

# ASSEMBLY, No. 4276

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 15, 2020

**Sponsored by:**

**Assemblyman ANDREW ZWICKER**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Co-Sponsored by:**

**Assemblywoman Reynolds-Jackson**

**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)**

1 AN ACT concerning a voter's opportunity to cure their voted mail-in  
2 ballot and amending various parts of the statutory law.

3

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

6

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

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

13 The notice shall contain:

14 the date of the election and the hours during which polling places  
15 will be open;

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

18 instruction for the use of the voting machine in that polling place  
19 and an explanation of what instructions for voting are available at the  
20 polling place for the voter;

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

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

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

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

29 an explanation of the right of the voter to a provisional ballot,  
30 including in the event that a mail-in ballot has been applied for and  
31 not received or not transmitted to the county board of elections before  
32 the day of any election, and the other circumstances under which a  
33 voter has a right to a provisional ballot;

34 an explanation of the right of the voter to receive a replacement  
35 ballot for a ballot that has been spoiled, destroyed, lost or never  
36 received;

37 an explanation of the right of the voter to ask for and receive  
38 assistance in voting;

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

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

43 instruction on how to contact the appropriate officials if a voter's  
44 right to vote or right to otherwise participate in the electoral process  
45 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.

1 general information on federal and State laws that prohibit acts of  
2 fraud or misrepresentation and the penalties for those acts; **[and]**  
3 an explanation of the right of the voter to confidentially discover  
4 the status of their ballot using the “Track My Ballot” user portal;  
5 an explanation that “All ballots are counted and your vote remains  
6 anonymous;”  
7 an explanation of the right of the voter that if their ballot was  
8 rejected, they will be notified within 72 hours of the receipt of the  
9 ballot or, if the voter voted using a provisional ballot, within 48 hours  
10 of the closing of the polls by email, mail, or phone with the reason  
11 for rejection. The voter will have up to 5 days after the close of the  
12 polls on Election Day to provide a cure for their ballot;  
13 an explanation giving the options for the voter to provide the cure  
14 to their rejected ballot;  
15 an explanation that no voters shall be intimidated or otherwise  
16 unduly influenced by political insignia while voting. No person shall  
17 wear, display, sell, give or provide any political or campaign slogan,  
18 badge, button or other insignia associated with any political party or  
19 candidate to be worn at or within one hundred feet of the polls or  
20 within the polling place or room, on any primary, general or special  
21 election day or on any commission government election day, except  
22 the badge furnished by the county board as provided by law. This  
23 includes any political gear representing the campaign slogans, logos,  
24 or depictions or representations of any political party or candidate  
25 such as merchandise sold directly from a political party, campaign,  
26 candidate, or by third parties and vendors representing any political  
27 party or campaign or candidate. A person violating any of these  
28 provisions is guilty of a disorderly persons offense and will not be  
29 permitted on the premises and can only return to vote after the  
30 removal of prohibited political insignia; and  
31 such other statement, instruction or explanation the Secretary of  
32 State may deem appropriate to ensure the full and knowledgeable  
33 participation of the voter in the process.

34 The requirement to post this notice in each polling place shall not  
35 replace, supersede or void any other requirement set forth in law for  
36 the posting of information in each polling place apart from the voter  
37 information notice.

38 b. The Secretary of State shall prescribe the form and specific  
39 content of the voter information notice, which may be comprised of  
40 more than one page. If the notice is comprised of more than one  
41 page, each page shall be posted separately. For an election district in  
42 which the primary language of 10 percent or more of the registered  
43 voters is a language other than English, the Secretary of State shall  
44 prescribe an official version of the voter information notice in that  
45 other language or languages for use in that election district. The  
46 notice shall be posted in English and in the other language or  
47 languages in the polling places in each such district. The alternate

1 language shall be determined based on information from the latest  
2 federal decennial census.

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

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

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

18 f. **【The provisions of this section shall not give rise to a legal**  
19 **cause of action.】** Deleted by amendment, P.L. , c. (pending before  
20 the Legislature as this bill)

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

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

26

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

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

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

43 c. To applicable situations, the free-access system shall record  
44 the date that the mail-in ballot was mailed; the date that the overseas  
45 ballot was mailed or transmitted via electronic mail; the date the  
46 ballot was received; the notation that the ballot was “Accepted” or  
47 “Rejected;” the code for rejection; the date and method that the board  
48 of elections notified the voter (mail, email, or phone) and, in cases

1 where the ballot was initially “Rejected” and the voter provided a  
2 cure as provided under section 17 of P.L.2009, c.79 (C.19:63-17), the  
3 date when the ballot was “Accepted.” If no cure was provided  
4 successfully or at all, no other input shall be required.

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

10 e. The free-access system shall provide a publicly viewable  
11 macro-report of the total number of rejected ballots by county and by  
12 code along with the totals for votes cast by mail-in ballot, overseas  
13 ballots, and total ballots cast. This report shall be kept and made  
14 available on the Secretary of State’s website for a period of 10 years.  
15 (cf: P.L.2004, c.88, s.4)

16  
17 3. Section 17 of P.L.2009, c.79, s.17 (C.19:63-17) is amended to  
18 read as follows:

19 17. a. The county board of elections shall, promptly after  
20 receiving each mail-in ballot, remove the inner envelope containing  
21 the ballot from the outer envelope and shall compare the signature  
22 and the information contained on the flap of the inner envelope with  
23 the digitized signature image and information contained in the  
24 【respective requests for mail-in ballots】 Statewide voter registration  
25 system. In addition, as to mail-in ballots issued less than seven days  
26 prior to an election, the county board of elections shall also check to  
27 establish that the mail-in voter did not vote in person. The county  
28 board shall reject such a ballot if it is not satisfied, pursuant to a  
29 comparison with the Statewide voter registration system, that the  
30 voter is legally entitled to vote and that the ballot conforms with the  
31 requirements of this act. The county board of elections shall conduct  
32 the determination of qualification of each voter in accordance with  
33 the requirements of the Certificate of Mail-in Voter pursuant to  
34 section 13 of P.L.2009, c.79 (C.19:63-13).

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

43 Any mail-in ballot which is received by a county board of  
44 elections shall be rejected if both the inner and outer envelopes are  
45 unsealed or if either envelope has a seal that has been tampered with.  
46 Mail-in ballots shall not be rejected due to any defect arising out of  
47 or relating to the preparation or mailing of the ballot or envelope that

1 was not reasonably caused by the voters, such as a torn envelope and  
2 missing or insufficient glue to allow the ballot to be sealed.

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

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

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

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

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

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

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

46 (4) where the rejection is due to signature mismatch, missing  
47 signature, or otherwise related to the questionable or inability to  
48 verify the voter's ballot by way of signature, the county board of

1 elections shall allow and accept other methods from the voter to  
2 confirm their vote. These methods may include the voter providing  
3 a new signature, signing an affidavit attesting that they were the voter  
4 who sent in the mail-in ballot, and providing any form of  
5 identification that would satisfy the requirement of voter verification.  
6 Identification shall include a valid New Jersey driver's license  
7 number, a valid New Jersey non driver identification card number, or  
8 another form of identification issued or recognized as official by the  
9 federal government, the State, or any of its subdivisions, providing  
10 the identification carries the full address and signature of the person.

11 c. The Secretary of State shall prepare educational materials  
12 regarding the provisions of this section that all county boards of  
13 elections persons handling ballots shall be required to read or view  
14 prior to the election. The materials shall provide clear information  
15 regarding the standards for acceptance and rejection of mail-in  
16 ballots and the safe holding of all materials in the case of rejection.

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

18

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

21 23. **【As soon as practicable after each election】** On an ongoing  
22 basis as each action is completed, the county clerk and the board of  
23 elections shall mark in the Statewide voter registration system and all  
24 duplicate voting records to show that mail-in ballots were delivered  
25 or forwarded to the respective registered voters. Pursuant to section  
26 9 of P.L.2009, c.79 (C.19:63-9), whenever the clerk mails or hand-  
27 delivers a mail-in ballot, the county clerk shall input the information  
28 as such in the free-access system, including the date of mailing or  
29 delivery. For each mail-in ballot that has been voted, received and  
30 counted, the board of elections shall also, by reference to the  
31 certificates removed from the inner envelopes of such ballots, place  
32 the word "Voted" in the space provided in the Statewide voter  
33 registration system and duplicate voting record for recording the  
34 ballot number of the voter's ballot in the election. For each mail-in  
35 ballot that has been voted, received and rejected pursuant to section  
36 17 of P.L.2009, c.79 (C.19:63-17), the board of elections shall mark  
37 as "Rejected" in the Statewide voter registration system, the free-  
38 access system, and all duplicate voting records. For each of the  
39 rejected mail-in ballots where the voter provided a cure and therefore  
40 were accepted, the board of elections shall provide an additional  
41 input as "Accepted" in the same systems. In the case of the primary  
42 election for the general election, the board shall also cause to be noted  
43 in the proper space of the Statewide voter registration system or other  
44 record of voting form the first three letters of the name of the political  
45 party primary in which such ballot was voted. The record contained  
46 in the Statewide voter registration system and of voting forms in the

1 original permanent registration binders shall be conformed to the  
2 foregoing entries in the duplicate forms.

3 (cf: P.L.2011, c.134, s.57)

4

5 5. Section 24 of P.L.2009, c.79 (C.19:63-24) is amended to read  
6 as follows:

7 24. The county board of elections shall keep, for two years, all of  
8 the requests and applications for mail-in ballots, all voted mail-in  
9 ballots, and all of the certificates that have been detached or separated  
10 by them from the inner envelopes. The county board of elections shall  
11 also keep, for two years, all of the rejected mail-in ballots,  
12 accompanying outer and inner envelopes, and the self-certification  
13 certificates that have been detached or separated by them from the  
14 inner envelopes. These contents shall be kept in bundles unique and  
15 belonging to individual voters, and shall be made available for  
16 inspection by the voter for challenges. All inner envelopes together  
17 with their certificates, and the contents of those envelopes not opened  
18 by order of the county board or Superior Court, shall also be retained  
19 for the same period by the board. The superintendent of elections in  
20 counties having a superintendent of elections and the prosecutor in  
21 all other counties shall have the authority to impound all mail-in  
22 ballots whenever the superintendent or prosecutor, as may be  
23 appropriate, shall deem such action to be necessary.

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

25

26 6. This act shall take effect immediately.

27

28

29

#### STATEMENT

30

31 With the continued healthcare crisis of coronavirus and the as-yet  
32 to be discovered vaccine or cure, millions of active registered voters  
33 in New Jersey will be mailed a mail-in ballot for the rescheduled July  
34 7, 2020 primary election, pursuant to the Governor's Executive Order  
35 No. 144 (2020). Millions of voters will be voting by mail for the first  
36 time and simple mistakes will happen, but that should not nullify  
37 their votes. In the 2019 general election, over 2100 voters simply did  
38 not sign their Certificate of Mail-in Voter, thereby resulting in their  
39 votes not counting. Over 1500 voters were denied their votes due to  
40 signature mismatch. Even when voters who have familiarity with  
41 voting by mail, such as voters living in primarily vote by mail states  
42 such as Washington and Colorado, mistakes still happen. But the  
43 voters in those states have the ability to provide a cure for their  
44 ballots. This bill mirrors legislation in those states giving voters the  
45 ability to provide a cure for their ballot. The purpose of this bill is to  
46 make voting more accessible, minimize the likelihood of  
47 disenfranchisement, and protect a constitutional right from  
48 abridgement for what may be a purely administrative oversight. This



1 bill also aims to update current law to make use of existing  
2 technology for allowing voters to check on the status of their ballot.

3 Under the ballot curing provisions, the bill provides that mail-in  
4 ballots would not be rejected due to any defect arising out of or  
5 relating to the preparation or mailing of the ballot or envelope that  
6 was not reasonably caused by the voters, such as a torn envelope and  
7 missing or insufficient glue to allow the ballot to be sealed. The bill  
8 also requires the county board of elections to, promptly after  
9 receiving each mail-in ballot, undertake the following procedures and  
10 requirements concerning the acceptance or rejection of each mail-in  
11 ballot:

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

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

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

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

41 The bill directs the Secretary of State to prepare educational  
42 materials regarding the ballot curing provision that all county boards  
43 of elections persons handling ballots would be required to read or  
44 view prior to the election. The materials would provide clear  
45 information regarding the standards for acceptance and rejection of  
46 mail-in ballots and the safe holding of all materials in the case of  
47 rejection.

1       In addition, the bill expands the function of the free-access system  
2 that allows voters to check on the status of their ballot, to include  
3 information not only about provisional ballots, but also for all other  
4 mail-in ballots. Under the bill, a link to the free-access system would  
5 be prominently displayed on the New Jersey Division of Elections  
6 website under a “Track My Ballot” user portal. The free-access  
7 system would record the date that the mail-in ballot was mailed; the  
8 date that the overseas ballot was mailed or transmitted via electronic  
9 mail; the date the ballot was received; the notation that the ballot was  
10 “Accepted” or “Rejected;” the code for rejection; the date and  
11 method that the board of elections notified the voter (mail, email, or  
12 phone) and, in cases where the ballot was initially “Rejected” and the  
13 voter provided a cure, the date when the ballot was “Accepted.” The  
14 free-access system would also provide a legend containing all the  
15 codes used for rejection and their explanation for rejection. The  
16 system would provide voters with the methods to cure the ballot, and  
17 the deadline of 5 days after the closing of the polls on Election Day  
18 to provide the cure. Finally, the free-access system would provide a  
19 publicly viewable macro-report of the total number of rejected ballots  
20 by county and by code along with the totals for votes cast by mail-in  
21 ballot, overseas ballots, and total ballots cast. This report would be  
22 kept and made available on the Secretary of State’s website for a  
23 period of 10 years.

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