[First Reprint]

ASSEMBLY, No. 4320

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 22, 2020

Sponsored by:
Assemblyman ANDREW ZWICKER
District 16 (Hunterdon, Mercer, Middlesex and Somerset)
Assemblyman DANIEL R. BENSON
District 14 (Mercer and Middlesex)
Assemblyman ROY FREIMAN
District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Co-Sponsored by:
Assemblyman Karabinchak and Assemblywoman Vainieri Huttle

SYNOPSIS

Requires certain information to increase public awareness and use of voting by mail; prohibits rejection of mail-in ballots for certain defects; requires certain mail-in ballots to be retained.

CURRENT VERSION OF TEXT

As reported by the Assembly State and Local Government Committee on August 13, 2020, with amendments.

(Sponsorship Updated As Of: 8/24/2020)

AN ACT concerning voting by mail and amending various parts of the statutory law.

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

1. R.S.19:8-6 is amended to read as follows:

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

The Secretary of State shall prepare a voting by mail informational poster for use at all polling places in the State that illustrates and promotes the use of voting by mail, including the description of the vote-by-mail process, and shall distribute the required number of copies, or replacement copies as needed, to the county boards.

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

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

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

2. 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.

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.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Assembly ASL committee amendments adopted August 13, 2020.

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;

general information on federal and State laws that prohibit acts of fraud or misrepresentation and the penalties for those acts; 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. <u>The poster promoting the use of voting by mail prepared and distributed by the Secretary of State pursuant to R.S.19:8-6 shall be displayed next to or as close as may be possible to the voter information notice.</u>

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.

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)

3. 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. <u>The directions prepared by the Secretary of State shall inform the voter that the status of the voter's mail-in ballot may be checked using the free-access system provided in section 5 of P.L.2004, c.88 (C.19:61-5).</u>

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)

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

17. 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 signature and information contained in the respective requests for mail-in ballots. 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.

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 missing or insufficient glue for either envelope. [1]Mail-in ballots shall not be rejected where noncompliance is attributable to physical defects outside the control of the voter in the inner envelop, outer envelope, certificate, or ballot.[1]

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.

The Secretary of State shall prepare educational materials regarding this section that all employed county boards of elections employees handling ballots shall read and have available for review. The materials shall provide clear information regarding the standards for acceptance and rejection of mail-in ballots and the safe-keeping of all materials in the case of rejection. The materials shall serve an educational purpose for the county board of elections and shall not replace, supersede, or void the authority of the county board or a judge of the Superior Court to accept or reject a mail-in ballot.

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

[1][5. Section 22 of P.L.2009, c.22 (C.19:63-22) is amended to read as follows:

22. On the day of each election each county board of elections shall open in the presence of the commissioner of registration, or the designee thereof, the inner envelopes that contain the mail-in ballots with the votes cast for the election. The inner envelopes containing the ballots that the board or the Superior Court has rejected shall not be so opened, but shall be retained as provided for by this act. The board shall then proceed to canvass the votes cast on the mail-in ballots, but no such ballot shall be counted in any primary election for the general election if the ballot of the political party marked for voting thereon differs from the designation of the political party in the primary election of which such ballot is intended to be voted as marked on the envelope by the county board of elections.

Every mail-in ballot that bears a postmark date before or of the day of the election and that is received by the county board within [48] 144 hours after the time of the closing of the polls for the election that the ballot was prepared shall be considered valid and shall be canvassed. Every mail-in ballot that does not bear a postmark date but that is received by the county board by delivery of the United States Postal Service within 48 hours after the time of

the closing of the polls for the election for which the ballot was prepared shall be considered valid and shall be canvassed. Mail-in ballots deemed invalid shall be retained, including the outer and inner envelopes, for a period of two years and shall be made available for inspection by the voter.

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

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

(cf: P.L.2018, c.72, s.8)**]**[1]

[1][6.**]** 5.[1] 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. 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. This section shall include mail-in ballots deemed invalid, including the outer and inner envelopes of those mail-in ballots. 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)

[1][7.**]** 6.[1] This act shall take effect immediately.