

SENATE, No. 2633

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 29, 2020

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Co-Sponsored by:

Senators Pou, Gill, Stack and Turner

SYNOPSIS

Requires certain information to increase public awareness and use of voting by mail; extends deadline for mail-in ballots to be received and canvassed; requires certain mail-in ballots to be retained.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 8/20/2020)

1 AN ACT concerning voting by mail and amending various parts of
2 the statutory law.

3

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

6

7 1. R.S.19:8-6 is amended to read as follows:

8 19:8-6. The county boards in counties of the first class and the
9 municipal clerks in counties other than counties of the first class
10 shall purchase or lease and furnish the proper equipment of polling
11 places, to enable the district boards to carry out the duties imposed
12 upon them by this title. The equipment shall consist of tables,
13 chairs, lights, booths and all other things necessary for the
14 performance of such duties, and shall be ready for use by the
15 district boards in ample time to enable them to perform their duties.
16 Also to be included, for conspicuous display at each polling place
17 on the days of any election during each year, shall be the voting and
18 registration instructions provided by the county board of elections,
19 the voting by mail information posters provided by the Secretary of
20 State, and mail-in ballot application forms.

21 The Secretary of State shall prepare a voting by mail
22 informational poster for use at all polling places in the State that
23 illustrates and promotes the use of voting by mail, including the
24 description of the vote-by-mail process, and shall distribute the
25 required number of copies, or replacement copies as needed, to the
26 county boards.

27 The clerks of the several municipalities shall keep in repair, store
28 and deliver the polling booths, ballot boxes and other equipment in
29 time for use by the district boards at the cost and expense of the
30 municipality.

31 In case of any election to be held in and for a municipality only,
32 the duties imposed upon the county boards in counties of the first
33 class regarding the equipment of polling places shall devolve upon
34 the clerk of the municipality wherein the election is to be held. Any
35 equipment in possession of the county board may be used in a
36 municipal election upon requisition.

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

38

39 2. Section 1 of P.L.2005, c.149 (C.19:12-7.1) is amended to
40 read as follows:

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

45 The notice shall contain:

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 the date of the election and the hours during which polling places
2 will be open;
3 a statement that sample ballots are available at the polling place
4 for review by the voter;
5 instruction for the use of the voting machine in that polling place
6 and an explanation of what instructions for voting are available at
7 the polling place for the voter;
8 instruction for a voter who is voting for the first time;
9 instruction for a voter who is required to provide identification
10 pursuant to the federal "Help America Vote Act of 2002" and
11 R.S.19:15-17 prior to casting a vote;
12 instruction on how to cast a vote if the voter cannot be present at
13 a polling place on the day of the election;
14 an explanation of the right of the voter to vote in privacy,
15 regardless of the voter's physical abilities;
16 an explanation of the right of the voter to a provisional ballot,
17 including in the event that a mail-in ballot has been applied for and
18 not received or not transmitted to the county board of elections
19 before the day of any election, and the other circumstances under
20 which a voter has a right to a provisional ballot;
21 an explanation of the right of the voter to receive a replacement
22 ballot for a ballot that has been spoiled, destroyed, lost or never
23 received;
24 an explanation of the right of the voter to ask for and receive
25 assistance in voting;
26 an explanation of the right of the voter to take a reasonable
27 amount of time in casting a vote on a voting machine;
28 an explanation of the right of the voter to bring written material
29 into the polling place for the voter's personal use in casting a vote;
30 instruction on how to contact the appropriate officials if a voter's
31 right to vote or right to otherwise participate in the electoral process
32 has been challenged or violated;
33 general information on federal and State laws that prohibit acts
34 of fraud or misrepresentation and the penalties for those acts; and
35 such other statement, instruction or explanation the Secretary of
36 State may deem appropriate to ensure the full and knowledgeable
37 participation of the voter in the process.
38 The requirement to post this notice in each polling place shall
39 not replace, supersede or void any other requirement set forth in law
40 for the posting of information in each polling place apart from the
41 voter information notice. The poster promoting the use of voting by
42 mail prepared and distributed by the Secretary of State pursuant to
43 R.S.19:8-6 shall be displayed next to or as close as may be possible
44 to the voter information notice.
45 b. The Secretary of State shall prescribe the form and specific
46 content of the voter information notice, which may be comprised of
47 more than one page. If the notice is comprised of more than one

1 page, each page shall be posted separately. For an election district
2 in which the primary language of 10 percent or more of the
3 registered voters is a language other than English, the Secretary of
4 State shall prescribe an official version of the voter information
5 notice in that other language or languages for use in that election
6 district. The notice shall be posted in English and in the other
7 language or languages in the polling places in each such
8 district. The alternate language shall be determined based on
9 information from the latest federal decennial census.

10 c. A county board of elections may modify or supplement the
11 voter information notice used in a county or municipality to provide
12 additional information specific to that county or a municipality in
13 that county, provided, however, that any such modification or
14 supplementation shall be submitted to the Secretary of State for
15 prior approval.

16 d. The voter information notice shall be printed on each sample
17 ballot, to the extent practicable, or if not practicable, information on
18 how to view or obtain a copy of the voter information notice shall
19 be printed on each sample ballot.

20 e. The voter information notice, including one modified or
21 supplemented pursuant to subsection c. of this section, shall be
22 made accessible on the official Internet site of the State by the
23 Secretary of State and each county board of elections shall ensure
24 that the official Internet site of the county contains a link to that
25 notice.

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

28 g. The State shall be liable for the costs incurred by local
29 government entities for compliance with this section, and they shall
30 be reimbursed for those costs, upon application, by the State
31 Treasurer.

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

33

34 3. Section 12 of P.L.2009, c.79 (C.19:63-12) is amended to
35 read as follows:

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

45 The outer envelope shall be addressed to the county board of
46 elections of the county in which is located the home address of the
47 person to whom the mail-in ballot is sent, as certified by the county

1 clerk. At the discretion of the county clerk, the outer envelope may
2 be a postage paid return envelope. On the outside and front of each
3 outer envelope, there shall be printed or stamped the following:

4 To protect your vote:

5 IT IS AGAINST THE LAW FOR ANYONE EXCEPT YOU
6 THE VOTER TO MAIL OR TRANSPORT THIS BALLOT
7 UNLESS THE ENVELOPE IS SEALED AND THE FOLLOWING
8 IS COMPLETED:

9 Ballot mailed or transported by

10 (signature of bearer)

11 (print name of bearer)

12 (address of bearer)

13 The reserve side of the outer envelope shall contain the
14 following:

15 REMINDER

16 For your vote to count, you must:

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

19 2) Seal the envelope.

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

22 4) If another person will be mailing your ballot or bringing it to
23 the board of elections, MAKE CERTAIN THAT PERSON
24 COMPLETES THE "BEARER PORTION" ON THE ENVELOPE
25 ADDRESSED TO THE BOARD OF ELECTIONS BEFORE THE
26 BALLOT IS TAKEN FROM YOU. NO PERSON WHO IS A
27 CANDIDATE IN THE ELECTION FOR WHICH THE VOTER
28 REQUESTS THIS BALLOT IS PERMITTED TO SERVE AS A
29 BEARER. NO PERSON IS PERMITTED TO SERVE AS A
30 BEARER FOR MORE THAN THREE QUALIFIED VOTERS IN
31 AN ELECTION.

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

35 The inner envelope shall be so designed that it can be sealed
36 after the mail-in ballot has been placed therein and the flap thereof
37 shall be of such length and size as to leave sufficient margin, after
38 sealing, for the printing thereon of the certificate hereinafter
39 described. The flap shall be so arranged that, after the inner
40 envelope has been sealed, the certificate can be contained, with the
41 inner envelope, in the outer envelope, and that the margin
42 containing the certificate can be detached without unsealing the
43 inner envelope.

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

1 To protect your vote:

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

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

6 The reverse side of each inner envelope shall contain the
7 following statement:

8 A PERSON MAY BE FINED AND IMPRISONED AND MAY
9 ALSO LOSE THE RIGHT TO VOTE UNTIL RESTORED BY
10 LAW if that person attempts to vote fraudulently by mail-in ballot,
11 prevents the voting of a legal voter, certifies falsely any
12 information, interferes with a person's secrecy of voting, tampers
13 with ballots or election documents or helps another person to do so.
14 (cf: P.L.2015, c.84, s.4)

15

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

18 17. The county board of elections shall, promptly after receiving
19 each mail-in ballot, remove the inner envelope containing the ballot
20 from the outer envelope and shall compare the signature and the
21 information contained on the flap of the inner envelope with the
22 signature and information contained in the respective requests for
23 mail-in ballots. In addition, as to mail-in ballots issued less than
24 seven days prior to an election, the county board of elections shall
25 also check to establish that the mail-in voter did not vote in person.
26 The county board shall reject such a ballot if it is not satisfied,
27 pursuant to a comparison with the Statewide voter registration
28 system, that the voter is legally entitled to vote and that the ballot
29 conforms with the requirements of this act.

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

38 Any mail-in ballot which is received by a county board of
39 elections shall be rejected if both the inner and outer envelopes are
40 unsealed or if either envelope has a seal that has been tampered
41 with. Mail-in ballots shall not be rejected due to missing or
42 insufficient glue for either envelope. Mail-in ballots shall not be
43 rejected where noncompliance is attributable to physical defects
44 outside the control of the voter in the inner envelop, outer envelope,
45 certificate, or ballot.

46 Disputes about the qualifications of a mail-in voter to vote or
47 about whether or not or how any mail-in ballot shall be counted in

1 such election shall be referred to the Superior Court for
2 determination.

3 After such investigation, the county board of elections shall
4 detach or separate the certificate from the inner envelope containing
5 the mail-in ballot, unless it has been rejected by it or by the
6 Superior Court, marking the envelope so as to identify the election
7 district in which the ballot contained therein is to be voted as
8 indicated by the voter's home address appearing on the certificate
9 attached to or accompanying the inner envelope and, in the case of
10 ballots to be voted at a primary election for a general election, so as
11 to identify the political party in the primary election of which it is
12 to be voted.

13 The location at which a county board of elections determines
14 whether a mail-in ballot shall be accepted or rejected shall be
15 considered an election district for the purposes of appointment of
16 challengers.

17 The Secretary of State shall prepare educational materials
18 regarding this section that all employed county boards of elections
19 employees handling ballots shall read and have available for
20 review. The materials shall provide clear information regarding the
21 standards for acceptance and rejection of mail-in ballots and the
22 safe-keeping of all materials in the case of rejection. The materials
23 shall serve an educational purpose for the county board of elections
24 and shall not replace, supersede, or void the authority of the county
25 board or a judge of the Superior Court to accept or reject a mail-in
26 ballot.

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

28

29 5. Section 22 of P.L.2009, c.22 (C.19:63-22) is amended to
30 read as follows:

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

44 Every mail-in ballot that bears a postmark date before or of the
45 day of the election and that is received by the county board within
46 **[48]** 144 hours after the time of the closing of the polls for the
47 election that the ballot was prepared shall be considered valid and

1 shall be canvassed. Every mail-in ballot that does not bear a
2 postmark date but that is received by the county board by delivery
3 of the United States Postal Service within 48 hours after the time of
4 the closing of the polls for the election for which the ballot was
5 prepared shall be considered valid and shall be canvassed. Mail-in
6 ballots deemed invalid shall be retained, including the outer and
7 inner envelopes, for a period of two years and shall be made
8 available for inspection by the voter.

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

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

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

21

22 6. Section 24 of P.L.2009, c.79 (C.19:63-24) is amended to
23 read as follows:

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

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

38

39 7. This act shall take effect immediately.

40

41

42

STATEMENT

43

44 This bill requires certain information to increase public awareness
45 and use of voting by mail, requires certain mail-in ballots received
46 by the county board within 144 hours after polls close to be
47 considered valid, and requires certain mail-in ballots to be retained.

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

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

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

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

9 The educational materials prepared by the Secretary of State
10 would serve an educational purpose for the county board and would
11 not replace, supersede, or void the authority of the county board or
12 a judge of the Superior Court to accept or reject a mail-in ballot.
13 This bill also prohibits the rejection of a mail-in ballot due to
14 missing or insufficient glue on an outer or inner envelope or mail-in
15 ballots where noncompliance is attributable to physical defects
16 outside the control of the voter in the inner envelop, outer envelope,
17 certificate, or ballot.

18 Under current law, county boards of elections are required to
19 retain voted mail-in ballots for a period of two years. This bill
20 clarifies that ballots that are deemed invalid are also required to be
21 retained for two years. This bill also extends the deadline by which
22 mail-in ballots bearing a postmark before or on the day of the
23 election must be received by the county board of elections in order
24 to be canvassed from 48 hours after the closing of the polls to 144
25 hours after the closing of the polls. The bill would also require that
26 every mail-in ballot that does not bear a postmark date but that is
27 received by the county board by delivery of the United States Postal
28 Service within 48 hours after the time of the closing of the polls for
29 the election for which the ballot was prepared is to be considered
30 valid and canvassed.