ASSEMBLY, No. 3994

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 4, 2020

Sponsored by:
Assemblyman JAY WEBBER
District 26 (Essex, Morris and Passaic)
Assemblywoman AURA K. DUNN
District 25 (Morris and Somerset)
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District 12 (Burlington, Middlesex, Monmouth and Ocean)

Co-Sponsored by:
Assemblymen Wirths, Space, Assemblywoman B.DeCroce, Assemblymen Catalano and McGuckin

SYNOPSIS

Prohibits mail-in ballot outer envelope from containing political affiliation or designation visible to public.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 5/5/2021)

AN ACT concerning political affiliation or designation on mail-in ballot outer envelopes and amending P.L.2005, c.148 and P.L.2009, c.79.

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

1. Section 2 of P.L.2005, c.148 (C.19:62-2) is amended to read as follows:

2. If an election by mail is authorized pursuant to section 1 of this act, P.L.2005, c.148 (C.19:62-1), the county clerk shall:

a. publish, in advance of the election and pursuant to rules and regulations promulgated by the Secretary of State, official notice that the election shall be conducted by mail together with such other information regarding the conduct of the election as shall be deemed necessary by the Secretary of State;

b. mail a ballot, including an outer envelope and an inner envelope substantially similar to the envelopes provided for mail-in ballots pursuant to sections 12 and 13 of P.L.2009, c.79 (C.19:63-12 and C.19:63-13), not sooner than the 20th day prior to the day of the election nor later than the 14th day prior to the day of the election, to each person registered to vote in the municipality at that election, ensuring that the outer envelope and the envelope that is used to mail the blank ballot, outer envelope, and inner envelope to each voter shall not contain any political affiliation or designation visible to the public on the envelope's exterior;

c. designate the county clerk's office or the municipal clerk's office as the places to obtain a replacement ballot pursuant to section 5 of P.L.2005, c.148 (C.19:62-5);

d. designate, after consultation with the county board of elections and pursuant to criteria established by the Secretary of State, places within the county or municipality that shall be available for the deposit of voted ballots for the election;

e. make a provisional ballot available at the office of the county clerk and the office of the municipal clerk so that each person who has been a resident of the county or municipality in which the person seeks to register and vote at least 21 days prior to the day of the election and has moved to a location within the municipality after that 21st day and prior to the day of the election may vote;

f. suspend distribution to each registered voter in the municipality of samples of the official ballot of any election, but distribute to each registered voter in the municipality with each ballot a copy of the voter information notice provided for in section 1 of P.L.2005, c.149 (C.19:12-7.1) as modified and supplemented

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.

by the Secretary of State as deemed appropriate for use in municipalities conducting elections by mail, and such instruction about the completion of the ballot as deemed necessary by the Secretary of State;

g. make certain that all qualified voters in the municipality requesting a mail-in ballot between the 45th day and the 21st day prior to the day of an election receive such ballot after the 20th day prior to the day of an election and voters requesting a ballot on or before the seventh day prior to the date of the election shall receive a ballot authorized pursuant to this section; and

h. establish, after consultation with the county board of elections and in accordance with rules and regulations adopted by the Secretary of State, the time by which all ballots must be received by the board on the day of an election to be considered valid and counted.

(cf: P.L.2011, c.37, s.29)

2. 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.

<u>c. The county clerk shall ensure that the outer envelope and the envelope that is used to mail the blank ballot, outer envelope, and inner envelope to each voter shall not contain any political affiliation or designation visible to the public on the envelope's exterior.</u>

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

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

7. a. Each county clerk shall have printed sufficient mail-in ballots for each primary election for the general election, and for the general election. Along with such ballots the clerk shall also furnish inner and outer envelopes and printed directions for the preparation and transmitting of such ballots used in the election in the county. <u>Each county clerk shall ensure that the outer envelope and the envelope that is used to mail the blank ballot, outer envelope, and inner envelope to each voter shall not contain any</u>

political affiliation or designation visible to the public on the envelope's exterior.

b. The mail-in ballots shall be printed on paper of a different color from that used for any primary or general election ballot, but in all other respects, shall be as nearly as possible facsimiles of the election ballot to be voted at the election.

(cf: P.L.2011, c.134, s.51)

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

12. Each county clerk shall send, with each mail-in ballot, printed directions for the preparation and transmitting of the ballots as required by this act. The directions shall be printed in such manner and form as the Secretary of State shall require, together with two envelopes of such sizes that one will contain the other. Each county clerk shall ensure that the outer envelope and the envelope that is used to mail the blank ballot, outer envelope, and inner envelope to each voter shall not contain any political affiliation or designation visible to the public on the envelope's exterior.

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

To protect your vote:

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

Ballot mailed or transported by

(signature of bearer)

(print name of bearer)

(address of bearer)

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

REMINDER

For your vote to count, you must:

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

2) Seal the envelope.

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

4) If another person will be mailing your ballot or bringing it to the board of elections, MAKE CERTAIN THAT PERSON COMPLETES THE "BEARER PORTION" ON THE ENVELOPE ADDRESSED TO THE BOARD OF ELECTIONS BEFORE THE

BALLOT IS TAKEN FROM YOU. NO PERSON WHO IS A CANDIDATE IN THE ELECTION FOR WHICH THE VOTER REQUESTS THIS BALLOT IS PERMITTED TO SERVE AS A BEARER. NO PERSON IS PERMITTED TO SERVE AS A BEARER FOR MORE THAN THREE QUALIFIED VOTERS IN AN ELECTION.

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

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

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

To protect your vote:

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

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

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

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

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

5. Section 13 of P.L.2009, c.79 (C.19:63-13) is amended to read as follows:

13. a. On the margin of the flap on the inner envelopes to be sent to mail-in voters there shall be printed a certificate in the following form:

CERTIFICATE OF MAIL-IN VOTER

I, ..., whose home address is .....

(print your name clearly) (street

....., DO HEREBY CERTIFY,

address or R.D. number) (municipality) subject to the penalties for fraudulent voting, that I am the person who applied for the enclosed

ballot. I MARKED AND SEALED THIS BALLOT AND CERTIFICATE IN SECRET. However, a family member may assist me in doing so.

.....
(signature of voter)

Any person providing assistance shall complete the following:

I do hereby certify that I am the person who provided assistance to this voter and declare that I will maintain the secrecy of this ballot.

.....
(signature of person providing assistance)
.....
(printed name of person providing assistance)
.....
.....
(address of person providing assistance)

b. On the margin of the flap on the inner envelope forwarded with any mail-in ballot intended to be voted in any primary election for the general election, as the case may be, there shall be printed a certificate in the following form:

CERTIFICATE OF MAIL-IN VOTER

I, ..., whose home address is.....
(print your name clearly) (street address or R.D. number) (municipality)
....., DO HEREBY CERTIFY,
subject to the penalties for fraudulent voting, that I am the person who applied for the enclosed ballot for the primary election of the ..... political party. I MARKED AND SEALED THIS BALLOT AND CERTIFICATE IN SECRET. However, a family member may assist me in doing so.

.....
(signature of voter)

Any person providing assistance shall complete the following:

I do hereby certify that I am the person who provided assistance to this voter and declare that I will maintain the secrecy of this ballot.

.....
(signature of person providing assistance)
.....
(printed name of person providing assistance)
.....
.....
(address of person providing

assistance)

c. The clerk of each county shall be permitted to print on or affix to the margin of the flap on the inner envelope of the mail-in ballot transmitted thereby to a mail-in ballot voter an alternative certificate, substantially similar to the certificate provided for by subsection a. or b. of this section, that permits the voter to certify the correctness of the voter's name, street, mailing address or R.D. number, and municipality as it appears on the label of the mail-in ballot received by the voter.

d. Each county clerk shall ensure that any political affiliation or designation on the inner envelope provided to each voter shall not be visible to the public on the outer envelope's exterior.

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

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

STATEMENT

This bill prohibits any mail-in ballot outer envelope from containing a political affiliation or designation visible to the public.

Under current law, the county clerk in each county mails a mail-in ballot to each voter who votes by mail. The mail-in ballot envelope contains the blank ballot, an outer envelope, and an inner envelope. When the voter completes the ballot, the voter places the voted ballot inside the inner envelope, and places the inner envelope inside the outer envelope, which is addressed to the appropriate county board of elections for mailing.

This bill requires each county clerk to ensure that the outer envelope and the envelope that is used to mail the blank ballot, outer envelope, and inner envelope to each voter do not contain any political affiliation or designation visible to the public on the envelope's exterior. This bill also requires each county clerk to ensure that any political affiliation or designation on the inner envelope is not visible to the public on the outer envelope's exterior.