

ASSEMBLY, No. 943

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

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District 2 (Atlantic)

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District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Co-Sponsored by:

Assemblymen DeAngelo and Benson

SYNOPSIS

Requires outer envelope for mailing of voted mail-in ballot by voter to include postage prepaid.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 5/1/2020)

1 AN ACT concerning the mailing of voted mail-in ballots and
2 amending 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 11 of P.L.1964, c.134 (C.19:58-11) is amended to
8 read as follows:

9 11. Each county clerk shall cause to be printed a sufficient
10 number of Presidential ballots for each Presidential election to be
11 held in this State and along with all such ballots there shall also be
12 furnished by the county clerk inner and outer envelopes which shall
13 be of different color than those used to enclose military service and
14 civilian absentee ballots, and also printed directions for the
15 preparation and transmitting of such ballots and all expenses of
16 printing and mailing such ballots shall be paid in the same manner
17 as other expenses of such election are paid. The outer envelopes
18 shall have affixed thereon the proper and sufficient first-class or air-
19 mail prepaid postage, the costs of which shall be paid by the county
20 clerk and reimbursed by the State pursuant to section 8 of P.L. ,
21 c. (C.) (pending before the Legislature as this bill).

22 (cf: P.L.1964, c.134, s.11)

23

24 2. Section 22 of P.L.1964, c.134 (C.19:58-22) is amended to
25 read as follows:

26 22. Said sealed postage prepaid outer envelope with the inner
27 envelope and the ballot enclosed therein, shall then be mailed **【**with
28 sufficient postage**】** to the county board of elections to which it is
29 addressed, or shall be presented in person to the county board of
30 elections at the office of said board.

31 (cf: P.L.1964, c.134, s.22)

32

33 3. Section 8 of P.L.1976, c.23 (C.19:59-8) is amended to read
34 as follows:

35 8. a. Each county clerk shall send by air mail, with each ballot
36 for an overseas voter or overseas federal election voter transmitted
37 by such means, appropriate printed instructions for its completion
38 and return, together with an inner envelope and an outer envelope
39 with proper and sufficient postage prepaid thereon similar to that
40 required as to civilian vote by mail ballots with a legend on the
41 inner envelope stating "Ballot for Overseas Voter" or "Ballot for
42 Overseas Federal Election Voter," as appropriate.

43 b. Each county clerk shall send to each overseas voter or
44 overseas federal election voter requesting that a ballot be sent to
45 that voter by electronic means all appropriate printed instructions

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 for its completion and return. The printed instructions sent to each
2 such voter shall include a certificate substantially the same as
3 provided for in section 9 of P.L.1976, c.23 (C.19:59-9).

4 c. The printed instructions sent with each ballot to an overseas
5 voter or overseas federal election voter, including instructions sent
6 by electronic means, shall include a copy of the following notice:

7 **PENALTY FOR FRAUDULENT VOTING**

8 Any person who knowingly violates any of the provisions of the
9 Overseas Residents Absentee Voting Law, or who, not being
10 entitled to vote thereunder, fraudulently votes or attempts to vote
11 thereunder or enables or attempts to enable another person, not
12 entitled to vote thereunder, to vote fraudulently thereunder or who
13 prevents or attempts to prevent by fraud the voting of any person
14 legally entitled to vote under this act, shall be guilty of an indictable
15 offense, and upon conviction thereof shall be subject, in addition to
16 such other penalties as are authorized by law, to disenfranchisement
17 unless and until pardoned or restored by law to the right of suffrage.
18 (cf: P.L.2017, c.39, s.11)

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

22 10. a. For ballots sent to overseas voters or overseas federal
23 election voters, other than such ballots sent to the voter by
24 electronic means, the procedure for completing the ballot shall be as
25 follows:

26 Upon completion of the ballot by indicating the voter's choice of
27 candidates for the offices named or the voter's choice regarding a
28 public question, or both, the ballot shall be placed in the inner
29 envelope and sealed. Upon completion and signing in the voter's
30 handwriting the certificate attached to the inner envelope, the inner
31 envelope shall be placed in the outer envelope, which when sealed
32 shall be mailed, postage prepaid by the county clerk, to the county
33 board of elections whose address is printed thereon.

34 b. For ballots sent to overseas voters or overseas federal
35 election voters by electronic means, the procedure for completing
36 the ballot shall be as follows:

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

46 c. Notwithstanding the provisions of subsections a. and b. of
47 this section, a copy of an overseas voter's or overseas federal

1 election voter's ballot may be transmitted by electronic means to the
2 appropriate county board of elections in this State. Such a ballot
3 shall be subject to the provisions of sections 3 and 4 of P.L.1995,
4 c.195 (C.19:59-14 and C.19:59-15).
5 (cf: P.L.2017, c.39, s.6)

6
7 5. Section 2 of P.L.2005, c.148 (C.19:62-2) is amended to read
8 as follows:

9 2. If an election by mail is authorized pursuant to section 1 of
10 this act, P.L.2005, c.148 (C.19:62-1), the county clerk shall:

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

16 b. mail a ballot, including an outer envelope with proper and
17 sufficient postage prepaid thereon and an inner envelope
18 substantially similar to the envelopes provided for mail-in ballots
19 pursuant to sections 12 and 13 of P.L.2009, c.79 (C.19:63-12 and
20 C.19:63-13), not sooner than the 20th day prior to the day of the
21 election nor later than the 14th day prior to the day of the election,
22 to each person registered to vote in the municipality at that election;

23 c. designate the county clerk's office or the municipal clerk's
24 office as the places to obtain a replacement ballot pursuant to
25 section 5 of P.L.2005, c.148 (C.19:62-5);

26 d. designate, after consultation with the county board of
27 elections and pursuant to criteria established by the Secretary of
28 State, places within the county or municipality that shall be
29 available for the deposit of voted ballots for the election;

30 e. make a provisional ballot available at the office of the
31 county clerk and the office of the municipal clerk so that each
32 person who has been a resident of the county or municipality in
33 which the person seeks to register and vote at least 21 days prior to
34 the day of the election and has moved to a location within the
35 municipality after that 21st day and prior to the day of the election
36 may vote;

37 f. suspend distribution to each registered voter in the
38 municipality of samples of the official ballot of any election, but
39 distribute to each registered voter in the municipality with each
40 ballot a copy of the voter information notice provided for in section
41 1 of P.L.2005, c.149 (C.19:12-7.1) as modified and supplemented
42 by the Secretary of State as deemed appropriate for use in
43 municipalities conducting elections by mail, and such instruction
44 about the completion of the ballot as deemed necessary by the
45 Secretary of State;

46 g. make certain that all qualified voters in the municipality
47 requesting a mail-in ballot between the 45th day and the 21st day
48 prior to the day of an election receive such ballot after the 20th day

1 prior to the day of an election and voters requesting a ballot on or
2 before the seventh day prior to the date of the election shall receive
3 a ballot authorized pursuant to this section; and

4 h. establish, after consultation with the county board of
5 elections and in accordance with rules and regulations adopted by
6 the Secretary of State, the time by which all ballots must be
7 received by the board on the day of an election to be considered
8 valid and counted.

9 (cf: P.L.2011, c.37, s.29)

10
11 6. Section 8 of P.L.2005, c.148 (C.19:62-8) is amended to read
12 as follows:

13 8. Prior to transmitting a ballot to the county board of
14 elections, a registered voter shall mark it and place it in the inner
15 envelope. The inner envelope shall then be placed in the outer
16 envelope and that envelope shall be signed and certified by the
17 voter pursuant to instructions provided with the ballot. The voter
18 may return the envelopes containing the marked ballot to the county
19 board by United States mail or by depositing it at the office of the
20 county board or any other place of deposit designated for that
21 purpose. **【If the voter returns the ballot by United States mail, the**
22 **voter shall provide the postage】** Each outer envelope shall be a
23 postage prepaid return envelope.

24 (cf: P.L.2005, c.148, s.8)

25
26 7. Section 12 of P.L.2009, c.79 (C.19:63-12) is amended to
27 read as follows:

28 12. Each county clerk shall send, with each mail-in ballot,
29 printed directions for the preparation and transmitting of the ballots
30 as required by this act. The directions shall be printed in such
31 manner and form as the Secretary of State shall require, together
32 with two envelopes of such sizes that one will contain the other.

33 The outer envelope shall be addressed to the county board of
34 elections of the county in which is located the home address of the
35 person to whom the mail-in ballot is sent, as certified by the county
36 clerk. **【At the discretion of the county clerk, the】** The outer
37 envelope **【may】** shall be a postage **【paid】** prepaid return envelope.
38 On the outside and front of each outer envelope, there shall be
39 printed or stamped the following:

40 To protect your vote:

41 IT IS AGAINST THE LAW FOR ANYONE EXCEPT YOU
42 THE VOTER TO MAIL OR TRANSPORT THIS BALLOT
43 UNLESS THE ENVELOPE IS SEALED AND THE FOLLOWING
44 IS COMPLETED:

45 Ballot mailed or transported by

46 (signature of bearer)

47 (print name of bearer)

48 (address of bearer)

1 The reserve side of the outer envelope shall contain the
2 following:

3 **REMINDER**

4 For your vote to count, you must:

5 1) Vote your ballot and place it in the inner envelope with the
6 attached certificate.

7 2) Seal the envelope.

8 3) Place the envelope into the larger envelope addressed to the
9 board of elections and seal that envelope.

10 4) If another person will be mailing your ballot or bringing it to
11 the board of elections, MAKE CERTAIN THAT PERSON
12 COMPLETES THE "BEARER PORTION" ON THE ENVELOPE
13 ADDRESSED TO THE BOARD OF ELECTIONS BEFORE THE
14 BALLOT IS TAKEN FROM YOU. NO PERSON WHO IS A
15 CANDIDATE IN THE ELECTION FOR WHICH THE VOTER
16 REQUESTS THIS BALLOT IS PERMITTED TO SERVE AS A
17 BEARER. NO PERSON IS PERMITTED TO SERVE AS A
18 BEARER FOR MORE THAN THREE QUALIFIED VOTERS IN
19 AN ELECTION.

20 The Secretary of State is authorized to make such changes to the
21 instructions for mail-in ballot materials as the Secretary of State
22 deems necessary or as is mandated by federal or State law.

23 The inner envelope shall be so designed that it can be sealed
24 after the mail-in ballot has been placed therein and the flap thereof
25 shall be of such length and size as to leave sufficient margin, after
26 sealing, for the printing thereon of the certificate hereinafter
27 described. The flap shall be so arranged that, after the inner
28 envelope has been sealed, the certificate can be contained, with the
29 inner envelope, in the outer envelope, and that the margin
30 containing the certificate can be detached without unsealing the
31 inner envelope.

32 On the outside of each envelope in which a mail-in ballot is sent
33 to a mail-in voter by the clerk, there shall be printed or stamped the
34 words "Official Mail-In Ballot." In addition, there shall be printed
35 or stamped the following:

36 To protect your vote:

37 **IT IS AGAINST THE LAW FOR ANYONE EXCEPT YOU**
38 **THE VOTER TO OPEN, MARK, INSPECT OR SEAL THIS**
39 **BALLOT.**

40 However, a family member may assist you in doing so.

41 The reverse side of each inner envelope shall contain the
42 following statement:

43 **A PERSON MAY BE FINED AND IMPRISONED AND MAY**
44 **ALSO LOSE THE RIGHT TO VOTE UNTIL RESTORED BY**
45 **LAW** if that person attempts to vote fraudulently by mail-in ballot,
46 prevents the voting of a legal voter, certifies falsely any
47 information, interferes with a person's secrecy of voting, tampers

1 with ballots or election documents or helps another person to do so.
2 (cf: P.L.2015, c.84, s.4)

3
4 8. (New section) Upon application for reimbursement by a
5 county governing body to the Secretary of State, and approval of
6 the application by the State Treasurer or the Director of the
7 Division of Budget and Accounting in the Department of the
8 Treasury, reimbursement shall be made by the State to the county
9 for the costs of affixing proper and sufficient first-class or air-mail
10 postage to the mail-in ballot outer envelopes, and for any additional
11 costs incurred by the county as a result of the provisions of P.L. ,
12 c. (pending before the Legislature as this bill).

13
14 9. This act shall take effect immediately.

15

16

17 STATEMENT

18

19 This bill requires that the cost of mailing a voted mail-in ballot
20 by a voter to cast a vote during any election be paid for by the
21 county and reimbursed to the county by the State.

22 Under current law, a voter who votes by mail using a mail-in
23 ballot is required to affix the proper postage to the outer envelope
24 containing the inner envelope, the voted ballot, and the required
25 certification. Counties are permitted under current law to supply a
26 postage prepaid outer envelope, but are not required to do so. This
27 bill would require the county clerk to affix the proper and necessary
28 first-class or air-mail prepaid postage to the outer envelopes used by
29 the voters to return the voted mail-in ballot prior to mailing the
30 ballots to the voters.

31 To avoid an unfunded mandate and a challenge under Article
32 VIII, Section II, paragraph 5 of the New Jersey Constitution, the bill
33 requires that these costs be reimbursed to the county by the State
34 upon application for reimbursement to the Secretary of State and
35 approval of the application by the Department of the Treasury.