SENATE, No. 2671

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JULY 6, 2020

Sponsored by:
Senator TROY SINGLETON
District 7 (Burlington)

SYNOPSIS

Requires voted ballots received within seven days after polls close to be valid and canvassed if postmarked by election day; allows voters to cure ballot signature defects; extends primary and general election certification deadlines.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning the acceptance of voted mail-in ballots after the closing of the polls, the ability of voters to cure signature defects on their mail-in ballots, and the deadline for certifying primary and general election results and amending various parts of the statutory law.

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

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

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

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

Any mail-in ballot which is received by a county board of elections shall be rejected if both the inner and outer envelopes are unsealed or if either envelope has a seal that has been tampered with.

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

After such investigation, the county board of elections shall detach or separate the certificate from the inner envelope containing the mail-in ballot, unless it has been rejected by it or by the Superior Court, marking the envelope so as to identify the election district in which the ballot contained therein is to be voted as indicated by the voter's home address appearing on the certificate attached to or accompanying the inner envelope and, in the case of ballots to be

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.

voted at a primary election for a general election, so as to identify the political party in the primary election of which it is to be voted.

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

b. (1) Notwithstanding the provisions of subsection a. of this section, or any other law, rule, or regulation to the contrary, the county board of elections or the Superior Court shall not reject a mail-in ballot due to a missing signature or a signature mismatch without first allowing the voter who submitted the ballot the opportunity to cure the ballot by providing the voter's signature or confirming that the signature on the ballot is the voter's signature. If, upon receiving the ballot, the voter's signature is missing, or if the voter's signature on the ballot does not match the voter's signature on record, the county board of elections shall, within three days after the signature deficiency has been confirmed, send to the voter at the address indicated in the voter's registration record and to the voter's electronic mail address, if available, a letter explaining the discrepancy in signatures and a form for the voter to confirm that the voter returned the ballot to the county board of elections. If the county board of elections receives the form within seven days after the closing of the polls on election day confirming that the voter returned the ballot to the county board of elections, and if the ballot is otherwise valid, the ballot shall be counted. If the voter returns the form indicating that the voter did not return the ballot to the county board of elections, or if the voter does not return the form within seven days after the closing of the polls on election day, the ballot shall not be counted.

(2) The Secretary of State shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt the rules and regulations necessary for the uniform implementation of the ballot curing process established under this subsection, which rules and regulations may include standards, procedures, and training on the signature verification processes and devices used to evaluate mail-in ballot signatures.

(3) The county board of elections in each county shall, as soon as practicable, develop and implement options for voters to electronically provide the necessary signature or confirmation required under paragraph (1) of this section.

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

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

18. The county board of elections shall count all valid mail-in ballots received thereby prior to the time designated by current law for the closing of the polls for each election. Every mail-in ballot that

bears a postmark date of the day of the election and that is received by the county board within seven days 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.

(cf: P.L.2009, c.79, s.18)

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 hours⟧ seven days 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.

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)

4. R.S.19:14-9 is amended to read as follows:

19:14-9. A candidate who receives more than one nomination for the same office, either from more than one political party or from more than one group of petitioners, or from one or more political parties and one or more groups of petitioners, shall have his name printed on the official general election ballot in only one column to be selected by him from among the columns to which his nominations entitle him, and shall have such designations after his name as he

shall select, consisting of the names of the political parties nominating him, with the words "Indorsed By" , if he so desires, and the several designations to which he is entitled by the other nominations, if any, and printed in such order as he shall select.

The candidate shall file with the secretary of state or county clerk, as the case may be, his selection of his column, and the designations to follow his name and their order. Unless such selection is so filed within ⟦seven⟧ 17 days after the primary election, the secretary of state or county clerk, as the case may be, shall determine in what column and with what designations his name shall be printed. The designations shall be printed in small type, and if necessary, in several lines or in a line below his name and may be abbreviated.

(cf: R.S.19:14-9)

5. 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,⟧ 15 days 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.

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

6. R.S.19:23-16 is amended to read as follows:

19:23-16. Any person nominated at the primary by having his name written or pasted upon the primary ballot shall file a certificate stating that he is qualified for the office for which he has been nominated, that he is a resident of and a legal voter in the jurisdiction of the office for which the nomination is made and that he consents to stand as a candidate at the ensuing general election to which shall be annexed the oath of allegiance prescribed in section 41:1-1 of the Revised Statutes duly taken and subscribed by the person so nominated before an officer authorized to take oaths in this State.

In addition, a person so nominated for the office of Governor or the office of member of the Senate or General Assembly shall annex to the certificate a statement signed by the candidate that he or she:

a. has not been convicted of any offense graded by Title 2C of the New Jersey Statutes as a crime of the first, second, third or fourth degree, or any offense in any other jurisdiction which, if committed in this State, would constitute such a crime; or

b. has been so convicted, in which case, the candidate shall disclose on the statement the crime for which convicted, the date and place of the conviction and the penalties imposed for the conviction. Such a candidate may, as an alternative, submit with the statement a copy of an official document that provides such information. If the

candidate has been convicted of more than one criminal offense, such information about each conviction shall be provided. Records expunged pursuant to chapter 52 of Title 2C of the New Jersey Statutes shall not be subject to disclosure.

Such acceptance shall be filed within [seven] 17 days after the holding of the primary with the county clerk in the case of county and municipal offices and with the Attorney General for all other offices.

(cf: P.L.2004, c.26, s.5)

7. R.S.19:23-54 is amended to read as follows:

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] 15 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.

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

8. R.S.19:23-55 is amended to read as follows:

19:23-55. The county clerks shall within [10] 17 days canvass such statements relating to all officers and positions to be voted for by the voters of the entire State, county, county election district, congressional district, municipality or ward, and determine what persons have by the highest number of votes been so elected or nominated by the political parties.

In the case of United States Senator, Governor and member of the House of Representatives the county clerk shall immediately transmit to the Secretary of State a statement showing the total number of votes cast for such officers in the county. The Secretary of State shall furnish the necessary form.

In the case of members of the county committee the county clerk within **[**9**]** 16 days after the primary shall mail to the chairman of the State committee and to the chairman of the county committee of the respective parties a list of the names of those elected to the county committee, giving the municipalities, ward and district each represents, together with their post-office addresses.

(cf: P.L.1975, c.43, s.5)

9. R.S.19:28-1 is amended to read as follows:

19:28-1. When any candidate at any election shall have reason to believe that an error has been made in counting the votes of that election, the candidate may, within a period of **[**17**]** 22 days following such election, apply to a judge of the Superior Court assigned to the county wherein such district or districts are located, for a recount of the votes cast at the election in any district or districts.

When ten voters at any election shall have reason to believe that an error has been so made in counting the votes upon any public question at any election, such voters may, within a period of **[**17**]** 22 days following such election, apply to a judge of the Superior Court assigned to the county wherein such district or districts are located, for a recount of the votes cast at the election in any district or districts on such public question.

(cf: P.L.2018, c.72, s.12)

10. R.S.19:29-3 is amended to read as follows:

19:29-3. The petition contesting any nomination to public office, election to party office or position or the proposal of any proposition shall be filed not later than **[**12**]** 19 days after the primary election.

The petition contesting any election to public office or approval or disapproval of any proposition shall be filed not later than 32 days after such election, unless the ground of action is discovered from the statements, deposit slips or vouchers filed under this Title, subsequent to such primary or other election, in which event such petition may be filed **[**12**]** 19 or 32 days respectively after such statements, deposit slips or vouchers are filed.

Any petition of contest may be filed within 12 days after the result of any recount has been determined or announced.

(cf: P.L.2018, c.72, s.13)

11. This act shall take effect immediately.

STATEMENT

This bill requires voted mail-in ballots that are received within seven days after polls close to be valid and canvassed if postmarked by election day, and establishes a process to allow voters to cure ballot signature defects that would otherwise disqualify their mail-in ballot. This bill also extends by seven additional days the deadlines for certifying the primary and general election results, and extends certain other deadlines to conform with the new election certification dates.

Under current law, mail-in ballots received within 48 hours of the closing of the polls on election day are considered valid and are canvassed if they are postmarked by election day. This bill would expand the 48-hour period to seven days after the closing of the polls on election day.

Current law also provides that ballots that bear a signature defect are disqualified by the county board of elections or the Superior Court. Signature defects arise if the voter failed to sign the mail-in ballot, or when the voter's signature on the mail-in ballot does not match the signature on record. This bill would require that voters are provided the opportunity to correct or "cure" these signature defects before a ballot can be disqualified. Under the bill, the county board of elections would be required, within three days after the signature deficiency has been confirmed, to send to the voter at the address indicated in the voter's registration record and to the voter's electronic mail address, if available, a letter explaining the discrepancy in signatures and a form for the voter to confirm that the voter returned the ballot to the county board of elections. If the county board of elections receives the form within seven days after the closing of the polls on election day confirming that the voter returned the ballot to the county board of elections, and if the ballot is otherwise valid, the ballot would be counted. If the voter returns the form indicating that the voter did not return the ballot to the county board of elections, or if the voter does not return the form within seven days after the closing of the polls on election day, the ballot would not be counted.

The bill also requires the Secretary of State to adopt the rules and regulations necessary for the uniform implementation of the ballot curing process, which may include standards, procedures, and training on the signature verification processes and devices used to evaluate mail-in ballot signatures. The bill also requires the county board of elections in each county, as soon as practicable, to develop and implement options for voters to electronically provide the necessary signature or confirmation to cure their ballots.

Finally, the bill extends the deadlines for certifying the results of the primary and general elections by seven days.

With respect to the general election, current law requires the board of county canvassers to meet on the Wednesday next following the

general election, currently eight days later, and to certify general election results to the Secretary of State within three days and within five days from that meeting. Under the bill, the board of county canvassers would meet 15 days after the general election. The general election results would therefore be due to the Secretary of State 18 days and 20 days after the election.

With respect to the primary election, current law requires the municipal clerk to certify to the county clerk and county board the primary election results for county committee positions within eight days after the election, and the county clerk to notify the State committee chairperson of those results within nine days of the primary and to certify all other primary election results within 10 days of the primary. This bill requires such certifications to occur within 15, 16, and 17 days of the primary election.

In order to conform with these extended election certification deadlines, this bill also extends the deadlines for the acceptance of only one nomination for candidates that received multiple nominations; for the acceptance of a nomination; for applying to a judge of the Superior Court to request an election recount; and for filing a petition contesting any nomination to public office, election to party office or position, or the proposal of any proposition.