

ASSEMBLY, No. 4320

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 22, 2020

Sponsored by:

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District 16 (Hunterdon, Mercer, Middlesex and Somerset)

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SYNOPSIS

Requires certain information to increase public awareness and use of voting by mail; extends deadline for mail-in ballots to be received and canvassed; requires certain mail-in ballots to be retained.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/25/2020)

1 AN ACT concerning voting by mail and amending various parts of the
2 statutory law.

3

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

6

7 1. R.S.19:8-6 is amended to read as follows:

8 19:8-6. The county boards in counties of the first class and the
9 municipal clerks in counties other than counties of the first class shall
10 purchase or lease and furnish the proper equipment of polling places,
11 to enable the district boards to carry out the duties imposed upon
12 them by this title. The equipment shall consist of tables, chairs,
13 lights, booths and all other things necessary for the performance of
14 such duties, and shall be ready for use by the district boards in ample
15 time to enable them to perform their duties. Also to be included, for
16 conspicuous display at each polling place on the days of any election
17 during each year, shall be the voting and registration instructions
18 provided by the county board of elections, the voting by mail
19 information posters provided by the Secretary of State, and mail-in
20 ballot application forms.

21 The Secretary of State shall prepare a voting by mail informational
22 poster for use at all polling places in the State that illustrates and
23 promotes the use of voting by mail, including the description of the
24 vote-by-mail process, and shall distribute the required number of
25 copies, or replacement copies as needed, to the county boards.

26 The clerks of the several municipalities shall keep in repair, store
27 and deliver the polling booths, ballot boxes and other equipment in
28 time for use by the district boards at the cost and expense of the
29 municipality.

30 In case of any election to be held in and for a municipality only,
31 the duties imposed upon the county boards in counties of the first
32 class regarding the equipment of polling places shall devolve upon
33 the clerk of the municipality wherein the election is to be held. Any
34 equipment in possession of the county board may be used in a
35 municipal election upon requisition.

36 (cf: P.L.1991, c.429, s.7)

37

38 2. Section 1 of P.L.2005, c.149 (C.19:12-7.1) is amended to read
39 as follows:

40 1. a. A county board of elections shall have posted a voter
41 information notice, which shall be referred to as a voter's bill of
42 rights, in a conspicuous location in each polling place before the
43 opening of the polls on the day of any election.

44 The notice shall contain:

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 the date of the election and the hours during which polling places
2 will be open;
3 a statement that sample ballots are available at the polling place
4 for review by the voter;
5 instruction for the use of the voting machine in that polling place
6 and an explanation of what instructions for voting are available at the
7 polling place for the voter;
8 instruction for a voter who is voting for the first time;
9 instruction for a voter who is required to provide identification
10 pursuant to the federal "Help America Vote Act of 2002" and
11 R.S.19:15-17 prior to casting a vote;
12 instruction on how to cast a vote if the voter cannot be present at
13 a polling place on the day of the election;
14 an explanation of the right of the voter to vote in privacy,
15 regardless of the voter's physical abilities;
16 an explanation of the right of the voter to a provisional ballot,
17 including in the event that a mail-in ballot has been applied for and
18 not received or not transmitted to the county board of elections before
19 the day of any election, and the other circumstances under which a
20 voter has a right to a provisional ballot;
21 an explanation of the right of the voter to receive a replacement
22 ballot for a ballot that has been spoiled, destroyed, lost or never
23 received;
24 an explanation of the right of the voter to ask for and receive
25 assistance in voting;
26 an explanation of the right of the voter to take a reasonable amount
27 of time in casting a vote on a voting machine;
28 an explanation of the right of the voter to bring written material
29 into the polling place for the voter's personal use in casting a vote;
30 instruction on how to contact the appropriate officials if a voter's
31 right to vote or right to otherwise participate in the electoral process
32 has been challenged or violated;
33 general information on federal and State laws that prohibit acts of
34 fraud or misrepresentation and the penalties for those acts; and
35 such other statement, instruction or explanation the Secretary of
36 State may deem appropriate to ensure the full and knowledgeable
37 participation of the voter in the process.
38 The requirement to post this notice in each polling place shall not
39 replace, supersede or void any other requirement set forth in law for
40 the posting of information in each polling place apart from the voter
41 information notice. The poster promoting the use of voting by mail
42 prepared and distributed by the Secretary of State pursuant to
43 R.S.19:8-6 shall be displayed next to or as close as may be possible
44 to the voter information notice.
45 b. The Secretary of State shall prescribe the form and specific
46 content of the voter information notice, which may be comprised of
47 more than one page. If the notice is comprised of more than one
48 page, each page shall be posted separately. For an election district in

1 which the primary language of 10 percent or more of the registered
2 voters is a language other than English, the Secretary of State shall
3 prescribe an official version of the voter information notice in that
4 other language or languages for use in that election district. The
5 notice shall be posted in English and in the other language or
6 languages in the polling places in each such district. The alternate
7 language shall be determined based on information from the latest
8 federal decennial census.

9 c. A county board of elections may modify or supplement the
10 voter information notice used in a county or municipality to provide
11 additional information specific to that county or a municipality in that
12 county, provided, however, that any such modification or
13 supplementation shall be submitted to the Secretary of State for prior
14 approval.

15 d. The voter information notice shall be printed on each sample
16 ballot, to the extent practicable, or if not practicable, information on
17 how to view or obtain a copy of the voter information notice shall be
18 printed on each sample ballot.

19 e. The voter information notice, including one modified or
20 supplemented pursuant to subsection c. of this section, shall be made
21 accessible on the official Internet site of the State by the Secretary of
22 State and each county board of elections shall ensure that the official
23 Internet site of the county contains a link to that notice.

24 f. The provisions of this section shall not give rise to a legal
25 cause of action.

26 g. The State shall be liable for the costs incurred by local
27 government entities for compliance with this section, and they shall
28 be reimbursed for those costs, upon application, by the State
29 Treasurer.

30 (cf: P.L.2009, c.79, s.30)

31

32 3. Section 12 of P.L.2009, c.79 (C.19:63-12) is amended to read
33 as follows:

34 12. Each county clerk shall send, with each mail-in ballot, printed
35 directions for the preparation and transmitting of the ballots as
36 required by this act. The directions shall be printed in such manner
37 and form as the Secretary of State shall require, together with two
38 envelopes of such sizes that one will contain the other. The directions
39 prepared by the Secretary of State shall inform the voter that the
40 status of the voter's mail-in ballot may be checked using the free-
41 access system provided in section 5 of P.L.2004, c.88 (C.19:61-5).

42 The outer envelope shall be addressed to the county board of
43 elections of the county in which is located the home address of the
44 person to whom the mail-in ballot is sent, as certified by the county
45 clerk. At the discretion of the county clerk, the outer envelope may
46 be a postage paid return envelope. On the outside and front of each
47 outer envelope, there shall be printed or stamped the following:

48 To protect your vote:

1 IT IS AGAINST THE LAW FOR ANYONE EXCEPT YOU THE
2 VOTER TO MAIL OR TRANSPORT THIS BALLOT UNLESS
3 THE ENVELOPE IS SEALED AND THE FOLLOWING IS
4 COMPLETED:

5 Ballot mailed or transported by
6 (signature of bearer)
7 (print name of bearer)
8 (address of bearer)

9 The reverse side of the outer envelope shall contain the following:
10 REMINDER

11 For your vote to count, you must:

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

14 2) Seal the envelope.

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

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

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

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

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

42 To protect your vote:

43 IT IS AGAINST THE LAW FOR ANYONE EXCEPT YOU THE
44 VOTER TO OPEN, MARK, INSPECT OR SEAL THIS BALLOT.

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

46 The reverse side of each inner envelope shall contain the following
47 statement:

1 A PERSON MAY BE FINED AND IMPRISONED AND MAY
2 ALSO LOSE THE RIGHT TO VOTE UNTIL RESTORED BY LAW
3 if that person attempts to vote fraudulently by mail-in ballot, prevents
4 the voting of a legal voter, certifies falsely any information, interferes
5 with a person's secrecy of voting, tampers with ballots or election
6 documents or helps another person to do so.
7 (cf: P.L.2015, c.84, s.4)

8
9 4. Section 17 of P.L.2009, c.79 (C.19:63-17) is amended to read
10 as follows:

11 17. The county board of elections shall, promptly after receiving
12 each mail-in ballot, remove the inner envelope containing the ballot
13 from the outer envelope and shall compare the signature and the
14 information contained on the flap of the inner envelope with the
15 signature and information contained in the respective requests for
16 mail-in ballots. In addition, as to mail-in ballots issued less than
17 seven days prior to an election, the county board of elections shall
18 also check to establish that the mail-in voter did not vote in
19 person. The county board shall reject such a ballot if it is not
20 satisfied, pursuant to a comparison with the Statewide voter
21 registration system, that the voter is legally entitled to vote and that
22 the ballot conforms with the requirements of this act.

23 In the case of a mail-in ballot to be voted at a primary election for
24 the general election, the ballot shall be rejected if the mail-in voter
25 has indicated in the certificate the voter's intention to vote in a
26 primary election of any political party in which the voter is not
27 entitled to vote according to the Statewide voter registration system,
28 and if it shall appear from the record that the voter is not entitled to
29 vote in a primary election of the political party which has been so
30 indicated.

31 Any mail-in ballot which is received by a county board of
32 elections shall be rejected if both the inner and outer envelopes are
33 unsealed or if either envelope has a seal that has been tampered with.
34 Mail-in ballots shall not be rejected due to missing or insufficient
35 glue for either envelope.

36 Disputes about the qualifications of a mail-in voter to vote or
37 about whether or not or how any mail-in ballot shall be counted in
38 such election shall be referred to the Superior Court for
39 determination.

40 After such investigation, the county board of elections shall detach
41 or separate the certificate from the inner envelope containing the
42 mail-in ballot, unless it has been rejected by it or by the Superior
43 Court, marking the envelope so as to identify the election district in
44 which the ballot contained therein is to be voted as indicated by the
45 voter's home address appearing on the certificate attached to or
46 accompanying the inner envelope and, in the case of ballots to be
47 voted at a primary election for a general election, so as to identify the
48 political party in the primary election of which it is to be voted.

1 The location at which a county board of elections determines
2 whether a mail-in ballot shall be accepted or rejected shall be
3 considered an election district for the purposes of appointment of
4 challengers.

5 The Secretary of State shall prepare educational materials
6 regarding this section that all employed county boards of elections
7 employees handling ballots shall read and have available for review.
8 The materials shall provide clear information regarding the standards
9 for acceptance and rejection of mail-in ballots and the safe-keeping
10 of all materials in the case of rejection. The materials shall serve an
11 educational purpose for the county board of elections and shall not
12 replace, supersede, or void the authority of the county board or a
13 judge of the Superior Court to accept or reject a mail-in ballot.
14 (cf: P.L.2011, c.134, s.55)

15

16 5. Section 22 of P.L.2009, c.22 (C.19:63-22) is amended to read
17 as follows:

18 22. On the day of each election each county board of elections
19 shall open in the presence of the commissioner of registration, or the
20 designee thereof, the inner envelopes that contain the mail-in ballots
21 with the votes cast for the election. The inner envelopes containing
22 the ballots that the board or the Superior Court has rejected shall not
23 be so opened, but shall be retained as provided for by this act. The
24 board shall then proceed to canvass the votes cast on the mail-in
25 ballots, but no such ballot shall be counted in any primary election
26 for the general election if the ballot of the political party marked for
27 voting thereon differs from the designation of the political party in
28 the primary election of which such ballot is intended to be voted as
29 marked on the envelope by the county board of elections.

30 Every mail-in ballot that bears a postmark date before or of the
31 day of the election and that is received by the county board within
32 **[48]** 144 hours after the time of the closing of the polls for the
33 election that the ballot was prepared shall be considered valid and
34 shall be canvassed. Every mail-in ballot that does not bear a
35 postmark date but that is received by the county board by delivery of
36 the United States Postal Service within 48 hours after the time of the
37 closing of the polls for the election for which the ballot was prepared
38 shall be considered valid and shall be canvassed. Mail-in ballots
39 deemed invalid shall be retained, including the outer and inner
40 envelopes, for a period of two years and shall be made available for
41 inspection by the voter.

42 Immediately after the canvass is completed, the respective county
43 boards of election shall certify the result of the canvass to the county
44 clerk or the municipal or district clerk or other appropriate officer, as
45 the case may be, showing the result of the canvass by municipality
46 and ward. The votes thus canvassed shall be counted in determining
47 the result of the election.

1 The county board of elections shall, immediately after the canvass
2 is completed for any primary election, certify the results of the votes
3 cast for members of the county committees to the respective
4 municipal clerks, and those votes shall be counted in determining the
5 result of the election.

6 (cf: P.L.2018, c.72, s.8)

7

8 6. Section 24 of P.L.2009, c.79 (C.19:63-24) is amended to read
9 as follows:

10 24. The county board of elections shall keep, for two years, all of
11 the requests and applications for mail-in ballots, all voted mail-in
12 ballots, and all of the certificates that have been detached or separated
13 by them from the inner envelopes. All inner envelopes together with
14 their certificates, and the contents of those envelopes not opened by
15 order of the county board or Superior Court, shall also be retained for
16 the same period by the board. This section shall include mail-in
17 ballots deemed invalid, including the outer and inner envelopes of
18 those mail-in ballots. The superintendent of elections in counties
19 having a superintendent of elections and the prosecutor in all other
20 counties shall have the authority to impound all mail-in ballots
21 whenever the superintendent or prosecutor, as may be appropriate,
22 shall deem such action to be necessary.

23 (cf: P.L.2009, c.79, s.24)

24

25 7. This act shall take effect immediately.

26

27

28 STATEMENT

29

30 This bill requires certain information to increase public awareness
31 and use of voting by mail, requires certain mail-in ballots received by
32 the county board within 144 hours after polls close to be considered
33 valid, and requires certain mail-in ballots to be retained.

34 Under the bill, the Secretary of State is required to:

35 (1) prepare informational posters for use at all polling places that
36 promote voting by mail,

37 (2) include with mail-in ballots information for the voter on how
38 to check the status of the voter's mail-in ballot, and

39 (3) provide educational materials to county board of elections
40 employees on the standards for acceptance and rejection of mail-in
41 ballots.

42 The educational materials prepared by the Secretary of State
43 would serve an educational purpose for the county board and would
44 not replace, supersede, or void the authority of the county board or a
45 judge of the Superior Court to accept or reject a mail-in ballot. This
46 bill also prohibits the rejection of a mail-in ballot due to missing or
47 insufficient glue on an outer or inner envelope or mail-in ballots
48 where noncompliance is attributable to physical defects outside the

1 control of the voter in the inner envelop, outer envelope, certificate,
2 or ballot.

3 Under current law, county boards of elections are required to
4 retain voted mail-in ballots for a period of two years. This bill
5 clarifies that ballots that are deemed invalid are also required to be
6 retained for two years. This bill also extends the deadline by which
7 mail-in ballots bearing a postmark before or on the day of the election
8 must be received by the county board of elections in order to be
9 canvassed from 48 hours after the closing of the polls to 144 hours
10 after the closing of the polls. The bill would also require that every
11 mail-in ballot that does not bear a postmark date but that is received
12 by the county board by delivery of the United States Postal Service
13 within 48 hours after the time of the closing of the polls for the
14 election for which the ballot was prepared is to be considered valid
15 and canvassed.