

ASSEMBLY, No. 3591

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MARCH 5, 2020

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SYNOPSIS

Permits county clerk to remove voters from vote-by-mail lists under certain circumstances; requires certain information to increase public awareness and use of voting by mail; requires certain mail-in ballots to be retained.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/18/2020)

1 **AN ACT** concerning voting by mail and amending various parts of
 2 the statutory law and supplementing P.L.2009, c.79 (C.19:63-1 et
 3 seq.).

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

7
 8 1. (New section) a. The clerk of each county may remove a
 9 voter from the list of registered voters receiving mail-in ballots if
 10 any of the following conditions occur:

11 (1) the United States Postal Service returned mail of a ballot,
 12 sample ballot, or any other official county election mail sent
 13 directly to the named voter;

14 (2) the voter has not used a mail-in ballot for any election in a
 15 two-year period; or

16 (3) the United States Postal Service National Change of Address
 17 System indicates the voter's recipient address has changed or is
 18 undeliverable.

19 b. Prior to removing a voter from the list under subsection a. of
 20 this section, the county clerk shall notify each voter identified for
 21 removal in writing. The notice shall indicate the reasons for the
 22 removal and instruct the voter on the necessary steps to continue to
 23 vote by mail. If the voter does not respond to the confirmation
 24 notice within 30 days of mailing, the county clerk shall remove that
 25 voter from the list of voters receiving mail-in ballots and shall send
 26 that voter a notice of removal. The county clerk shall include an
 27 application to re-apply to vote by mail with the notice of removal.

28
 29 2. R.S.19:8-6 is amended to read as follows:

30 19:8-6. The county boards in counties of the first class and the
 31 municipal clerks in counties other than counties of the first class
 32 shall purchase or lease and furnish the proper equipment of polling
 33 places, to enable the district boards to carry out the duties imposed
 34 upon them by this title. The equipment shall consist of tables,
 35 chairs, lights, booths and all other things necessary for the
 36 performance of such duties, and shall be ready for use by the
 37 district boards in ample time to enable them to perform their duties.
 38 Also to be included, for conspicuous display at each polling place
 39 on the days of any election during each year, shall be the voting and
 40 registration instructions provided by the county board of elections,
 41 the voting by mail information posters provided by the Secretary of
 42 State, and mail-in ballot application forms.

43 The Secretary of State shall prepare a voting by mail
 44 informational poster for use at all polling places in the State that
 45 illustrates and promotes the use of voting by mail, including the

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 description of the vote-by-mail process, and shall distribute the
2 required number of copies, or replacement copies as needed, to the
3 county boards.

4 The clerks of the several municipalities shall keep in repair, store
5 and deliver the polling booths, ballot boxes and other equipment in
6 time for use by the district boards at the cost and expense of the
7 municipality.

8 In case of any election to be held in and for a municipality only,
9 the duties imposed upon the county boards in counties of the first
10 class regarding the equipment of polling places shall devolve upon
11 the clerk of the municipality wherein the election is to be held. Any
12 equipment in possession of the county board may be used in a
13 municipal election upon requisition.

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

15

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

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

22 The notice shall contain:

23 the date of the election and the hours during which polling places
24 will be open;

25 a statement that sample ballots are available at the polling place
26 for review by the voter;

27 instruction for the use of the voting machine in that polling place
28 and an explanation of what instructions for voting are available at
29 the polling place for the voter;

30 instruction for a voter who is voting for the first time;

31 instruction for a voter who is required to provide identification
32 pursuant to the federal "Help America Vote Act of 2002" and
33 R.S.19:15-17 prior to casting a vote;

34 instruction on how to cast a vote if the voter cannot be present at
35 a polling place on the day of the election;

36 an explanation of the right of the voter to vote in privacy,
37 regardless of the voter's physical abilities;

38 an explanation of the right of the voter to a provisional ballot,
39 including in the event that a mail-in ballot has been applied for and
40 not received or not transmitted to the county board of elections
41 before the day of any election, and the other circumstances under
42 which a voter has a right to a provisional ballot;

43 an explanation of the right of the voter to receive a replacement
44 ballot for a ballot that has been spoiled, destroyed, lost or never
45 received;

46 an explanation of the right of the voter to ask for and receive
47 assistance in voting;

1 an explanation of the right of the voter to take a reasonable
2 amount of time in casting a vote on a voting machine;

3 an explanation of the right of the voter to bring written material
4 into the polling place for the voter's personal use in casting a vote;

5 instruction on how to contact the appropriate officials if a voter's
6 right to vote or right to otherwise participate in the electoral process
7 has been challenged or violated;

8 general information on federal and State laws that prohibit acts
9 of fraud or misrepresentation and the penalties for those acts; and

10 such other statement, instruction or explanation the Secretary of
11 State may deem appropriate to ensure the full and knowledgeable
12 participation of the voter in the process.

13 The requirement to post this notice in each polling place shall
14 not replace, supersede or void any other requirement set forth in law
15 for the posting of information in each polling place apart from the
16 voter information notice. The poster promoting the use of voting by
17 mail prepared and distributed by the Secretary of State pursuant to
18 R.S.19:8-6 shall be displayed next to or as close as may be possible
19 to the voter information notice.

20 b. The Secretary of State shall prescribe the form and specific
21 content of the voter information notice, which may be comprised of
22 more than one page. If the notice is comprised of more than one
23 page, each page shall be posted separately. For an election district
24 in which the primary language of 10 percent or more of the
25 registered voters is a language other than English, the Secretary of
26 State shall prescribe an official version of the voter information
27 notice in that other language or languages for use in that election
28 district. The notice shall be posted in English and in the other
29 language or languages in the polling places in each such district.
30 The alternate language shall be determined based on information
31 from the latest federal decennial census.

32 c. A county board of elections may modify or supplement the
33 voter information notice used in a county or municipality to provide
34 additional information specific to that county or a municipality in
35 that county, provided, however, that any such modification or
36 supplementation shall be submitted to the Secretary of State for
37 prior approval.

38 d. The voter information notice shall be printed on each sample
39 ballot, to the extent practicable, or if not practicable, information on
40 how to view or obtain a copy of the voter information notice shall
41 be printed on each sample ballot.

42 e. The voter information notice, including one modified or
43 supplemented pursuant to subsection c. of this section, shall be
44 made accessible on the official Internet site of the State by the
45 Secretary of State and each county board of elections shall ensure
46 that the official Internet site of the county contains a link to that
47 notice.

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

3 g. The State shall be liable for the costs incurred by local
4 government entities for compliance with this section, and they shall
5 be reimbursed for those costs, upon application, by the State
6 Treasurer.
7 (cf: P.L.2009, c.79, s.30)
8

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

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

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

26 To protect your vote:

27 IT IS AGAINST THE LAW FOR ANYONE EXCEPT YOU
28 THE VOTER TO MAIL OR TRANSPORT THIS BALLOT
29 UNLESS THE ENVELOPE IS SEALED AND THE FOLLOWING
30 IS COMPLETED:

31 Ballot mailed or transported by
32 (signature of bearer)
33 (print name of bearer)
34 (address of bearer)

35 The reserve side of the outer envelope shall contain the
36 following:

37 REMINDER

38 For your vote to count, you must:

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

41 2) Seal the envelope.

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

44 4) If another person will be mailing your ballot or bringing it to
45 the board of elections, MAKE CERTAIN THAT PERSON
46 COMPLETES THE "BEARER PORTION" ON THE ENVELOPE
47 ADDRESSED TO THE BOARD OF ELECTIONS BEFORE THE
48 BALLOT IS TAKEN FROM YOU. NO PERSON WHO IS A

1 CANDIDATE IN THE ELECTION FOR WHICH THE VOTER
2 REQUESTS THIS BALLOT IS PERMITTED TO SERVE AS A
3 BEARER. NO PERSON IS PERMITTED TO SERVE AS A
4 BEARER FOR MORE THAN THREE QUALIFIED VOTERS IN
5 AN ELECTION.

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

9 The inner envelope shall be so designed that it can be sealed
10 after the mail-in ballot has been placed therein and the flap thereof
11 shall be of such length and size as to leave sufficient margin, after
12 sealing, for the printing thereon of the certificate hereinafter
13 described. The flap shall be so arranged that, after the inner
14 envelope has been sealed, the certificate can be contained, with the
15 inner envelope, in the outer envelope, and that the margin
16 containing the certificate can be detached without unsealing the
17 inner envelope.

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

22 To protect your vote:

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

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

27 The reverse side of each inner envelope shall contain the
28 following statement:

29 A PERSON MAY BE FINED AND IMPRISONED AND MAY
30 ALSO LOSE THE RIGHT TO VOTE UNTIL RESTORED BY
31 LAW if that person attempts to vote fraudulently by mail-in ballot,
32 prevents the voting of a legal voter, certifies falsely any
33 information, interferes with a person's secrecy of voting, tampers
34 with ballots or election documents or helps another person to do so.

35 (cf: P.L.2015, c.84, s.4)

36

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

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

1 system, that the voter is legally entitled to vote and that the ballot
2 conforms with the requirements of this act.

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

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

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

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

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

34 The Secretary of State shall prepare educational materials
35 regarding this section that all employed county boards of elections
36 employees handling ballots shall read and have available for
37 review. The materials shall provide clear information regarding the
38 standards for acceptance and rejection of mail-in ballots and the
39 safe-keeping of all materials in the case of rejection.

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

41

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

44 22. On the day of each election each county board of elections
45 shall open in the presence of the commissioner of registration, or
46 the designee thereof, the inner envelopes that contain the mail-in
47 ballots with the votes cast for the election. The inner envelopes
48 containing the ballots that the board or the Superior Court has

1 rejected shall not be so opened, but shall be retained as provided for
2 by this act. The board shall then proceed to canvass the votes cast
3 on the mail-in ballots, but no such ballot shall be counted in any
4 primary election for the general election if the ballot of the political
5 party marked for voting thereon differs from the designation of the
6 political party in the primary election of which such ballot is
7 intended to be voted as marked on the envelope by the county board
8 of elections.

9 Every mail-in ballot that bears a postmark date of the day of the
10 election and that is received by the county board within 48 hours
11 after the time of the closing of the polls for the election that the
12 ballot was prepared shall be considered valid and shall be
13 canvassed. Mail-in ballots deemed invalid because the ballots were
14 received after 48 hours after the closing of the polls shall be
15 retained, including the outer and inner envelopes, for a period of
16 two years and shall be made available for inspection by the voter.

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

23 The county board of elections shall, immediately after the
24 canvass is completed for any primary election, certify the results of
25 the votes cast for members of the county committees to the
26 respective municipal clerks, and those votes shall be counted in
27 determining the result of the election.

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

29
30 7. Section 24 of P.L.2009, c.79 (C.19:63-24) is amended to
31 read as follows:

32 24. The county board of elections shall keep, for two years, all
33 of the requests and applications for mail-in ballots, all voted mail-in
34 ballots, and all of the certificates that have been detached or
35 separated by them from the inner envelopes. All inner envelopes
36 together with their certificates, and the contents of those envelopes
37 not opened by order of the county board or Superior Court, shall
38 also be retained for the same period by the board. This section shall
39 include mail-in ballots received after 48 hours after the closing of
40 the polls, including the outer and inner envelopes of those mail-in
41 ballots. The superintendent of elections in counties having a
42 superintendent of elections and the prosecutor in all other counties
43 shall have the authority to impound all mail-in ballots whenever the
44 superintendent or prosecutor, as may be appropriate, shall deem
45 such action to be necessary.

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

47
48 8. This act shall take effect immediately.

STATEMENT

This bill permits county clerks to remove voters from vote-by-mail lists under certain circumstances, requires certain information to increase public awareness and use of voting by mail, and requires certain mail-in ballots to be retained.

Under current law, county boards of elections are required to retain voted mail-in ballots for a period of two years. This bill clarifies that ballots that are received 48 hours after the closing of the polls, along with their envelopes, are also required to be retained for two years.

The bill permits the clerk of each county to remove a voter from lists of registered voters receiving mail-in ballots if the following circumstances apply:

(1) the United States Postal Service returned mail of a ballot, sample ballot, or any other official county election mail sent directly to the named voter;

(2) the voter has not used a mail-in ballot for any election in a two-year period; or

(3) the United States Postal Service National Change of Address System indicates the voter's recipient address has changed or is undeliverable.

Prior to removing a voter from the list the county clerk is required to notify the voter in writing and indicate the reasons for the removal and instruct the voter on the necessary steps to continue to vote by mail. If the voter does not respond to the notice within 30 days of mailing, the county clerk would remove that voter from the list of voters receiving mail-in ballots and send that voter a notice of removal along with an application to re-apply to vote by mail.

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

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

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

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

The bill also prohibits the rejection of a mail-in ballot due to missing or insufficient glue on an outer or inner envelope.