

SENATE, No. 102

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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District 34 (Essex and Passaic)

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SYNOPSIS

Requires new voting machines purchased or leased for use in elections in this State to produce paper record of each vote cast.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the requirement for voting machines to produce
2 a paper record of each vote cast and amending R.S.19:48-1 and
3 P.L.1973, c.82.

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

7
8 1. R.S.19:48-1 is amended to read as follows:

9 19:48-1. a. Any thoroughly tested and reliable voting machines
10 may be adopted, rented, purchased or used, which shall be so
11 constructed as to fulfill the following requirements:

12 (a) It shall secure to the voter secrecy in the act of voting;

13 (b) It shall provide facilities for such number of office columns,
14 not less than 40 and not exceeding 60, as the purchasing authorities
15 may specify and of as many political parties or organizations, not
16 exceeding nine, as may make nominations, and for or against as
17 many questions, not exceeding 30, as submitted;

18 (c) It shall, except at primary elections, permit the voter to vote
19 for all the candidates of one party or in part for the candidates of
20 one party or one or more parties;

21 (d) It shall permit the voter to vote for as many persons for an
22 office as he is lawfully entitled to vote for, but no more;

23 (e) It shall prevent the voter from voting for the same person
24 more than once for the same office;

25 (f) It shall permit the voter to vote for or against any question
26 he may have the right to vote on, but no other;

27 (g) It shall for use in primary elections be so equipped that the
28 election officials can stop a voter from voting for all candidates
29 except those of the voter's party;

30 (h) It shall correctly register or record and accurately count all
31 votes cast for any and all persons, and for or against any and all
32 questions;

33 (i) It shall be provided with a "protective counter" or
34 "protective device" whereby any operation of the machine before or
35 after the election will be detected;

36 (j) It shall be so equipped with such protective devices as shall
37 prevent the operation of the machine after the polls are closed;

38 (k) It shall be provided with a counter which shall show at all
39 times during an election how many persons have voted;

40 (l) It shall be provided with a model, illustrating the manner of
41 voting on the machine, suitable for the instruction of voters;

42 (m) It must permit a voter to vote for any person for any office,
43 except delegates and alternates to national party conventions,
44 whether or not nominated as a candidate by any party or

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 organization by providing an opportunity to indicate such names or
2 name;

3 (n) It shall be equipped with a permanently affixed box or
4 container of sufficient strength, size and security to hold all
5 emergency ballots and pre-punched single-hole envelopes and with
6 a clipboard and a table-top privacy screen;

7 (o) It shall not use mechanical lever machines or punch cards to
8 record votes.

9 All voting machines used in any election shall be provided with a
10 screen, hood or curtain, which shall be so made and adjusted as to
11 conceal the voter and his action while voting.

12 It shall also be provided with one device for each party for
13 voting for all the presidential electors of that party by one
14 operation, and a ballot therefor containing only the words
15 "presidential electors for," preceded by the name of that party and
16 followed by the names of the candidates thereof for the offices of
17 President and Vice-President and a registering device therefor
18 which shall register the vote cast for such electors when thus voted
19 collectively.

20 b. (1) By January 1, 2009, each voting machine shall produce
21 an individual permanent paper record for each vote cast, which shall
22 be made available for inspection and verification by the voter at the
23 time the vote is cast, and preserved for later use in any manual
24 audit. In the event of a recount of the results of an election, the
25 voter-verified paper record shall be the official tally in that election.
26 **【A waiver of the provisions of this paragraph shall be granted by**
27 **the Secretary of State if the technology to produce a permanent**
28 **voter-verified paper record for each vote cast is not commercially**
29 **available.】**

30 (2) The provisions of paragraph (1) of this subsection shall be
31 suspended until: (i) the Secretary of State and the State Treasurer
32 certify in writing that sufficient funds have been provided by the
33 federal government and received by the State to offset the entire
34 cost of ensuring that each voting machine used in this State
35 produces an individual permanent paper record for each vote cast;
36 or (ii) the annual appropriation act contains an appropriation of
37 sufficient funds to ensure that each voting machine used in this
38 State produces an individual permanent paper record for each vote
39 cast and such appropriated funds have not been reserved by the
40 Governor under a spending reduction plan; or (iii) the Secretary of
41 State and the State Treasurer certify in writing that sufficient funds
42 have been provided by the federal government and received by the
43 State, and the annual appropriation act contains an appropriation of
44 sufficient unreserved funds, to ensure, when such funds are
45 combined, that each voting machine used in this State produces an
46 individual paper record for each vote cast.

47 c. Each voting machine newly-purchased or leased following
48 the effective date of P.L. , c. (pending before the Legislature as

1 this bill) shall produce an individual permanent paper record for
2 each vote cast, which shall be made available for inspection and
3 verification by the voter at the time the vote is cast, and preserved
4 for later use in any manual audit. In the event of a recount of the
5 results of an election, the voter-verified paper record of each
6 machine required under this subsection shall be used in the
7 calculation of the official tally in that election.

8 (cf: P.L.2009, c.17, s.1)

9
10 2. Section 3 of P.L.1973, c.82 (C.19:53A-3) is amended to read
11 as follows:

12 3. Every electronic voting system, consisting of a voting device
13 in combination with automatic tabulating equipment, acquired or
14 used in accordance with this act, shall:

15 a. Provide for voting in secrecy, except in the case of voters
16 who have received assistance as provided by law;

17 b. Permit each voter to vote at any election for all persons and
18 offices for whom and for which he is lawfully entitled to vote; to
19 vote for or against any question upon which he is entitled to vote;
20 and the automatic tabulating equipment shall reject choices
21 recorded on his ballot if the number of choices exceeds the number
22 which he is entitled to vote for the office or on the measure;

23 c. Permit each voter, at presidential elections, by one mark to
24 vote for the candidates of that party for president, vice president,
25 and their presidential electors;

26 d. Permit each voter, at other than primary elections, to vote for
27 the nominees of one or more parties and for independent candidates;
28 and personal choice or write-in candidates;

29 e. Permit each voter in primary elections to vote for candidates
30 in the party primary in which he is qualified to vote, and the
31 automatic tabulating equipment shall reject any votes cast for
32 candidates of another party;

33 f. Prevent the voter from voting for the same person more than
34 once for the same office;

35 g. Be suitably designed for the purpose used, of durable
36 construction, and may be used safely, efficiently, and accurately in
37 the conduct of elections and counting ballots;

38 h. When properly operated, record correctly and count
39 accurately every vote cast, including all overvotes or undervotes
40 and all affirmative votes or negative votes on all public questions or
41 referenda;

42 i. (1) By January 1, 2009, each voting machine shall produce
43 an individual permanent paper record for each vote cast, which shall
44 be made available for inspection and verification by the voter at the
45 time the vote is cast, and preserved for later use in any manual
46 audit. In the event of a recount of the results of an election, the
47 voter-verified paper record shall be the official tally in that election.

48 **[A waiver of the provisions of this subsection shall be granted by**

1 the Secretary of State if the technology to produce a permanent
2 voter-verified paper record for each vote cast is not commercially
3 available.】

4 (2) The provisions of paragraph (1) of this subsection shall be
5 suspended until: (i) the Secretary of State and the State Treasurer
6 certify in writing that sufficient funds have been provided by the
7 federal government and received by the State to offset the entire
8 cost of ensuring that each voting machine used in this State
9 produces an individual permanent paper record for each vote cast;
10 or (ii) the annual appropriation act contains an appropriation of
11 sufficient funds to ensure that each voting machine used in this
12 State produces an individual permanent paper record for each vote
13 cast and such appropriated funds have not been reserved by the
14 Governor under a spending reduction plan; or (iii) the Secretary of
15 State and the State Treasurer certify in writing that sufficient funds
16 have been provided by the federal government and received by the
17 State, and the annual appropriation act contains an appropriation of
18 sufficient unreserved funds, to ensure, when such funds are
19 combined, that each voting machine used in this State produces an
20 individual paper record for each vote cast.

21 j. Each voting machine newly-purchased or leased following
22 the effective date of P.L. , c. (pending before the Legislature as
23 this bill) shall produce an individual permanent paper record for
24 each vote cast, which shall be made available for inspection and
25 verification by the voter at the time the vote is cast, and preserved
26 for later use in any manual audit. In the event of a recount of the
27 results of an election, the voter-verified paper record of each
28 machine required under this subsection shall be used in the
29 calculation of the official tally in that election.

30 (cf: P.L.2009, c.17, s.2)

31
32 3. This act shall take effect on January 1 next following
33 enactment.

34 35 36 STATEMENT

37
38 Under current law, the requirement for the purchase of new
39 voting machines or retrofitting of existing voting machines to
40 produce a paper record of the votes cast has been suspended until
41 funding is made available from State or federal sources. This bill
42 would require that new voting machines purchased or leased
43 following the bill's effective date must produce a paper record of
44 each vote cast.

45 Specifically, the bill provides that each voting machine that is
46 purchased or leased following the bill's effective date would be
47 required to produce an individual permanent paper record for each
48 vote cast, which must be made available for inspection and

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1 verification by the voter at the time the vote is cast, and preserved
2 for later use in any manual audit. In the event of a recount of the
3 results of an election, the voter-verified paper record of each
4 machine so purchased or leased would be used in the calculation of
5 the official tally in that election.

6 The bill also deletes a provision in current law that allows the
7 Secretary of State to grant a waiver from the requirement to
8 purchase new voting machines or retrofit all existing voting
9 machines if the technology to produce a permanent voter-verified
10 paper record for each vote cast is not commercially available. This
11 change is intended to reflect that the technology is now
12 commercially available.

13 This bill is prospective in application, and would apply to voting
14 machines purchased or leased following its effective date. The bill
15 would take effect on January 1 next following enactment.