

ASSEMBLY, No. 5171

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED DECEMBER 17, 2020

Sponsored by:

Assemblywoman VERLINA REYNOLDS-JACKSON
District 15 (Hunterdon and Mercer)

SYNOPSIS

Allows mail-in voter to cure mail-in ballot due to missing or unsealed inner envelope.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning the curing of a mail-in ballot due to a missing
2 or unsealed inner envelope and amending P.L.2009, c.79.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 17 of P.L.2009, c.79 (C.19:63-17) is amended to
8 read as follows:

9 17. a. The county board of elections shall, promptly after
10 receiving each mail-in ballot, remove the inner envelope containing
11 the ballot from the outer envelope and shall compare the signature
12 and the information contained on the flap of the inner envelope with
13 the signature and information contained in the respective requests
14 for mail-in ballots and the signature and information contained in
15 the Statewide voter registration system. In addition, as to mail-in
16 ballots issued less than seven days prior to an election, the county
17 board of elections shall also check to establish that the mail-in voter
18 did not vote in person. The county board shall reject such a ballot if
19 it is not satisfied, pursuant to a comparison with the Statewide voter
20 registration system, that the voter is legally entitled to vote and that
21 the ballot conforms with the requirements of this act. The county
22 board of elections shall conduct the determination of qualification
23 of each voter in accordance with the requirements of the Certificate
24 of Mail-in Voter pursuant to section 13 of P.L.2009, c.79 (C.19:63-
25 13). When the voter failed to insert the voted mail-in ballot in the
26 inner envelope, or when the inner envelope is missing or unsealed,
27 the county board of elections shall permit the voter to cure the mail-
28 in ballot as provided under subsection b. of this section.

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

37 Any mail-in ballot which is received by a county board of
38 elections shall be rejected if the **inner** outer envelope is unsealed
39 or if either the inner or outer envelope has a seal that has been
40 tampered with. Mail-in ballots shall not be rejected due to any
41 defect arising out of or relating to the preparation or mailing of the
42 ballot or envelope that was not reasonably caused by the voters,
43 such as a torn envelope and missing or insufficient glue to allow the
44 ballot to be sealed.

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 Disputes about the qualifications of a mail-in voter to vote or
2 about whether or not or how any mail-in ballot shall be counted in
3 such election shall be referred to the Superior Court for
4 determination, as provided under section 4 of P.L.2020, c.70
5 (C.19:63-17.1).

6 After such investigation, the county board of elections shall
7 detach or separate the certificate from the inner envelope containing
8 the mail-in ballot, unless it has been rejected by it or by the
9 Superior Court, marking the envelope so as to identify the election
10 district in which the ballot contained therein is to be voted as
11 indicated by the voter's home address appearing on the certificate
12 attached to or accompanying the inner envelope and, in the case of
13 ballots to be voted at a primary election for a general election, so as
14 to identify the political party in the primary election of which it is
15 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) within 24 hours after the decision has been made to reject a
25 voter's mail-in or provisional ballot on the basis of a missing
26 signature or discrepant signature, issue a "Cure Letter" by mail or
27 email to the voter whose ballot was rejected, which shall inform the
28 voter of that fact and provide the reasoning for rejection, and
29 attempt to contact the voter by telephone, if a telephone number is
30 available. The cure letter shall include a "Cure Form" and the form
31 shall include the voter's name and instruct the voter on how to cure
32 the alleged or actual deficiency. Cure forms shall not be referred to
33 as affidavits or certifications and shall not be required to be sworn;

34 (2) when the alleged or actual deficiency involves the signature
35 of the voter, instruct the voter that they may cure the deficiency by
36 completing the cure form and returning it to the county board of
37 elections in person, by fax, or by email, not later than 48 hours
38 prior to the final certification of the results of the election, or by
39 returning it to the county board of elections by mail, and that the
40 completed cure form must be received by the county board of
41 elections not later than 48 hours prior to the final certification of the
42 results of the election;

43 (3) include, with the cure letter, when sent by mail, a pre-printed
44 cure form and a postage-paid return envelope addressed to the
45 county board of elections which the voter may use to return the cure
46 form; **【and】**

47 (4) inform voters that they shall not be required to submit any
48 form of hard-copy identification document or copy thereof in order

1 to cure a signature deficiency, but may do so by declaring that they
2 submitted their provisional ballot or mail-in ballot, and verifying
3 their identity by either: (a) providing a valid New Jersey driver's
4 license number or Motor Vehicle Commission non-driver
5 identification number; or (b) if the voter does not have a valid New
6 Jersey driver's license number or Motor Vehicle Commission non-
7 driver identification number, then by providing the last four digits
8 of their Social Security Number; or (c) if the voter does not have
9 the identification in (a) or (b), then attaching a legible copy of a
10 New Jersey State-accepted form of identification, including either a
11 sample ballot which lists the voter's name and address, an official
12 federal, State, county, or municipal document which lists the voter's
13 name and address, or a utility bill, telephone bill, or tax or rent
14 receipt which lists the voter's name and address; and (d) signing and
15 dating the cure form prior to returning it; and

16 (5) when the voter failed to insert the voted mail-in ballot in the
17 inner envelope, or when the inner envelope is missing or unsealed,
18 provide the voter, along with the Cure Letter and Cure Form, with a
19 notice informing the voter of the inner envelope defect and a
20 certificate that shall be substantially similar to the Certificate of
21 Mail-in Voter required pursuant to section 13 of P.L.2009, c.79
22 (C.19:63-13) for the voter to complete in order to certify that the
23 voter completed the mail-in ballot and thereby cure the defect in
24 accordance with the same requirements, procedures, and timeframes
25 specified in this subsection.

26 c. If a voter returns a completed cure form in a timely manner
27 and the information provided verifies the voter's identity, pursuant
28 to this section, their otherwise valid mail-in or provisional ballot
29 shall be counted in the final election results irrespective of any
30 signature deficiency previously identified and, under those
31 circumstances, the cure form may not be verified or authenticated
32 using signature matching.

33 d. In accordance with this section, variations in voter
34 signatures caused by the substitution of initials for the first name,
35 middle name, or both, shall not be grounds for the county board of
36 elections to determine that the signatures are non-conforming or do
37 not match.

38 e. In cases of rejected ballots, the county board of elections
39 shall retain the voter's outer envelope, inner envelope, self-
40 certification certificate, and mail-in ballot in a bundle unique to
41 each voter for a period of two years in accordance with section 24
42 of P.L.2009, c.79 (C.19:63-24).

43 f. County boards of elections shall be required to meet at least
44 once each week during the three-week period preceding each
45 election to conduct the ballot processing and curing provisions
46 specified in this section, and shall meet more frequently as may be
47 required by the Secretary of State to ensure the timely processing of
48 ballots.

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

11 (cf: P.L.2020, c.71, s.12)

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13 2. This act shall take effect immediately.

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STATEMENT

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18 This bill allows a mail-in voter to cure their mail-in ballot when
19 the voter failed to insert the voted mail-in ballot in the inner
20 envelope or due to a missing or unsealed inner envelope.

21 Under current law, each mail-in voter is required to complete
22 their mail-in ballot and insert it in the inner envelope, which
23 includes the Certificate of Mail-in Voter that is attached to the flap
24 of the inner envelope. The voter must seal the inner envelope, sign
25 the certificate, and then place the inner envelope containing the
26 mail-in ballot inside the outer envelope for mailing to the county
27 board of elections. Under current law, ballots are disqualified if
28 they arrive at the county board of elections without being enclosed
29 inside the inner envelope, also known as “naked ballots,” or when
30 the inner envelope is unsealed.

31 Under this bill, the voter would be given the opportunity to cure
32 the mail-in ballot when the voter failed to insert the voted mail-in
33 ballot in the inner envelope, or when the inner envelope is missing
34 or unsealed. The bill directs the county board of elections to provide
35 the voter, along with the Cure Letter and Cure Form, with a notice
36 informing the voter of the inner envelope defect and a certificate
37 substantially similar to the Certificate of Mail-in Voter for the voter
38 to complete in order to certify that the voter completed the mail-in
39 ballot. The opportunity to cure the defect would be in accordance
40 with the same requirements, procedures, and timeframes specified
41 under current law for curing mail-in ballot signature defects.