SENATE STATE GOVERNMENT, WAGERING, TOURISM & HISTORIC PRESERVATION COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, Nos. 2598 and 2699

STATE OF NEW JERSEY

DATED: AUGUST 20, 2020

The Senate State Government, Wagering, Tourism and Historic Preservation Committee reports favorably Senate Committee Substitute for Senate Bill Nos. 2598 and 2699.

This bill allows voters to provide a cure for certain mail-in ballots that have been rejected. Under the bill, mail-in ballots would not be rejected when the defect is attributable to a physical defect in the inner envelope, outer envelope, certificate, or ballot outside the control of the voter. The bill also requires the county board of elections to, promptly after receiving each mail-in ballot, undertake the following procedures and requirements concerning the acceptance or rejection of each mail-in ballot:

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

(2) within 24 hours after the decision has been made to tentatively reject or to reject a voter's mail-in or provisional ballot, issue a "Cure Letter," by regular mail or by email, to the voter whose ballot was tentatively rejected or rejected, which shall inform the voter of that fact and provide the reasoning for rejection. If sent by regular mail, the cure letter shall include a pre-printed "Cure Form." The form shall include the voter's name and instruct the voter on how to cure the alleged or actual deficiency. Cure forms shall not be referred to as affidavits or certifications and shall not be required to be sworn;

(3) when the alleged or actual deficiency involves the signature of the voter, instruct the voter that they may cure the deficiency by completing the cure form and returning it to the county board of elections in person, by fax, or by email, not later than 14 days after the date of the election, or by returning it to the county board of elections by mail, and that the completed cure form must be received by the county board of elections not later than 14 days after the date of the election;

(4) if send by regular mail, include with the cure letter and cure form a postage-paid return envelope addressed to the county board of elections which the voter may use to return the cure form; and

(5) inform voters that they shall not be required to submit any form of hard-copy identification document or copy thereof in order to cure a signature deficiency, but may do so by declaring that they submitted their provisional ballot or mail-in ballot, and verifying their identity by either: (a) providing a valid New Jersey driver's license number or Motor Vehicle Commission non-driver identification number; (b) providing the last four digits of their Social Security Number; or (c) attaching a legible copy of a New Jersey State-accepted form of identification, including either a sample ballot which lists the voter's name and address, an official federal, State, county, or municipal document which lists the voter's name and address, or a utility bill, telephone bill, or tax or rent receipt which lists the voter's name and address; and (d) signing and dating the cure form prior to returning it.

If a voter whose mail-in or provisional ballot was tentatively rejected or rejected based solely on a signature deficiency returns a completed cure form in a timely manner and the information provided verifies the voter's identity, their otherwise valid mail-in or provisional ballot will be counted in the final election results irrespective of any signature deficiency previously identified and, under those circumstances, the cure form may not be verified or authenticated using signature matching. If a voter whose mail-in or provisional ballot was tentatively rejected or rejected based solely on a signature deficiency returns a completed cure form in a timely manner and provides a copy of an identification document, the address listed on the identification document will not be required to match the voter registration address, provided that the identification document otherwise verifies the voter's identity.

In circumstances when it would be appropriate to do so, and not later than the day of the election, the county board of elections may provide the voter with a replacement mail-in ballot and return envelope.

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

In addition, the bill expands the function of the free-access system that allows voters to check on the status of their ballot, to include information not only about provisional ballots, but also for all other mail-in ballots. Under the bill, a link to the free-access system would be prominently displayed on the New Jersey Division

of Elections website under a "Track My Ballot" user portal. The free-access system would record the date that the mail-in ballot was mailed; the date that the overseas ballot was mailed or transmitted via electronic mail; the date the ballot was received; the notation that the ballot was "Accepted" or "Rejected;" the code for rejection; the date and method that the board of elections notified the voter (mail, email, or phone) and, in cases where the ballot was initially "Rejected" and the voter provided a cure, the date when the ballot was "Accepted." The free-access system would also provide a legend containing all the codes used for rejection and their explanation for rejection. The system would provide voters with the methods to cure the ballot, and the deadline of 14 days after the closing of the polls on Election Day to provide the cure. Finally, the free-access system would provide a publicly viewable macro-report of the total number of rejected ballots by county and by code along with the totals for votes cast by mail-in ballot, overseas ballots, and total ballots cast. This report would be kept and made available on the Secretary of State's website for a period of 10 years.

To prevent voter disenfranchisement, the county board of elections may seek an order from a Judge of the Superior Court to reasonably extend applicable deadlines. In cases of rejected ballots, the county board of elections must retain the voter's outer envelope, inner envelope, self-certification certificate, and mail-in ballot in a bundle unique to each voter for a period of two years in accordance with current law. Following final determination, disputes about the qualifications of a voter to vote, or about whether or not or how any mail-in ballot shall be counted in that election, are required to be referred to the Superior Court for determination.

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