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as the secretary may deem necessary.

14. This act shall take effect immediately and shall be applicable to any primary election for the general election held on or after the 180th day following enactment.

STATEMENT

This bill permits the primary election for the general election to be conducted in a county by mail when the governing body of the county adopts an ordinance or resolution, as may appropriate, for that purpose. Under the bill, a voter must apply for, and be qualified to receive, a ballot in order to vote in the election by mail. The bill establishes certain procedures for the county clerk to follow before the day the primary election is conducted by mail. These include publishing information about the election prior to the date it is held, mailing a ballot after the 20th day before the day of the election to each person registered to vote in the county who applies for and is qualified to receive such a ballot, and making a replacement ballot available to a voter if that person's ballot has been destroyed, spoiled, lost, or not received. Many of these procedures would be pursuant to rules and regulations promulgated by the Secretary of State.

The bill also establishes certain procedures for the county board of elections to follow if a primary election is conducted by mail. These include cooperating with the county clerk to designate places within the county at which ballots may be deposited for an election and designating places within the county for voters to vote by voting machine if they do not wish to vote in the primary election by mail. The board would be responsible for the receipt and canvass of all marked ballots in accordance with the procedure provided for such actions in Title 19 of the Revised Statutes, as amended and supplemented.