SYNOPSIS

Establishes “The Ballot Cure Act” to modify and establish various voting procedures.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 8/10/2020)
AN ACT concerning a voter’s opportunity to cure their voted mail-in ballot and amending various parts of the statutory law.

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

1. Section 1 of P.L.2005, c.149 (C.19:12-7.1) is amended to read as follows:
   1. a. A county board of elections shall have posted a voter information notice, which shall be referred to as a voter’s bill of rights, in a conspicuous location in each polling place before the opening of the polls on the day of any election.
      The notice shall contain:
      the date of the election and the hours during which polling places will be open;
      a statement that sample ballots are available at the polling place for review by the voter;
      instruction for the use of the voting machine in that polling place and an explanation of what instructions for voting are available at the polling place for the voter;
      instruction for a voter who is voting for the first time;
      instruction for a voter who is required to provide identification pursuant to the federal “Help America Vote Act of 2002” and R.S.19:15-17 prior to casting a vote;
      instruction on how to cast a vote if the voter cannot be present at a polling place on the day of the election;
      an explanation of the right of the voter to vote in privacy, regardless of the voter's physical abilities;
      an explanation of the right of the voter to a provisional ballot, including in the event that a mail-in ballot has been applied for and not received or not transmitted to the county board of elections before the day of any election, and the other circumstances under which a voter has a right to a provisional ballot;
      an explanation of the right of the voter to receive a replacement ballot for a ballot that has been spoiled, destroyed, lost or never received;
      an explanation of the right of the voter to ask for and receive assistance in voting;
      an explanation of the right of the voter to take a reasonable amount of time in casting a vote on a voting machine;
      an explanation of the right of the voter to bring written material into the polling place for the voter’s personal use in casting a vote;
      instruction on how to contact the appropriate officials if a voter’s right to vote or right to otherwise participate in the electoral process has been challenged or violated;

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.
general information on federal and State laws that prohibit acts of
fraud or misrepresentation and the penalties for those acts; and
an explanation of the right of the voter to confidentially discover
the status of their ballot using the “Track My Ballot” user portal;
an explanation that “All ballots are counted and your vote remains
anonymous;”
an explanation of the right of the voter that if their ballot was
rejected, they will be notified within 72 hours of the receipt of the
ballot or, if the voter voted using a provisional ballot, within 48 hours
of the closing of the polls by email, mail, or phone with the reason
for rejection. The voter will have up to 5 days after the close of the
polls on Election Day to provide a cure for their ballot;
an explanation giving the options for the voter to provide the cure
to their rejected ballot;
an explanation that no voters shall be intimidated or otherwise
unduly influenced by political insignia while voting. No person shall
wear, display, sell, give or provide any political or campaign slogan,
badge, button or other insignia associated with any political party or
candidate to be worn at or within one hundred feet of the polls or
within the polling place or room, on any primary, general or special
election day or on any commission government election day, except
the badge furnished by the county board as provided by law. This
includes any political gear representing the campaign slogans, logos,
or depictions or representations of any political party or candidate
such as merchandise sold directly from a political party, campaign,
candidate, or by third parties and vendors representing any political
party or campaign or candidate. A person violating any of these
provisions is guilty of a disorderly persons offense and will not be
permitted on the premises and can only return to vote after the
removal of prohibited political insignia; and
such other statement, instruction or explanation the Secretary of
State may deem appropriate to ensure the full and knowledgeable
participation of the voter in the process.
The requirement to post this notice in each polling place shall not
replace, supersede or void any other requirement set forth in law for
the posting of information in each polling place apart from the voter
information notice.

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

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

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

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

f. [The provisions of this section shall not give rise to a legal cause of action.] Deleted by amendment, P.L. , c. (pending before the Legislature as this bill)

g. The State shall be liable for the costs incurred by local government entities for compliance with this section, and they shall be reimbursed for those costs, upon application, by the State Treasurer.

(cf: P.L.2009, c.79, s.30)

2. Section 4 of P.L.2004, c.88 (C.19:61-4) is amended to read as follows:

4. a. The [Attorney General] Secretary of State shall establish a free-access system, such as a toll-free telephone number, an Internet website or any combination thereof, that any individual who casts a provisional ballot, mail-in ballot, or overseas ballot in all elections where they are qualified to vote, may access to ascertain whether the ballot of that individual was accepted for counting and, if the vote was not counted, the reason for the rejection of the ballot. The system shall at all times preserve the confidentiality of each voter, and shall ensure that no person, other than the individual who cast the ballot, may discover whether or not that individual’s ballot was accepted or rejected, unless so informed by the voter.

b. The free-access system shall be prominently displayed on the New Jersey Division of Elections website under a “Track My Ballot” user portal.

c. To applicable situations, the free-access system shall record the date that the mail-in ballot was mailed; the date that the overseas ballot was mailed or transmitted via electronic mail; the date the ballot was received; the notation that the ballot was “Accepted” or “Rejected;” the code for rejection; the date and method that the board of elections notified the voter (mail, email, or phone) and, in cases
where the ballot was initially “Rejected” and the voter provided a cure as provided under section 17 of P.L.2009, c.79 (C.19:63-17), the date when the ballot was “Accepted.” If no cure was provided successfully or at all, no other input shall be required.

d. The free-access system shall provide a legend containing all the codes used for rejection and their explanation for rejection. The system shall provide voters with the methods to cure the ballot, and the deadline of 5 days after the closing of the polls on Election Day to provide the cure.

e. The free-access system shall provide a publicly viewable macro-report of the total number of rejected ballots by county and by code along with the totals for votes cast by mail-in ballot, overseas ballots, and total ballots cast. This report shall be kept and made available on the Secretary of State’s website for a period of 10 years.

(cf: P.L.2004, c.88, s.4)

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

17. a. 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 digitized signature image and information contained in the respective requests for mail-in ballots. Statewide voter registration system. 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. The county board of elections shall conduct the determination of qualification of each voter in accordance with the requirements of the Certificate of Mail-in Voter pursuant to section 13 of P.L.2009, c.79 (C.19:63-13).

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. Mail-in ballots shall not be rejected due to any defect arising out of or relating to the preparation or mailing of the ballot or envelope that
was not reasonably caused by the voters, such as a torn envelope and
missing or insufficient glue to allow the ballot to be sealed.

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.

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.

b. The county board of elections shall, promptly after receiving
each mail-in ballot, undertake the following procedures and
requirements concerning the acceptance or rejection of each mail-in
ballot:

(1) record in the Statewide voter registration system and the free-
access system the acceptance or rejection of the voter’s ballot. Where
the voter’s ballot is rejected, a code shall be input and displayed
showing the reason;

(2) in rejecting a voter’s ballot, shall notify the voter within 72
hours of the receipt of the ballot or, if the voter voted by provisional
ballot, within 48 hours of the closing of the polls, by email, mail, or
phone with the reason for rejection. The voter shall have up to 5 days
after the close of the polls on Election Day to provide a cure for their
ballot. The county board of elections shall provide an explanation
giving the options for the voter to provide the cure to their rejected
ballot. To the extent the county board of elections cannot provide
such explanation and give the voter sufficient and reasonable time to
provide a cure for their ballot within the deadlines for the counting
of ballots as established by law, the county board of elections shall
seek an order from a Judge of the Superior Court to reasonably extend
the deadlines consistent with this State’s liberal interpretation of
election law statutes so as to prevent voter disenfranchisement;

(3) in cases of rejected ballots, retain the voter’s outer envelope,
inner envelope, self-certification certificate, and mail-in ballot in a
bundle unique to each voter for a period of two years in accordance
with section 24 of P.L. 2009, c.79 (C.19:63-24); and

(4) where the rejection is due to signature mismatch, missing
signature, or otherwise related to the questionable or inability to
verify the voter’s ballot by way of signature, the county board of
elections shall allow and accept other methods from the voter to confirm their vote. These methods may include the voter providing a new signature, signing an affidavit attesting that they were the voter who sent in the mail-in ballot, and providing any form of identification that would satisfy the requirement of voter verification. Identification shall include a valid New Jersey driver’s license number, a valid New Jersey non driver identification card number, or another form of identification issued or recognized as official by the federal government, the State, or any of its subdivisions, providing the identification carries the full address and signature of the person.

c. The Secretary of State shall prepare educational materials regarding the provisions of this section that all county boards of elections persons handling ballots shall be required to read or view prior to the election. The materials shall provide clear information regarding the standards for acceptance and rejection of mail-in ballots and the safe holding of all materials in the case of rejection. (cf: P.L.2011, c.134, s.55)

4. Section 23 of P.L.2009, c.79 (C.19:63-23) is amended to read as follows:

23. [As soon as practicable after each election] On an ongoing basis as each action is completed, the county clerk and the board of elections shall mark in the Statewide voter registration system and all duplicate voting records to show that mail-in ballots were delivered or forwarded to the respective registered voters. Pursuant to section 9 of P.L.2009, c.79 (C.19:63-9), whenever the clerk mails or hand-delivers a mail-in ballot, the county clerk shall input the information as such in the free-access system, including the date of mailing or delivery. For each mail-in ballot that has been voted, received and counted, the board of elections shall also, by reference to the certificates removed from the inner envelopes of such ballots, place the word "Voted" in the space provided in the Statewide voter registration system and duplicate voting record for recording the ballot number of the voter's ballot in the election. For each mail-in ballot that has been voted, received and rejected pursuant to section 17 of P.L.2009, c.79 (C.19:63-17), the board of elections shall mark as “Rejected” in the Statewide voter registration system, the free-access system, and all duplicate voting records. For each of the rejected mail-in ballots where the voter provided a cure and therefore were accepted, the board of elections shall provide an additional input as “Accepted” in the same systems. In the case of the primary election for the general election, the board shall also cause to be noted in the proper space of the Statewide voter registration system or other record of voting form the first three letters of the name of the political party primary in which such ballot was voted. The record contained in the Statewide voter registration system and of voting forms in the
original permanent registration binders shall be conformed to the
foregoing entries in the duplicate forms.
(cf: P.L.2011, c.134, s.57)

5. Section 24 of P.L.2009, c.79 (C.19:63-24) is amended to read
as follows:
24. The county board of elections shall keep, for two years, all of
the requests and applications for mail-in ballots, all voted mail-in
ballots, and all of the certificates that have been detached or separated
by them from the inner envelopes. The county board of elections shall
also keep, for two years, all of the rejected mail-in ballots,
accompanying outer and inner envelopes, and the self-certification
certificates that have been detached or separated by them from the
inner envelopes. These contents shall be kept in bundles unique and
belonging to individual voters, and shall be made available for
inspection by the voter for challenges. All inner envelopes together
with their certificates, and the contents of those envelopes not opened
by order of the county board or Superior Court, shall also be retained
for the same period by the board. The superintendent of elections in
counties having a superintendent of elections and the prosecutor in
all other counties shall have the authority to impound all mail-in
ballots whenever the superintendent or prosecutor, as may be
appropriate, shall deem such action to be necessary.
(cf: P.L.2009, c.79, s.24)

6. This act shall take effect immediately.

STATEMENT

With the continued healthcare crisis of coronavirus and the as-yet
to be discovered vaccine or cure, millions of active registered voters
in New Jersey will be mailed a mail-in ballot for the rescheduled July
7, 2020 primary election, pursuant to the Governor’s Executive Order
No. 144 (2020). Millions of voters will be voting by mail for the first
time and simple mistakes will happen, but that should not nullify
their votes. In the 2019 general election, over 2100 voters simply did
not sign their Certificate of Mail-in Voter, thereby resulting in their
votes not counting. Over 1500 voters were denied their votes due to
signature mismatch. Even when voters who have familiarity with
voting by mail, such as voters living in primarily vote by mail states
such as Washington and Colorado, mistakes still happen. But the
voters in those states have the ability to provide a cure for their
ballots. This bill mirrors legislation in those states giving voters the
ability to provide a cure for their ballot. The purpose of this bill is to
make voting more accessible, minimize the likelihood of
disenfranchisement, and protect a constitutional right from
abridgement for what may be a purely administrative oversight. This
bill also aims to update current law to make use of existing technology for allowing voters to check on the status of their ballot. Under the ballot curing provisions, the bill provides that mail-in ballots would not be rejected due to any defect arising out of or relating to the preparation or mailing of the ballot or envelope that was not reasonably caused by the voters, such as a torn envelope and missing or insufficient glue to allow the ballot to be sealed. The bill also requires the county board of elections to, promptly after receiving each mail-in ballot, undertake the following procedures and requirements concerning the acceptance or rejection of each mail-in ballot:

(1) record in the Statewide voter registration system and the free-access system the acceptance or rejection of the voter’s ballot. Where the voter’s ballot is rejected, a code would be input and displayed showing the reason;

(2) in rejecting a voter’s ballot, notify the voter within 72 hours of the receipt of the ballot or, if the voter voted by provisional ballot, within 48 hours of the closing of the polls, by email, mail, or phone with the reason for rejection. The voter would have up to 5 days after the close of the polls on Election Day to provide a cure for their ballot. The county board of elections would provide an explanation giving the options for the voter to provide the cure to their rejected ballot. To the extent the county board of elections cannot provide such explanation and give the voter sufficient and reasonable time to provide a cure for their ballot within the deadlines for the counting of ballots as established by law, the county board of elections would seek an order from a Judge of the Superior Court to reasonably extend the deadlines consistent with this State’s liberal interpretation of election law statutes so as to prevent voter disenfranchisement;

(3) in cases of rejected ballots, retain the voter’s outer envelope, inner envelope, self-certification certificate, and mail-in ballot in a bundle unique to each voter for a period of two years; and

(4) where the rejection is due to signature mismatch, missing signature, or otherwise related to the questionable or inability to verify the voter’s ballot by way of signature, the county board of elections shall allow and accept other methods from the voter to confirm their vote. These methods may include the voter providing a new signature, signing an affidavit attesting that they were the voter who sent in the mail-in ballot, and providing any form of identification that would satisfy the requirement of voter verification.

The bill directs the Secretary of State to prepare educational materials regarding the ballot curing provision that all county boards of elections persons handling ballots would be required to read or view prior to the election. The materials would provide clear information regarding the standards for acceptance and rejection of mail-in ballots and the safe holding of all materials in the case of rejection.
In addition, the bill expands the function of the free-access system that allows voters to check on the status of their ballot, to include information not only about provisional ballots, but also for all other mail-in ballots. Under the bill, a link to the free-access system would be prominently displayed on the New Jersey Division of Elections website under a “Track My Ballot” user portal. The free-access system would record the date that the mail-in ballot was mailed; the date that the overseas ballot was mailed or transmitted via electronic mail; the date the ballot was received; the notation that the ballot was “Accepted” or “Rejected;” the code for rejection; the date and method that the board of elections notified the voter (mail, email, or phone) and, in cases where the ballot was initially “Rejected” and the voter provided a cure, the date when the ballot was “Accepted.” The free-access system would also provide a legend containing all the codes used for rejection and their explanation for rejection. The system would provide voters with the methods to cure the ballot, and the deadline of 5 days after the closing of the polls on Election Day to provide the cure. Finally, the free-access system would provide a publicly viewable macro-report of the total number of rejected ballots by county and by code along with the totals for votes cast by mail-in ballot, overseas ballots, and total ballots cast. This report would be kept and made available on the Secretary of State’s website for a period of 10 years.

The bill also expands the contents of the voter information notice, also known as a voter’s bill of rights, to include mail-in voting and ballot curing opportunities and procedures.