

ASSEMBLY STATE AND LOCAL GOVERNMENT COMMITTEE

STATEMENT TO ASSEMBLY, No. 3929

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 12, 2022

The Assembly State and Local Government Committee reports favorably and with committee amendments Assembly Bill No. 3929.

Under current law, two categories of United States citizens living outside the country are defined as “overseas federal election voters” who are entitled to vote in this State for federal elections only, using an overseas ballot. Under one category, the term means any citizen of the United States residing abroad who does not intend to return or whose intent to return is uncertain. Such “overseas federal election voter” is permitted to vote if the voter (1) immediately prior to departure from the United States was domiciled in New Jersey and (a) was last registered to vote, or last eligible to register and vote, in New Jersey; or (b) would have been eligible to register and vote in New Jersey except that the citizen had not attained 18 years of age the requirement of which has since been met; or (c) would have been eligible to register and vote in New Jersey except that the citizen had not met the residency requirement; (2) is not registered or qualified to vote elsewhere in the United States; and (3) holds a valid passport or passport card or other proof of citizenship issued under authority of the Secretary of State of the United States. Under another category, “overseas federal election voter” also means any citizen of the United States who was born outside of the United States, is not described above, and, except for the residency requirement of New Jersey, otherwise satisfies the State's voter eligibility requirements, if the last place where a parent, legal guardian, spouse, partner in civil union, or domestic partner of the voter was, or under P.L.1976, c.23 (C.19:59-1 et seq.) would have been, eligible to register and vote before departure from the United States is within New Jersey and the voter has not previously registered to vote elsewhere in the United States.

This bill splits these two categories of voters by modifying the definition of “overseas federal election voter” and adding a definition of “overseas State and federal voter.”

Under the bill, an “overseas federal election voter” would be permitted to vote in federal elections (but not in State or local elections). The bill defines that term as any citizen of the United States

who was born outside of the United States, is not an “overseas voter” or an “overseas State and federal voter” under the bill, and, except for the residency requirement of New Jersey, otherwise satisfies the State's voter eligibility requirements, if the last place where a parent, legal guardian, spouse, partner in civil union, or domestic partner of the voter was, or under N.J.S.A.19:59-1 et seq. would have been, eligible to register and vote before departure from the United States is within New Jersey and the voter has not previously registered to vote elsewhere in the United States.

Under the bill, an “overseas State and federal voter” would be permitted to vote in federal and State elections (but not in local elections). The bill defines that term as any citizen of the United States residing abroad who does not intend to return or whose intent to return is uncertain and who (1) immediately prior to departure from the United States was domiciled in New Jersey and (a) was last registered to vote, or last eligible to register and vote, in New Jersey; or (b) would have been eligible to register and vote in New Jersey except that the citizen had not attained 18 years of age the requirement of which has since been met; or (c) would have been eligible to register and vote in New Jersey except that the citizen had not met the residency requirement; (2) is not registered or qualified to vote elsewhere in the United States; and (3) holds a valid passport or passport card or other proof of citizenship issued under authority of the Secretary of State of the United States.

As amended, this bill does not substantively change the definition of “overseas voter” under current law, except for making a technical clarification to explicitly add that the voter “does not establish a permanent residency in any other state or country” and “has the intent to return to New Jersey,” which is already required. “Overseas voters” would continue to be eligible to vote in any local, State, and federal election, and any public question placed before the voters in any election.

Under the bill, the term “election” has the same meaning as defined in R.S.19:1-1, and includes any federal, State, or local election, and any public question placed before the voters in an election. The bill defines “State election” as any general, special, or primary election held for the purpose of nominating or electing the office of the Governor, Lieutenant Governor, New Jersey State Senator, or a member of the New Jersey General Assembly, or a State public question placed before all voters of the State. “State election” would not include any local election or any local public question placed before less than all voters of the State.

The intent of this bill is to more closely mirror the selection categories voters must choose from on the Federal Postcard Application (FPCA), which determine the types of elections – local, State, federal, or all – in which the U.S. citizen living outside of the country is permitted to participate. Under the FPCA, the type of

election in which the voter is permitted to vote depends on whether the voter indicates “I intend to return,” or “my intent to return is uncertain,” or “I have never lived in the United States.” This bill does not make any changes to the entry regarding voters who are on active duty in the Uniformed Services or Merchant Marine, or their eligible spouses or dependents.

COMMITTEE AMENDMENT

The committee amended the bill to add to the definition of “overseas voter” that an “overseas voter” cannot establish permanent residency in any other state or country if they are to be considered an “overseas voter.”