

SENATE, No. 2547

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 8, 2020

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

SYNOPSIS

Permits county clerk to remove voters from vote-by-mail lists under certain circumstances; requires certain information to increase public awareness and use of voting by mail; requires certain mail-in ballots to be retained.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning voting by mail and amending various parts of the
2 statutory law and supplementing P.L.2009, c.79 (C.19:63-1 et
3 seq.).

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

7
8 1. (New section) a. The clerk of each county may remove a
9 voter from the list of registered voters receiving mail-in ballots if any
10 of the following conditions occur:

11 (1) the United States Postal Service returned mail of a ballot,
12 sample ballot, or any other official county election mail sent directly
13 to the named voter;

14 (2) the voter has not used a mail-in ballot for any election in a
15 two-year period; or

16 (3) the United States Postal Service National Change of Address
17 System indicates the voter's recipient address has changed or is
18 undeliverable.

19 b. Prior to removing a voter from the list under subsection a. of
20 this section, the county clerk shall notify each voter identified for
21 removal in writing. The notice shall indicate the reasons for the
22 removal and instruct the voter on the necessary steps to continue to
23 vote by mail. If the voter does not respond to the confirmation notice
24 within 30 days of mailing, the county clerk shall remove that voter
25 from the list of voters receiving mail-in ballots and shall send that
26 voter a notice of removal. The county clerk shall include an
27 application to re-apply to vote by mail with the notice of removal.

28

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

30 19:8-6. The county boards in counties of the first class and the
31 municipal clerks in counties other than counties of the first class shall
32 purchase or lease and furnish the proper equipment of polling places,
33 to enable the district boards to carry out the duties imposed upon
34 them by this title. The equipment shall consist of tables, chairs,
35 lights, booths and all other things necessary for the performance of
36 such duties, and shall be ready for use by the district boards in ample
37 time to enable them to perform their duties. Also to be included, for
38 conspicuous display at each polling place on the days of any election
39 during each year, shall be the voting and registration instructions
40 provided by the county board of elections, the voting by mail
41 information posters provided by the Secretary of State, and mail-in
42 ballot application forms.

43 The Secretary of State shall prepare a voting by mail informational
44 poster for use at all polling places in the State that illustrates and
45 promotes the use of voting by mail, including the description of the

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 vote-by-mail process, and shall distribute the required number of
2 copies, or replacement copies as needed, to the county boards.

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

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

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

14
15 3. Section 1 of P.L.2005, c.149 (C.19:12-7.1) is amended to read
16 as follows:

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

21 The notice shall contain:

22 the date of the election and the hours during which polling places
23 will be open;

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

26 instruction for the use of the voting machine in that polling place
27 and an explanation of what instructions for voting are available at the
28 polling place for the voter;

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

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

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

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

37 an explanation of the right of the voter to a provisional ballot,
38 including in the event that a mail-in ballot has been applied for and
39 not received or not transmitted to the county board of elections before
40 the day of any election, and the other circumstances under which a
41 voter has a right to a provisional ballot;

42 an explanation of the right of the voter to receive a replacement
43 ballot for a ballot that has been spoiled, destroyed, lost or never
44 received;

45 an explanation of the right of the voter to ask for and receive
46 assistance in voting;

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

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

3 instruction on how to contact the appropriate officials if a voter's
4 right to vote or right to otherwise participate in the electoral process
5 has been challenged or violated;

6 general information on federal and State laws that prohibit acts of
7 fraud or misrepresentation and the penalties for those acts; and

8 such other statement, instruction or explanation the Secretary of
9 State may deem appropriate to ensure the full and knowledgeable
10 participation of the voter in the process.

11 The requirement to post this notice in each polling place shall not
12 replace, supersede or void any other requirement set forth in law for
13 the posting of information in each polling place apart from the voter
14 information notice. The poster promoting the use of voting by mail
15 prepared and distributed by the Secretary of State pursuant to
16 R.S.19:8-6 shall be displayed next to or as close as may be possible
17 to the voter information notice.

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

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

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

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

45 f. The provisions of this section shall not give rise to a legal
46 cause of action.

47 g. The State shall be liable for the costs incurred by local
48 government entities for compliance with this section, and they shall

1 be reimbursed for those costs, upon application, by the State
2 Treasurer.

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

4

5 4. Section 12 of P.L.2009, c.79 (C.19:63-12) is amended to read
6 as follows:

7 12. Each county clerk shall send, with each mail-in ballot, printed
8 directions for the preparation and transmitting of the ballots as
9 required by this act. The directions shall be printed in such manner
10 and form as the Secretary of State shall require, together with two
11 envelopes of such sizes that one will contain the other. The directions
12 prepared by the Secretary of State shall inform the voter that the
13 status of the voter's mail-in ballot may be checked using the free-
14 access system provided in section 5 of P.L.2004, c.88 (C.19:61-5).

15 The outer envelope shall be addressed to the county board of
16 elections of the county in which is located the home address of the
17 person to whom the mail-in ballot is sent, as certified by the county
18 clerk. At the discretion of the county clerk, the outer envelope may
19 be a postage paid return envelope. On the outside and front of each
20 outer envelope, there shall be printed or stamped the following:

21 To protect your vote:

22 IT IS AGAINST THE LAW FOR ANYONE EXCEPT YOU THE
23 VOTER TO MAIL OR TRANSPORT THIS BALLOT UNLESS
24 THE ENVELOPE IS SEALED AND THE FOLLOWING IS
25 COMPLETED:

26 Ballot mailed or transported by

27 (signature of bearer)

28 (print name of bearer)

29 (address of bearer)

30 The reserve side of the outer envelope shall contain the following:

31 REMINDER

32 For your vote to count, you must:

33 1) Vote your ballot and place it in the inner envelope with the
34 attached certificate.

35 2) Seal the envelope.

36 3) Place the envelope into the larger envelope addressed to the
37 board of elections and seal that envelope.

38 4) If another person will be mailing your ballot or bringing it to
39 the board of elections, MAKE CERTAIN THAT PERSON
40 COMPLETES THE "BEARER PORTION" ON THE ENVELOPE
41 ADDRESSED TO THE BOARD OF ELECTIONS BEFORE THE
42 BALLOT IS TAKEN FROM YOU. NO PERSON WHO IS A
43 CANDIDATE IN THE ELECTION FOR WHICH THE VOTER
44 REQUESTS THIS BALLOT IS PERMITTED TO SERVE AS A
45 BEARER. NO PERSON IS PERMITTED TO SERVE AS A
46 BEARER FOR MORE THAN THREE QUALIFIED VOTERS IN
47 AN ELECTION.

1 The Secretary of State is authorized to make such changes to the
2 instructions for mail-in ballot materials as the Secretary of State
3 deems necessary or as is mandated by federal or State law.

4 The inner envelope shall be so designed that it can be sealed after
5 the mail-in ballot has been placed therein and the flap thereof shall
6 be of such length and size as to leave sufficient margin, after sealing,
7 for the printing thereon of the certificate hereinafter described. The
8 flap shall be so arranged that, after the inner envelope has been
9 sealed, the certificate can be contained, with the inner envelope, in
10 the outer envelope, and that the margin containing the certificate can
11 be detached without unsealing the inner envelope.

12 On the outside of each envelope in which a mail-in ballot is sent
13 to a mail-in voter by the clerk, there shall be printed or stamped the
14 words "Official Mail-In Ballot." In addition, there shall be printed
15 or stamped the following:

16 To protect your vote:

17 IT IS AGAINST THE LAW FOR ANYONE EXCEPT YOU THE
18 VOTER TO OPEN, MARK, INSPECT OR SEAL THIS BALLOT.

19 However, a family member may assist you in doing so.

20 The reverse side of each inner envelope shall contain the following
21 statement:

22 A PERSON MAY BE FINED AND IMPRISONED AND MAY
23 ALSO LOSE THE RIGHT TO VOTE UNTIL RESTORED BY LAW
24 if that person attempts to vote fraudulently by mail-in ballot, prevents
25 the voting of a legal voter, certifies falsely any information, interferes
26 with a person's secrecy of voting, tampers with ballots or election
27 documents or helps another person to do so.

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

29

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

32 17. The county board of elections shall, promptly after receiving
33 each mail-in ballot, remove the inner envelope containing the ballot
34 from the outer envelope and shall compare the signature and the
35 information contained on the flap of the inner envelope with the
36 signature and information contained in the respective requests for
37 mail-in ballots. In addition, as to mail-in ballots issued less than
38 seven days prior to an election, the county board of elections shall
39 also check to establish that the mail-in voter did not vote in person.
40 The county board shall reject such a ballot if it is not satisfied,
41 pursuant to a comparison with the Statewide voter registration
42 system, that the voter is legally entitled to vote and that the ballot
43 conforms with the requirements of this act.

44 In the case of a mail-in ballot to be voted at a primary election for
45 the general election, the ballot shall be rejected if the mail-in voter
46 has indicated in the certificate the voter's intention to vote in a
47 primary election of any political party in which the voter is not
48 entitled to vote according to the Statewide voter registration system,
49 and if it shall appear from the record that the voter is not entitled to

1 vote in a primary election of the political party which has been so
2 indicated.

3 Any mail-in ballot which is received by a county board of
4 elections shall be rejected if both the inner and outer envelopes are
5 unsealed or if either envelope has a seal that has been tampered with.
6 Mail-in ballots shall not be rejected due to missing or insufficient
7 glue for either envelope.

8 Disputes about the qualifications of a mail-in voter to vote or
9 about whether or not or how any mail-in ballot shall be counted in
10 such election shall be referred to the Superior Court for
11 determination.

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

21 The location at which a county board of elections determines
22 whether a mail-in ballot shall be accepted or rejected shall be
23 considered an election district for the purposes of appointment of
24 challengers.

25 The Secretary of State shall prepare educational materials
26 regarding this section that all employed county boards of elections
27 employees handling ballots shall read and have available for review.
28 The materials shall provide clear information regarding the standards
29 for acceptance and rejection of mail-in ballots and the safe-keeping
30 of all materials in the case of rejection.

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

32

33 6. Section 22 of P.L.2009, c.22 (C.19:63-22) is amended to read
34 as follows:

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

47 Every mail-in ballot that bears a postmark date of the day of the
48 election and that is received by the county board within 48 hours after
49 the time of the closing of the polls for the election that the ballot was

1 prepared shall be considered valid and shall be canvassed. Mail-in
2 ballots deemed invalid because the ballots were received after 48
3 hours after the closing of the polls shall be retained, including the
4 outer and inner envelopes, for a period of two years and shall be made
5 available for inspection by the voter.

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

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

17 (cf: P.L.2018, c.72, s.8)

18
19 7. Section 24 of P.L.2009, c.79 (C.19:63-24) is amended to read
20 as follows:

21 24. The county board of elections shall keep, for two years, all of
22 the requests and applications for mail-in ballots, all voted mail-in
23 ballots, and all of the certificates that have been detached or separated
24 by them from the inner envelopes. All inner envelopes together with
25 their certificates, and the contents of those envelopes not opened by
26 order of the county board or Superior Court, shall also be retained for
27 the same period by the board. This section shall include mail-in
28 ballots received after 48 hours after the closing of the polls, including
29 the outer and inner envelopes of those mail-in ballots. The
30 superintendent of elections in counties having a superintendent of
31 elections and the prosecutor in all other counties shall have the
32 authority to impound all mail-in ballots whenever the superintendent
33 or prosecutor, as may be appropriate, shall deem such action to be
34 necessary.

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

36
37 8. This act shall take effect immediately.

40 STATEMENT

41
42 This bill permits county clerks to remove voters from vote-by-mail
43 lists under certain circumstances, requires certain information to
44 increase public awareness and use of voting by mail, and requires
45 certain mail-in ballots to be retained.

46 Under current law, county boards of elections are required to
47 retain voted mail-in ballots for a period of two years. This bill
48 clarifies that ballots that are received 48 hours after the closing of the

1 polls, along with their envelopes, are also required to be retained for
2 two years.

3 The bill permits the clerk of each county to remove a voter from
4 lists of registered voters receiving mail-in ballots if the following
5 circumstances apply:

6 (1) the United States Postal Service returned mail of a ballot,
7 sample ballot, or any other official county election mail sent directly
8 to the named voter;

9 (2) the voter has not used a mail-in ballot for any election in a
10 two-year period; or

11 (3) the United States Postal Service National Change of Address
12 System indicates the voter's recipient address has changed or is
13 undeliverable.

14 Prior to removing a voter from the list the county clerk is required
15 to notify the voter in writing and indicate the reasons for the removal
16 and instruct the voter on the necessary steps to continue to vote by
17 mail. If the voter does not respond to the notice within 30 days of
18 mailing, the county clerk would remove that voter from the list of
19 voters receiving mail-in ballots and send that voter a notice of
20 removal along with an application to re-apply to vote by mail.

21 Under the bill, the Secretary of State is required to:

22 (1) prepare informational posters for use at all polling places that
23 promote voting by mail,

24 (2) include with mail-in ballots information for the voter on how
25 to check the status of the voter's mail-in ballot, and

26 (3) provide educational materials to county board of elections
27 employees on the standards for acceptance and rejection of mail-in
28 ballots.

29 The bill also prohibits the rejection of a mail-in ballot due to
30 missing or insufficient glue on an outer or inner envelope.