

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 2598 and 2699**

with committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 24, 2020

The Senate Budget and Appropriations Committee reports favorably Senate Committee Substitute Nos. 2598 and 2699, with committee amendments.

As amended by the committee, this bill allows voters to cure certain mail-in ballots that have been rejected. Under the ballot curing provisions, the bill provides that mail-in ballots would not be rejected due to any defect arising out of or relating to the preparation or mailing of the ballot or envelope that was not reasonably caused by the voters, such as a torn envelope and missing or insufficient glue to allow the ballot to be sealed. 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) within 24 hours after the decision has been made to reject a voter's mail-in or provisional ballot on the basis of a missing signature or discrepant signature, issue a "Cure Letter" by mail or email to the voter whose ballot was rejected, which shall inform the voter of that fact and provide the reasoning for rejection, and attempt to contact the voter by telephone, if a telephone number is available. The cure letter shall include a "Cure Form" and 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;

(2) 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 48 hours prior to the final certification of the results 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 48 hours prior to the final certification of the results of the election;

(3) include, with the cure letter, when sent by mail, a pre-printed cure form and a postage-paid return envelope addressed to the

county board of elections which the voter may use to return the cure form; and

(4) 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; or (b) if the voter does not have a valid New Jersey driver's license number or Motor Vehicle Commission non-driver identification number, then by providing the last four digits of their Social Security Number; or (c) if the voter does not have the identification in (a) or (b), then 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 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 shall 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. Variations in voter signatures caused by the substitution of initials for the first name, middle name, or both, shall not be grounds for the county board of elections to determine that the signatures are non-conforming or do not match. County boards of elections shall be required to meet at least once each week during the three-week period preceding each election to conduct the ballot processing and curing provisions specified in this section, and shall meet more frequently as may be required by the Secretary of State to ensure the timely processing of ballots.

The bill also 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. The bill, as amended, also requires the Secretary of State to, at least 30 days prior to the election, conduct a voter education campaign to inform voters about the signature matching and ballot curing provisions established by this bill, which campaign would also exhort voters to update their contact information with their respective county board of elections, including their email address and telephone number, to

enable the county board to contact the voter in case the need arises for the voter to cure their ballot.

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;” and the code for rejection. Finally, beginning on February 1, 2021, 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.

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.

As amended, the bill requires provisional ballot statements, mail-in ballot certificates, and mail-in ballot applications to provide spaces for the voter’s telephone number and email address, including language informing the voter that this contact information will be used to contact the voter concerning the acceptance or rejection of the ballot, and how the voter may cure a defect; and provide that a voter’s telephone number and email address would not be subject to public disclosure and would not be considered a government record.

As amended, the bill repeals section 18 of P.L.2009, c. 79 (C.19:63-18).

As amended, sections 1 through 6 and section 10 of the bill would take effect immediately and shall apply to all future elections occurring after the effective date of the bill, and sections 7 through 9 would take effect on February 1, 2021.

COMMITTEE AMENDMENTS

The amendments:

(1) allow voters to provide a cure for their ballot up to 48 hours prior to the date for the final certification of the results of the election, rather than 14 days after the close of the polls;

(2) remove the requirement for the free-access system to record the date and method that the board of elections notified the voter and, in cases where the ballot was initially “Rejected” and the voter provided a cure, the date when the ballot was “Accepted;”

(3) delay the implementation of free-access system macro-reports, to begin on February 1, 2021;

(4) restore the requirement for ballot inner envelope signatures to be compared to the signature and information contained in the respective requests for mail-in ballots, and delete a reference to the New Jersey Motor Vehicle Commission's database in connection with such signature comparison;

(5) restore the provision that ballots would not be rejected due to any defect arising out of or relating to the preparation or mailing of the ballot or envelope that was not reasonably caused by the voters, such as a torn envelope and missing or insufficient glue to allow the ballot to be sealed;

(6) delete references to the tentative rejection of ballots;

(7) require the county board of elections to also contact voters by telephone, if a telephone number is available;

(8) mirror the documentation language to the contents of the voter registration form;

(9) delete a provision that would have allowed an address listed on the identification document to be different than the voter's registration address;

(10) delete a provision that would have allowed the county board of elections to provide the voter with a replacement mail-in ballot and return envelope under certain circumstances;

(11) delete a provision that would have allowed the county board of elections to seek an order from a Judge of the Superior Court to reasonably extend any deadlines;

(12) require the county boards of elections to meet at least once each week during the three-week period preceding each election to conduct the ballot processing and curing provisions, and to meet more frequently as may be required by the Secretary of State to ensure the timely processing of ballots;

(13) delete a provision that would have required, upon referral to the Superior Court for determination, that court to set a date and time for a hearing during which each of the county parties may designate an attorney to be present and provide limited argument to the court as to the qualifications of a mail-in voter to vote, or about whether or not or how any mail-in ballot shall be counted in that election; that would have required the proofs presented to the court from the county board of elections to be provided to the designated representative for each of the county parties; and that would have required any hearing to be conducted in a summary manner with no right to additional discovery or presentation of witnesses;

(14) require the Secretary of State to, at least 30 days prior to the election, conduct a voter education campaign to inform voters about the signature matching and ballot curing provisions established by this bill, which campaign would also exhort voters to update their contact information with their respective county board of elections, including their email address and telephone number, to enable the county board

to contact the voter in case the need arises for the voter to cure their ballot;

(15) remove the board of elections from the task of marking the records in the Statewide voter registration system and the free-access system concerning the delivery of mail-in ballots;

(16) require provisional ballot statements, mail-in ballot certificates, and mail-in ballot applications to provide spaces for the voter's telephone number and email address, including language informing the voter that this contact information will be used to contact the voter concerning the acceptance or rejection of the ballot, and how the voter may cure a defect; and provide that a voter's telephone number and email address would not be subject to public disclosure and would not be considered a government record;

(17) delete a section of the bill concerning the retention of ballots, as such retention is already required under current law;

(18) repeal section 18 of P.L.2009, c. 79 (C.19:63-18); and

(19) provide that sections 1 through 6 and section 10 of the bill would take effect immediately and would apply to all future elections occurring after the effective date of the bill, and sections 7 through 9 would take effect on February 1, 2021.

FISCAL IMPACT

The OLS estimates that this bill will result in an indeterminate increase in State and local government costs.