SENATE, No. 3018

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED OCTOBER 19, 2020

Sponsored by:
Senator BRIAN P. STACK
District 33 (Hudson)

SYNOPSIS
Allows voter to vote in any political party primary by changing party affiliation at polling place on primary election day; allows mail-in voter to complete any political party primary ballot.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning a voter’s political party affiliation and ability to vote in another party’s primary election for the general election and amending various parts of the statutory law.

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

1. R.S.19:23-45 is amended to read as follows:

   19:23-45. a. No voter shall be allowed to vote at the primary election unless his name appears in the signature copy register.
   b. (1) A voter who votes in a primary election of a political party or who signs and files with the municipal clerk or the county commissioner of registration a declaration that he desires to vote in the primary election of a political party, or who indicates on a voter registration form the voter’s choice of political party affiliation and submits the form to the commissioner of registration of the county wherein the voter resides, to the employees or agents of a public agency, as defined in subsection a. of section 15 of P.L.1974, c.30 (C.19:31-6.3), or a voter registration agency, as defined in subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11), or to the Secretary of State, shall be deemed to be a member of that party until the voter signs and files with the municipal clerk or the commissioner of registration, or in person at the polling place on the day of the primary election, a declaration that he desires to vote in the primary election of another political party at which time he shall be deemed to be a member of such other political party. The Secretary of State shall cause to be prepared political party affiliation declaration forms and shall provide such forms to the commissioners of registration of the several counties [and], to the clerks of the municipalities within such counties, and to the county boards of elections of the several counties for use by voters who vote in person at the polling place on the day of the primary election.
   (2) A voter who votes by mail-in ballot in a primary election shall be entitled to vote in a primary election of a political party other than the party of the voter’s affiliation and, upon completion and return of that other party’s ballot, the voter shall be deemed to be a member of that other political party.
   (3) No voter, except a newly registered voter at the first primary at which he is eligible to vote, or a voter who has not previously voted in a primary election, may vote in a primary election of a political party unless he [was] is deemed to be a member of that party [on the 55th day next preceding such primary election].

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.
c. A member of the county committee of a political party and a 
public official or public employee holding any office or public 
employment to which he has been elected or appointed as a member 
of a political party shall be deemed a member of such political 
party.

d. A voter may declare the voter's party affiliation or change 
the voter's party affiliation, or declare that the voter is unaffiliated 
with any party regardless of any previously declared party 
affiliation, by so indicating on a political party declaration form 
filed with the municipal clerk or the county commissioner of 
registration. A voter may also indicate that the voter wishes to 
declare a political party affiliation or that the voter does not want to 
declare a political party affiliation on a voter registration form filed 
at the time of initial registration. Any voter voting in person at the 
polling place on the day of the primary election may declare a 
desire to vote, and shall be permitted to vote, in the primary 
election of another political party by signing and filing a political 
party affiliation declaration form at the polling place. Any voter 
voting by mail-in ballot in a primary election may vote in a primary 
election of a political party other than the party of the voter's 
affiliation and, upon completion and return of that other party's 
ballet, the voter shall be deemed to be a member of that other 
political party.

e. Any person voting in the primary ballot box of any political 
party in any primary election in contravention of the election law 
shall be guilty of a disorderly persons offense, and any person who 
aids or assists any such person in such violation by means of public 
proclamation or order, or by means of any public or private 
direction or suggestions, or by means of any help or assistance or 
cooperation, shall likewise be guilty of a disorderly persons offense. 
(cf: P.L.2011, c.134, s.27)

2. Section 2 of P.L.1976, c.16 (C.19:23-45.1) is amended to 
read as follows:

   2. a. The county commissioner of registration in each of the 
several counties shall cause a notice to be published in each 
municipality of their respective counties in a newspaper or 
newspapers circulating therein. The notice to be so published shall 
be published once during each of the two calendar weeks next 
preceding the week in which [the 55th day next preceding] the 
primary election of a political party occurs.

   b. The notice required to be published by the preceding 
paragraph shall inform the reader thereof that no voter, except a 
newly registered voter at the first primary at which he is eligible to 
vote, or a voter who has not previously voted in a primary election 
may vote in a primary election of a political party unless he [was] 
is deemed to be a member of that party [on the 55th day next 
preceding such primary election]. It shall further inform the reader
thereof that a voter who votes in the primary election of a political party, or who signs and files with the municipal clerk or the county commissioner of registration a declaration that he desires to vote in the primary election of a political party, or who indicates on a voter registration form the voter's choice of political party affiliation and submits the form to the commissioner of registration of the county wherein the voter resides, to the employees or agents of a public agency, as defined in subsection a. of section 15 of P.L.1974, c.30 (C.19:31-6.3), or a voter registration agency, as defined in subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11) or to the Secretary of State, shall be deemed to be a member of that party until the voter signs and files with the municipal clerk or the commissioner of registration, or in person at the polling place on the day of the primary election, a declaration that he desires to vote in the primary election of another political party, at which time he shall be deemed to be a member of such other political party, or that the voter chooses not to be affiliated with any political party. The notice shall also state the time and location where a person may obtain political party affiliation declaration forms or voter registration forms, including a registered voter's ability to complete a political party affiliation declaration form before voting in person at the polling place on the day of the primary election. The notice shall also inform the reader that a voter who votes by mail-in ballot in a primary election shall be entitled to vote in a primary election of a political party other than the party of the voter's affiliation and, upon completion and return of that other party's ballot, the voter shall be deemed to be a member of that other political party.

(cf: P.L.2011, c.134, s.28)

3. R.S.19:23-46 is amended to read as follows:

19:23-46. Each voter offering to vote shall announce his name and the party primary in which he wishes to vote. The district board shall thereupon ascertain by reference to the signature copy register or the primary election registry book required by this title and, in municipalities not having permanent registration, if necessary by reference to the primary party poll books of the preceding primary election for the general election, that such voter is registered as required by this title and also that he is not ineligible or otherwise disqualified by the provisions of section 19:23-45 of this title; in which event he shall be allowed to vote. A voter who wishes to vote in the party primary of a political party other than the party of the voter’s affiliation shall be permitted to vote in that other party’s primary after completing a political party affiliation declaration form at the polling place, at which time the voter shall be deemed to be a member of that other political party.

(cf: P.L.2011, c.134, s.29)
4. Section 16 of P.L.1974, c.30 (C.19:31-6.4) is amended to read as follows:

16. a. The Secretary of State shall cause to be prepared and shall provide to each county commissioner of registration forms of size and weight suitable for mailing, which shall require the information required by R.S.19:31-3 in substantially the following form:

VOTER REGISTRATION APPLICATION

Print clearly in ink. Use ballpoint pen or marker.

(1) This form is being used as:

[ ] New registration
[ ] Address change
[ ] Name change

(2) Name:..............................................

.........Last First Middle

(3) Are you a citizen of the United States of America? [ ]Yes [ ]No

(4) Will you be 18 years of age on or before election day? [ ]Yes [ ] No

If you checked ‘No’ in response to either of these questions, do not complete this form.

(5) Street Address where you live:

........................................................

Street Address Apt. No.

(6) City or Town County Zip Code

(7) Address Where You Receive Your Mail (if different from above):

........................................................

(8) Date of Birth:

....................................................

Month Day Year

(9) (a) Telephone Number (optional).................

(b) E-Mail Address (optional)......................

(10) Name and address of Your Last Voter Registration

....................................................

....................................................

(11) If you are registering by mail to vote and will be voting for the first time in your current county of residence, please provide one of the following:

(a) your New Jersey driver’s license number:.............

(b) the last four digits of your Social Security Number............

OR submit with this form a copy of any one of the following documents: a current and valid photo identification card; a current utility bill, bank statement, government check, pay check or any
other government or other identifying document that shows your
name and current address. If you do not provide either your New
Jersey driver’s license number or the last four digits of your Social
Security Number, or enclose a copy of one of the documents listed
above, you will be asked for identification when voting for the first
time, unless you are exempt from doing so under federal or State
law.
(12) Do you wish to declare a political party affiliation?
(Optional):
[] YES. Name of Party:
[] NO. I do not wish to declare a political party affiliation at
this time.
(13) [] I wish to receive a Mail-in Ballot for all future elections,
until I request otherwise in writing.
(14) Declaration - I swear or affirm that:
I am a U.S. citizen.
I live at the above address.
I will be at least 18 years old on or before the day of the next
election.
I am not serving a sentence of incarceration due to a conviction
for an indictable offense under any federal or State laws.
I UNDERSTAND THAT ANY FALSE OR FRAUDULENT
REGISTRATION MAY SUBJECT ME TO A FINE OF UP TO
$15,000, IMPRISONMENT UP TO FIVE YEARS, OR BOTH
PURSUANT TO R.S.19:34-1.
........................................................................................................
Signature or mark of the registrant Date
(15) If applicant is unable to complete this form, print the name
and address of individual who completed this form.
..........................................................................................
Name
..........................................................................................
Address
In addition, the form may include notice to the applicant of
information and options relating to the registration and voting
process, including but not limited to notice of qualifications
required of a registered voter; notice of the final day by which a
person must be registered to be eligible to vote in an election;
notice of the effect of a failure to provide required identification
information; a place at which the applicant may indicate availability
for service as a member of the district board of elections; a place at
which the applicant may indicate whether he or she requires a
polling place which is accessible to individuals with disabilities and
the elderly or whether he or she is legally blind; a place at which
the applicant may indicate a desire to receive additional information
concerning voting by mail; and if the application indicates a
political party affiliation, the voter is permitted to vote in the
primary election of a political party other than the political party in
which the voter was affiliated previously [only if the] by filing a
evoter registration form with the change of political party affiliation
[is filed prior to the 50th day next] or a political party affiliation
declaration form preceding the primary election, or by filing a
political party affiliation declaration form at the polling place on the
day of the primary election or, if voting by mail-in ballot,
completing a primary election mail-in ballot in the party primary of
that other political party. The form may also include a space for the
voter registration agency to record whether the applicant registered
in person, by mail or by other means.

b. The reverse side of the registration form shall bear the
address of the Secretary of State or the commissioner of registration
to whom such form is supplied, and a United States postal permit
the charges upon which shall be paid by the State.

c. The Secretary of State shall cause to be prepared registration
forms of the size, weight and form described in subsection a. of this
section in both the English and Spanish language and shall provide
such forms to each commissioner of registration of any county in
which there is at least one election district in which bilingual
sample ballots must be provided pursuant to R.S.19:14-21,

d. The commissioner of registration shall furnish such
registration forms upon request in person to any person or
organization in such reasonable quantities as such person or
organization shall request. The commissioner shall furnish no fewer
than two such forms to any person upon request by mail or by
telephone.

f. The Secretary of State shall also furnish such registration
forms and such instructions to the Director of the Division of
Workers’ Compensation, the Director of the Division of
Employment Services, and the Director of the Division of
Unemployment and Temporary Disability Insurance in the
Department of Labor and Workforce Development; to the Director
of the Division of Taxation in the Department of the Treasury; to
the Executive Director of the New Jersey Transit Corporation; to
the appropriate administrative officer of any other public agency, as
defined by subsection a. of section 15 of P.L.1974, c.30 (C.19:31-6.3); to the Adjutant General of the Department of Military and
Veterans’ Affairs; and to the chief administrative officer of any
voter registration agency, as defined in subsection a. of section 26

g. All registration forms received by the Secretary of State in
the mail or forwarded to the Secretary of State shall be forwarded to
the commissioner of registration in the county of the registrant.
Each such form, and any registration form received otherwise by a commissioner of registration, shall be forwarded to the county clerk if the vote by mail option is selected on a form.

h. An application to register to vote received from the New Jersey Motor Vehicle Commission or a voter registration agency, as defined in subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11), shall be deemed to have been timely made for the purpose of qualifying an eligible applicant as registered to vote in an election if the date on which the commission or agency shall have received that document in completed form, as indicated in the lower right hand corner of the form, was not later than the 21st day preceding that election.

i. Each commissioner of registration shall make note in the permanent registration file of each voter who is required to provide the personal identification information required pursuant to this section, as amended, and R.S.19:15-17, R.S.19:31-5 and Pub.L.107-252 (42 U.S.C.s. 15301 et seq.), to indicate the type of identification provided by the voter and the date on which it is provided. Prior to the June 2004 primary election, when such a newly registered voter seeks to vote for the first time following his or her registration, the voter will be required to provide such personal identification information. Beginning with the June 2004 primary election, when such a newly registered voter seeks to vote for the first time following his or her registration, the voter will not be required to provide such information if he or she had previously provided the personal identification information required pursuant to this section. The required information shall be collected and stored for the time and in the manner required pursuant to regulations promulgated by the Secretary of State.

j. The Secretary of State shall amend the voter registration application form if necessary to conform to the requirements of applicable federal or State law.

k. In the event that the name of any political party entered on the voter registration form by a voter who wishes to declare a political party affiliation is not legible, the commissioner of registration shall mail the voter a political party declaration form and a letter explaining that the voter's choice was not understood and that the voter should complete and return the declaration form in order to be affiliated with a party.

(cf: P.L.2019, c.270, s.3)

5. Section 4 of P.L.2005, c.153 (C.19:31-13.2) is amended to read as follows:

4. If, when submitting a voter registration form for any reason, a registrant declares thereon his or her political party affiliation and in so doing declares an affiliation with a political party other than the political party with which that person was affiliated previously, the registrant shall be ineligible to vote in the next election.
succeeding primary election [unless he or she has made the declaration of affiliation with the political party specified in the latest voter registration form no later than the 50th day next preceding such primary election].

(cf: P.L.2005, c.153, s.4)

6. R.S.19:31-21 is amended to read as follows:

19:31-21. A person whose name appears in the signature copy register and who upon applying for a ballot or voting authority shall have given the information and signed the signature comparison record as provided in this Title and whose signature in the signature comparison record shall have been compared by a member of the district board and in the presence and view of the challengers with the signature of the applicant as recorded in the register shall be eligible to receive a ballot or voting authority unless it be shown to the satisfaction of a majority of the members of the district board that he is not entitled to vote in the district or has otherwise become disqualified.

No person shall be required to sign the signature comparison record as a means of identification if he shall have been unable to write his name when he registered, or if, having been able to write his name when registered, he subsequently shall have lost his sight or lost the hand with which he was accustomed to write or shall by reason of disease or accident be unable to write his name when he applies to vote, but each such person shall establish his identity in the manner provided in this Title.

In addition to signing the signature comparison record and after the comparison of the signature with the signature in the register, a person offering to vote at the primary election for the general election, as the case may be, shall announce his name and the party primary in which he wishes to vote. A voter who wishes to vote in the party primary of a political party other than the party of the voter’s affiliation shall be permitted to vote in that other party’s primary after completing a political party affiliation declaration form at the polling place, at which time the voter shall be deemed to be a member of that other political party.

After a person has voted the member of the district board having charge of the signature copy registers shall place the number of the person’s ballot in the proper column on the record of voting form of such person, which number shall constitute a record that the person has voted. In the case of the primary election for the general election such member of the district board shall also place in the proper column on the record of voting form the first three letters of the name of the political party whose primary ballot such person has voted, and shall attach the voter’s political party affiliation declaration form if filed at the polling place.

In the event that the duplicate permanent registration form of any person cannot be found in the signature copy register at the time he
applies for a ballot or voting authority, a member of the district
board shall promptly ascertain from the commissioner or a duly
authorized clerk if such person is permanently registered. Upon
information that such is the fact, such member of the district board
shall require the person applying for a ballot or voting authority to
obtain an order from the commissioner authorizing him to receive a
ballot or voting authority. The commissioner shall specially
authorize and deputize clerks to issue such orders in municipalities
within his county. The commissioner or his clerk shall require the
voter to sign his name upon such order for the purpose of signature
comparison. The district board shall require the voter to again sign
his name on said order, in the presence of the board, and if the
signatures compare, to permit him to vote. At primary elections the
commissioner or his duly authorized clerk shall endorse on the
order the political party whose ballot such person voted at the last
preceding primary election, and shall attach the voter’s political
party affiliation declaration form if filed at the polling place. The
order shall be returned to the commissioner at the same time and
along with the signature copy registers.

(cf: P.L.2011, c.134, s.42)

7. R.S.19:34-21 is amended to read as follows:

19:34-21. A person who being a member of one political party
shall vote in the ballot box used for the primary election of another
political party without filing a political party affiliation declaration
form shall in each case be guilty of a crime of the fourth degree.

(cf: P.L.2005, c.154, s.40)

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

7. For a primary election for the general election:
a. the county clerk shall mail the ballot of a political party to
each voter in the municipality who 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 who
wishes to vote in the primary of a political party shall apply to the
county clerk or municipal clerk in writing for the ballot of the
political party in whose primary the voter wishes to vote, or
designate a political party affiliation for the first time by whatever
means permitted by law, and the application or designation shall be
presented to the clerk through the day of the election; and

c. notwithstanding any provision of subsections a. and b. of
this section, or any law, rule, or regulation to the contrary, for any
primary election occurring following the implementation date of
this act, P.L. , c. (pending before the Legislature as this bill), the
county clerk shall mail the ballot of each political party to each
voter in the municipality who votes by mail, with instructions that
the voter may select only one political party primary ballot to vote
and return and, if that ballot is for a political party primary different
from the political party of the voter’s affiliation on record, that
voting and returning that ballot would constitute a change in the
voter’s political party affiliation and that the voter would be
registered as a member of that political party until the voter
completes a new voter registration form, political party affiliation
declaration form, or a primary election ballot of a different political
party in a future primary election.

(cf: P.L.2005, c.148, s.7)

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

8. Upon receipt of a request for a mail-in ballot, the county
clerk shall, with the cooperation of the commissioner of
registration, cause the signature of the applicant to be compared
with the signature of the person appearing on the permanent
registration form, or the digitalized image of the voter's signature
stored in the Statewide voter registration system, to determine from
such examination, and any other available information, if the
applicant is a voter qualified to cast a ballot in the election in which
the voter wants to vote [ ], and determine in case of a primary
election the political party primary in which the voter is entitled to
vote ]. The commissioner of registration, or the superintendent of
elections in counties having a superintendent of elections may, at
the request of the county clerk, investigate any application or
request for a mail-in ballot.

If, after such examination, the county clerk is satisfied that the
applicant is entitled to a ballot, the clerk shall mark on the
application "Approved." If, after such examination the county clerk
determines that the applicant is not entitled to a ballot, the clerk
shall mark on the application "Disapproved" and shall so notify the
applicant, stating the reason therefor, as required by section 5 of

(cf: P.L.2009, c.79, s.8)

10. Section 11 of P.L.2009, c.79 (C.19:63-11) is amended to
read as follows:

11. a. Each mail-in ballot to be used at any election shall
conform generally to the ballot to be used at the election in the
voter's district but the ballots shall be clearly marked "Official
Mail-In Ballot."

At the top of every mail-in ballot there shall be printed or
stamped in a prominent size the following:

To protect your vote:

IT IS AGAINST THE LAW FOR ANYONE EXCEPT YOU
THE VOTER TO MARK OR INSPECT THIS BALLOT.

However, a family member may assist you in doing so.
b. Each mail-in ballot to be used pursuant to this act shall be printed entirely in black ink. In addition to conforming generally to the ballot used in the election, the mail-in ballot shall be so prepared that the voter may indicate on it the voter's choice of the candidates for the offices to be filled, and the public questions to be voted on at the election by the voters of the entire State, county or municipality in which the voter is a resident, as known on the 48th day preceding the election. Sufficient space shall be provided on the ballot for the voter to write in the name of and vote for any candidate for, or the voter's personal choice for, any public office to be voted for at the election in the voter's election district. A list of the candidates for the offices to be filled in each election district in the county, whose names are known on the day on which the ballot is forwarded but do not appear on the ballot, with a statement of the office for which each is a candidate, shall be forwarded with such ballot.

When mail-in ballots are prepared, the name of any candidate who has been nominated for any office shall be placed on the ballot to be used in the general election to be held in the year in each election district in which he is a candidate, whether or not such candidate has accepted nomination prior to when the ballot was prepared, provided that the candidate has not declined the nomination before the ballot was prepared.

c. Each mail-in ballot to be used at any primary election for the general election shall, except as otherwise provided, conform to the ballot to be used at the election in the voter's election district and to the form herein prescribed for mail-in ballots to be used in such general elections. It shall be prepared so that the voter may indicate the voter's choice of the candidates of one political party for each of the officers to be voted on at the election by the voters of the election district and shall be separated into party ballots, which shall be printed upon one sheet when the voting system so allows, which party ballots shall be available to each voter who votes by mail in the primary election regardless of political party affiliation.

Each such mail-in ballot shall be plainly marked to indicate that only one party ballot is to be voted by each voter [and that] Each such mail-in ballot shall also indicate that any voter may vote a party ballot of any political party, even though the party ballot voted by the voter [must] does not conform to the name of the political party indicated by the county clerk. Each such mail-in ballot shall further indicate that voting and returning a party ballot for a party different from that of the voter's political party affiliation on record would constitute a change in the voter's political party affiliation and that the voter would be registered as a member of that political party until the voter completes a new voter registration form, political party affiliation declaration form, or a primary election mail-in ballot of a different political party in a future primary election.
If the county clerk has determined by investigating a voter's registration record that the voter is qualified to vote [only in the primary of a particular party], the clerk shall so note on the primary ballot [the party primary in which the voter is entitled to vote].

In the case where the county clerk has ascertained through investigating the voter's registration record that such applicant is requesting a ballot to vote in the first primary for which the voter is eligible after registration, the clerk shall note on the primary ballot that the voter can vote in the primary of any political party.

d. Any county may adopt a system of electronic scanning, or other mechanical or electronic device if the system has been approved previously by the Secretary of State to count or canvass mail-in ballots. The county clerk in any county adopting such a system may prepare and use mail-in ballots that do not conform generally to the ballot to be used at the election to the extent that such nonconformance is necessary in the operation of the electronic or mechanical canvassing system.

(cf: P.L.2011, c.134, s.52)

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

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

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

Any mail-in ballot which is received by a county board of elections shall be rejected if both the inner and outer envelopes are unsealed or if either envelope has a seal that has been tampered with.

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

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

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

(cf: P.L.2011, c.134, s.55)

12. Section 22 of P.L.2009, c.79 (C.19:63-22) is amended to
read as follows:

22. On the day of each election each county board of elections
shall open in the presence of the commissioner of registration, or
the designee thereof, the inner envelopes that contain the mail-in
ballots with the votes cast for the election. The inner envelopes
containing the ballots that the board or the Superior Court has
rejected shall not be so opened, but shall be retained as provided for
by this act. The board shall then proceed to canvass the votes cast
on the mail-in ballots [1], but no such ballot shall be counted in any
primary election for the general election if the ballot of the political
party marked for voting thereon differs from the designation of the
political party in the primary election of which such ballot is
intended to be voted as marked on the envelope by the county board
of elections [2].

Every mail-in ballot that bears a postmark date of the day of the
election and that is received by the county board within 48 hours
after the time of the closing of the polls for the election that the
ballot was prepared shall be considered valid and shall be
canvassed.

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

The county board of elections shall, immediately after the
canvass is completed for any primary election, certify the results of
the votes cast for members of the county committees to the

respective municipal clerks, and those votes shall be counted in
determining the result of the election.
(cf: P.L.2018, c.72, s.8)

13. This act shall take effect on January 1st next following the
date of enactment.

STATEMENT

This bill allows any voter to vote in any political party primary
election by changing his or her political party affiliation at the
polling place on primary election day. The bill also allows voters
who vote by mail-in ballot in the primary election to complete any
political party’s primary ballot.

Under current law, voters who are unaffiliated with any political
party because they did not declare a political party affiliation on
their voter registration form are permitted to vote in the primary
election of any political party, and once they do so they become a
member of that political party. Current law also provides that voters
who declared a political party affiliation are permitted to vote only
in the political party primary of that party. However, if a voter
affiliated with one political party wants to participate in the primary
election of another political party, they may do so by declaring
affiliation with that other party by filing a new voter registration
form or a political party affiliation declaration form on or before the
55th day preceding the primary election.

Under this bill, any voter would be permitted to vote in the
primary election of any political party, regardless of their declared
political party affiliation on record. The bill provides that voters
who vote in person would be permitted to choose the political party
primary they wish to vote in at the polling place on primary election
day. If a voter wishes to vote in another party’s primary than that of
their affiliation on record, the voter may file a political party
affiliation declaration form at the polling place. Under the bill,
voters who vote by mail-in ballot in the primary election would be
permitted to complete the ballot for any political party, and the
voter’s completion and return of that ballot would constitute a new
political party affiliation. As required under current law, a voter
may complete only one political party primary ballot.

This bill therefore establishes an open primary process in this
State by eliminating the 55-day deadline for political party
membership changes and allowing any registered voter to
participate in the political party primary of the voter’s choice.
Under the bill, the update of political party affiliation is retained for
record-keeping purposes.