[First Reprint]

SENATE, No. 2496

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 28, 2020

Sponsored by:
Senator PAUL A. SARLO
District 36 (Bergen and Passaic)

Co-Sponsored by:
Senator Pou

SYNOPSIS

Allows municipal clerks to receive hand delivered voted mail-in ballots and applications; extends ballot receipt and election certification deadlines; increases certain messenger and bearer ballot limits.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 11, 2020, with amendments.

(Sponsorship Updated As Of: 6/11/2020)

AN ACT concerning the applications for mail-in ballots and delivery of voted mail-in ballots in an election and amending [1]**[**P.L.2009, c.79**]** and supplementing various parts of the statutory law[1].

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

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

5. a. In the case of any election, the application for a mail-in ballot shall be made to the county clerk. The county clerk shall stamp thereon the date on which the application was received in the clerk's office.

b. Notwithstanding the provision of subsection a. of this section, applications for mail-in ballot may be hand delivered to the office of the municipal clerk of the municipality in which the voter resides not less than 10 days before an election in which a voter wants to vote by mail. The municipal clerk shall ensure that all applications received are date and time stamped, securely stored and hand delivered to the county clerk pursuant to a schedule established by the county clerk.

c. In the case of applications for overseas federal election voter ballots, as provided for in P.L.1976, c.23 (C.19:59-1 et seq.), no application shall be refused on the grounds that it was submitted too early.

d. In the case of voter registration forms that include a selected vote by mail option, a copy of each such form shall be transmitted to and received by the appropriate county clerk, who shall be responsible for providing mail-in ballots to each qualified voter requesting such ballots for future elections, until the voter requests otherwise in writing.

(cf: P.L.2018, c.72, s.5)

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

16. a. A mail-in voter shall be entitled to mark any mail-in ballot forwarded to the voter for voting at any election by indicating the voter's choice of candidates for the offices named, and as to public questions, if any, stated thereon, in accordance with current law. In the case of ballots to be voted for any primary election for the general election, as the case may be, the voter's choice shall be limited to the candidates of the voter's political party or to any person or persons whose names are written thereon by the voter. When so marked, such ballot shall be placed in the inner envelope, which shall then be sealed, and the voter shall then fill in the form

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]Senate SBA committee amendments adopted June 11, 2020.

of certificate attached to the inner envelope, at the end of which the voter shall sign and print the voter's name. The inner envelope with the certificate shall then be placed in the outer envelope, which shall then be sealed.

b. No mail-in voter shall permit any person in any way, except as provided by this act, to unseal, mark or inspect the voter's ballot, interfere with the secrecy of the voter's vote, complete or sign the certificate, or seal the inner or outer envelope, nor shall any person do so.

c. A mail-in voter shall be entitled to assistance from a family member in performing any of the actions provided for in this section. The family member or other person providing such assistance shall certify that he or she assisted the voter and will maintain the secrecy of the vote by both printing and signing his or her name in the space provided on the certificate. In no event may a candidate for election provide such assistance, nor may any person, at the time of providing such assistance, campaign or electioneer on behalf of any candidate.

d. (1) The sealed outer envelope with the inner envelope and the ballot enclosed therein shall then either be mailed to the county board of elections to which it is addressed or delivered personally by the voter or a bearer designated by the voter to the board <u>or to the office of the municipal clerk of the municipality in which the voter resides</u>. To be counted, the ballot must be received by the board or its designee <u>or the office of the municipal clerk</u> before the time designated by R.S.19:15-2 or R.S.19:23-40 for the closing of the polls, as may be appropriate, on the day of an election.

(2) Whenever a person delivers a ballot to the county board <u>or the office of the municipal clerk</u>, that person shall provide proof of the person's identity in the form of a New Jersey driver's license, 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. The person shall sign a record maintained by the county of all mail-in ballots personally delivered to it.

(3) No person shall serve as an authorized messenger or as a bearer for more than three qualified voters in an election [1]<u>, but a person may serve as such for more than three qualified voters in an election if those voters permanently reside in the same household as the messenger or bearer</u>[1]. No person who is a candidate in the election for which the voter requests a mail-in ballot shall be permitted to serve as an authorized messenger or bearer [1]<u>, but such a candidate may serve as an authorized messenger or bearer for any immediate family members residing in the same household as the candidate</u>[1]. The bearer, by signing the certification provided for in section 12 of P.L.2009, c.79 (C.19:63-12), certifies that he or she received a mail-in ballot directly from the voter, and no other person, and is authorized to deliver the ballot to the appropriate

board of election or designee or the office of the municipal clerk on behalf of the voter.

(4) Whenever a person delivers a voted ballot to the office of the municipal clerk, which shall consist of the sealed outer envelope with the inner envelope and the ballot enclosed therein, the person shall sign a record required by the county board of all mail-in ballots received by the office of the municipal clerk. In addition to the person's signature, the record shall contain the following information:

the name and address of the voter;

the name and address of the person delivering the ballot;

the driver's license number or type of and number of the alternative form of identification provided of the person delivering the ballot;

the date and time that the ballot was delivered; and

the signature of the municipal clerk or designee who accepted the ballot and reviewed the identification of the person delivering the ballot.

(5) The municipal clerk shall ensure that all ballots received are date and time stamped, securely stored and hand delivered, along with the record of mail-in ballots received, to the county board pursuant to a schedule established by the county board. Upon receipt of the ballots and record of mail-in ballots received, the county board shall mark as received and date and time stamp the record and furnish [1]a[1] copy of the record to the municipal clerk or designee to be filed in the office of the municipal clerk. The record shall also be maintained on file by the county board. The period of retention for the record for both the county board and the municipal clerk shall be two years following the date of the election to which the record pertains.

(cf: P.L.2015, c.84, s.5)

3. Section 22 of P.L.2009, c.79 (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 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.

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]4. (New section) Notwithstanding the provisions of any law, rule, or regulation to the contrary, a municipal clerk shall be represented by the Attorney General in any civil action brought by any party arising from the clerk's actions to effectuate the purposes of "The Vote By Mail Law," P.L.2009, c.79 (C.19:63-1 et seq.). The State shall pay all costs for such litigation as may be incurred by the municipal clerk or municipality, including any cost resulting from a court decision or settlement of litigation.[1]

[1]5. Section 4 of P.L.2009, c.79 (C.19:63-4) is amended to read as follows:

4. a. A qualified voter is entitled to apply for and obtain a mail-in ballot by authorized messenger, who shall be so designated over the signature of the voter and whose printed name and address shall appear on the application in the space provided. The authorized messenger shall be a family member or a registered voter of the county in which the application is made and shall place his or her signature on the application in the space so provided in the presence of the county clerk or the designee thereof. No person shall serve as an authorized messenger or as a bearer for more than three qualified voters in an election, except that an authorized messenger or bearer may serve as such for more than three qualified voters in an election if those voters permanently reside in the same household as the messenger or bearer. No person who is a candidate in the election for which the voter requests a mail-in ballot shall be permitted to serve as an authorized messenger or

bearer, except that such a candidate may serve as an authorized messenger or bearer for any immediate family members residing in the same household as the candidate. The authorized messenger shall show a photo identification card to the county clerk, or the designee thereof, at the time the messenger submits the application form. The county clerk or the designee thereof shall authenticate the signature of the authorized messenger in the event such a person is other than a family member, by comparing it with the signature of the person appearing on a State of New Jersey driver's license, or other identification issued or recognized as official by the federal government, the State, or any of its political subdivisions, providing the identification carries the full address and signature of the person. After the authentication of the signature on the application, the county clerk or the designee thereof is authorized to deliver to the authorized messenger a ballot to be delivered to the qualified voter.

b. The Secretary of State shall cause to be prepared a standard authorized messenger application form, which may be included with the mail-in ballot application forms. The authorized messenger section of the application shall contain the following language above the signature of the authorized messenger: "I do hereby certify that I will deliver the mail-in ballot directly to the voter and no other person, under penalty of law."[1]

(cf: P.L.2015, c.84, s.1)

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

8. Upon receipt of a request for a mail-in ballot, the county clerk shall, with the cooperation of the commissioner of registration, cause the signature of the applicant to be compared with the signature of the person appearing on the permanent registration form, or the digitalized image of the voter's signature stored in the Statewide voter registration system, to determine from such examination, and any other available information, if the applicant is a voter qualified to cast a ballot in the election in which the voter wants to vote, and determine in case of a primary election the political party primary in which the voter is entitled to vote. The commissioner of registration, or the superintendent of elections in counties having a superintendent of elections may, at the request of the county clerk, investigate any application or request for a mail-in ballot.

If, after such examination, the county clerk is satisfied that the applicant is entitled to a ballot, the clerk shall mark on the application "Approved." If, after such examination the county clerk determines that the applicant is not entitled to a ballot, the clerk shall mark on the application "Disapproved" and shall so notify the applicant, stating the reason therefor, as required by section 5 of P.L.2004, c.88 (C.19:61-5). Notification to the applicant shall be

made in writing within 24 hours of the determination of disapproval and shall state the specific reason, or reasons, for the disapproval and inform the applicant of the opportunity to challenge the disapproval by contacting the county clerk's office. The county clerk shall provide every disapproved applicant with the opportunity to (1) submit evidence either in person or via fax, postal mail or electronic mail, (2) submit a voter registration application to update signature or change name, address, or party affiliation, (3) submit a new application to vote by mail, or (4) in the case of an application disapproved for a reason related to signature verification, sign an affidavit in the presence of the county clerk, or designee, after presenting current and valid photo identification.[1]

(cf: P.L.2009, c.79, s.8)

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

6. a. The county clerk, in the case of any Statewide election, countywide election, or school election in a regional or other school district comprising more than one municipality; the municipal clerk, in the case of any municipal election or school election in a school district comprising a single municipality; and the commissioners or other governing or administrative body of the district, in the case of any election to be held in any fire district or other special district, other than a municipality, created for specified public purposes within one or more municipalities, shall publish the following notice in substantially the following form:

NOTICE TO PERSONS WANTING MAIL-IN BALLOTS

If you are a qualified and registered voter of the State who wants to vote by mail in the..... (school, municipal, primary, general, or other) election to be held on..... (date of election), the following applies:

You must complete the application form below and send it to the county clerk where you reside or write or apply in person to the county clerk where you reside to request a mail-in ballot.

The name, address, and signature of any person who has assisted you to complete the mail-in ballot application must be provided on the application, and you must sign and date the application.

No person may serve as an authorized messenger or bearer for more than three qualified voters in an election, but a person may serve as such for more than three qualified voters in an election if those voters permanently reside in the same household as the messenger or bearer.

No person who is a candidate in the election for which the voter requests a mail-in ballot may provide any assistance in the completion of the ballot or serve as an authorized messenger or bearer. A candidate may serve as an authorized messenger or bearer for any immediate family members residing in the same household as the candidate.

A person who applies for a mail-in ballot must submit his or her application at least seven days before the election, but such person may request an application in person from the county clerk up to 3 p.m. of the day before the election.

Voters who want to vote by mail in all future elections will, after their initial request and without further action on their part, be provided with a mail-in ballot until the voter requests otherwise in writing.

Application forms may be obtained by applying to the undersigned either in writing or by telephone, or the application form provided below may be completed and forwarded to the undersigned.

Dated.....

.....

(signature and title of county clerk)

.....

(address of county clerk)

.....

(telephone no. of county clerk)

b. (1) The Secretary of State shall be responsible for providing all information regarding overseas ballots to each overseas voter eligible for such a ballot pursuant to P.L.1976, c.23 (C.19:59-1 et seq.). The secretary shall also make available valid overseas voter registration and ballot applications to any voter who is a member of the armed forces of the United States and who is a permanent resident of this State, or who is an overseas voter who wishes to register to vote or to vote in any jurisdiction in this State. The secretary shall provide such public notice as may be deemed necessary to inform members of the armed forces of the United States and overseas voters how to obtain valid overseas voter registration and ballot applications.

(2) The Secretary of State shall undertake a program to inform voters in this State about their eligibility to vote by mail pursuant to this act. Dissemination of this information shall be included in the standard notices required by this section and other provisions of current law, including but not limited to the notice requirements of R.S.19:12-7, and shall be effectuated by such means as the secretary deems appropriate and to the extent that funds for such dissemination are appropriated including, but not limited to, by means of Statewide or local electronic media, public service announcements broadcast by such media, notices on the Internet site of the Department of State or any other department or agency of the Executive Branch of State government or its political subdivisions deemed appropriate by the secretary, and special mailings or notices in newspapers or other publications circulating in the counties or municipalities of this State.

c. The mail-in ballot materials shall contain a notice that any person voting by mail-in ballot who has registered by mail after

January 1, 2003, who did not provide personal identification information when registering and is voting for the first time in his or her current county of residence following registration shall include copies of the required identification information with the mail-in ballot, and that failure to include such information shall result in the rejection of the ballot.

d. The notice provided for in subsection a. of this section shall be published before the 55th day immediately preceding the holding of any election.

Notices relating to any Statewide or countywide election shall be published in at least two newspapers published in each county. All officials charged with the duty of publishing such notices shall publish the same in at least one newspaper published in each municipality or district in which the election is to be held, or if no newspaper is published in the municipality or district, then in a newspaper published in the county and circulating in the municipality or district. All such notices shall be display advertisements.[1]

(cf: P.L.2018, c.72, s.2)

[1]8. Section 9 of P.L.2009, c.79 (19:63-9) is amended to read as follows:

9. a. Starting on or before the 45th day before the day an election is held, each county clerk shall forward mail-in ballots by first-class postage or hand delivery to each mail-in voter whose request therefor has been approved. Mail-in ballots that have been approved before the 45th day before an election shall be forwarded or delivered at least 45 days before the day of the election. Hand delivery of a mail-in ballot shall be made by the county clerk or the clerk's designee only to the voter, or the voter's authorized messenger, who must appear in person. No person shall serve as an authorized messenger for more than three qualified voters in an election<u>, but a person may serve as such for more than three qualified voters in an election if those voters permanently reside in the same household as the messenger</u>. Ballots that have not been hand delivered shall be addressed to the voter at the forwarding address given in the application.

b. (1) Whenever the clerk forwards a mail-in ballot by mail to a mail-in voter between the 45th day and the 13th day before the day of an election, the ballot shall be transmitted within three business days of the receipt of the application.

(2) Whenever the clerk forwards a mail-in ballot by mail to a mail-in voter between the 12th day and the seventh day before the day of an election, the ballot shall be transmitted within two business days of the receipt of the application.

The provisions of this subsection shall not apply to: (a) annual school elections and special school elections in those school districts holding such elections, pursuant to P.L.1995, c.278

(C.19:60-1 et seq.); (b) any municipality in which elections are conducted by mail, pursuant to P.L.2005, c.148 (C.19:62-1 et seq.); (c) annual elections for members of the boards of fire district commissions, pursuant to N.J.S.40A:14-72, when such elections are held at a time other than the time of the general election; and (d) the vote on any public question submitted to the voters of a local unit to increase the amount to be raised by taxation by more than the allowable adjusted tax levy, pursuant to section 11 of P.L.2007, c.62 (C.40A:4-45.46).

c. (Deleted by amendment, P.L.2011, c.37).[1]

(cf: P.L.2017, c.206, s.8)

[1]9. 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.

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, BUT A CANDIDATE MAY SERVE AS SUCH FOR AN IMMEDIATE FAMILY MEMBER RESIDING IN THE SAME HOUSEHOLD AS THE CANDIDATE. NO PERSON IS PERMITTED TO SERVE AS A BEARER FOR MORE THAN THREE QUALIFIED VOTERS IN AN ELECTION, BUT A PERSON MAY SERVE AS SUCH FOR MORE THAN THREE QUALIFIED VOTERS IN AN ELECTION IF THOSE VOTERS PERMANENTLY RESIDE IN THE SAME HOUSEHOLD AS THE BEARER.

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.[1]

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

[1]10. Section 6 of P.L.1945, c.59 (C.19:48-3.20) is amended to read as follows:

6. Upon receipt of such certification, [such municipal clerk] the county clerk of the municipality in which such election is to be held shall proceed to prepare and furnish to such superintendent of

elections or such county board of elections, as the case may be, at least seven days before any such election, official ballots of the type and in the number required by law for use in voting machines, and shall make such other arrangements as are necessary to hold such municipal election by the use of voting machines in all election districts of such municipality, in accordance with the provisions of law relating to elections where voting machines are used, and such election shall in all respects be so held and conducted.[1]

(cf: P.L.1945, c.59, s.6)

[1]11. R.S.19:19-1 is amended to read as follows:

19:19-1. The board of county canvassers of each county shall meet on the [Wednesday next] eighth day, after any such election, at 12 o'clock noon, at the courthouse of the county, for the purpose of checking the canvass which shall have been made by the county clerk from the statements of the district boards filed in his office as hereinbefore provided. For such purpose the county clerk shall have prepared a compilation in tabulated form of such statements and the combined results shown thereby for the use of the board of canvassers.[1]

(cf: P.L.2018, c.72, s.10)

[1]12. R.S.19:19-13 is amended to read as follows:

R.S.19:19-13. The clerk of the board shall inclose and seal up the other statement and deliver or safely transmit the same so inclosed and sealed up, to the secretary of state at Trenton, so that he shall receive the same within [three] five days next after the meeting of the board, and he shall forthwith file the same.[1]

(cf: R.S.19:19-13)

[1]13. R.S.19:23-54 is amended to read as follows:

R.S.19:23-54. The municipal clerk shall forthwith canvass the statements of the district board as far as they relate to the election of members of the county committee of any political party, and shall issue a certificate of election to each person shown by the returns filed in the office of such municipal clerk to have been so elected.

No person whose name was printed on a primary ballot as a candidate for the county committee shall receive a certificate of election as a member of any other county committee.

When a person whose name was not printed on a primary ballot as a candidate for member of the county committee has been elected as a member of the county committee of more than one political party, he shall file with the municipal clerk within three days a statement certifying to which political party he belongs, and a certificate of election shall be issued to such person as a member of the county committee of the political party so certified.

Any person elected as a member of the county committee of any political party whose name was not printed upon the primary ballot and to whom a certificate of election has been issued, shall before the organization of the county committee file with the secretary thereof a written statement certifying that he is a member of such political party.

The municipal clerk shall within ⟦eight⟧ ten days after the primary election certify to the county clerk and also to the county board two copies of the names and post-office addresses of the persons elected as members of the county committee of the several political parties, together with the ward, district or unit which they respectively represent.[1]

(cf: R.S.19:23-54)

[1]⟦4⟧ 14.[1] This act shall take effect [1]⟦immediately⟧ on August 10, 2020, but the State, a county, or a municipality may take any anticipatory action necessary to effectuate the provisions of this act[1].