

SENATE, No. 4178

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED NOVEMBER 22, 2021

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

SYNOPSIS

Changes from county clerk to Secretary of State as official required to make final selection of polling place and early voting location if county board of elections cannot agree.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** changing from the county clerk to the Secretary of State as
2 the official required to make a final selection of a polling place
3 and early voting location if the county board of elections cannot
4 agree and amending R.S.19:8-2 and P.L.2021, c.40.

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

8
9 1. R.S.19:8-2 is amended to read as follows:
10 19:8-2. The clerk of every municipality, on or before April 1
11 shall certify to the county board of every county wherein such
12 municipality is located a suggested list of places in the municipality
13 suitable for polling places. The county board shall select the
14 polling places for the election districts in the municipalities of the
15 county for all elections in the municipalities thereof, including all
16 commission government elections in the county. The county boards
17 shall not be obliged to select the polling places so suggested by the
18 municipal clerks, but may choose others where they may deem it
19 expedient. Preference in locations shall be given to schools and
20 public buildings where space shall be made available by the
21 authorities in charge, upon request, if same can be done without
22 detrimental interruption of school or the usual public services
23 thereof, and for which the authority in charge shall be reimbursed,
24 by agreement, for expenses of light, janitorial and other attending
25 services arising from such use. Each polling place selected shall be
26 accessible to individuals with disabilities and the elderly. A polling
27 place shall be considered accessible if it is in compliance with the
28 federal "Americans with Disabilities Act of 1990" (42 U.S.C. s.
29 12101 et seq.). In no case shall the authorities in charge of a public
30 school or other public building deny the request of the county board
31 for the use, as a polling place, of any building they own or lease.

32 Where the county board shall fail to agree as to the selection of
33 the polling place or places for any election district, within five days
34 of an election, the **【county clerk】** Secretary of State shall select and
35 designate the polling place or places in any such election district.

36 The county board may select a polling place other than a
37 schoolhouse or public building outside of the district but such
38 polling place shall not be located more than 1,000 feet distant from
39 the boundary line of the district. The Secretary of State may,
40 however, permit a polling place to be more than 1,000 feet distant
41 from the boundary line of the district if there is no suitable polling
42 place accessible to individuals with disabilities and the elderly
43 within the district or 1,000 feet distant from the boundary line of the
44 district.

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 Whenever possible, the county board shall contact the managers
2 or owners of commercial or private buildings that the board deems
3 suitable to use as polling places, and are in or near an election
4 district lacking an accessible polling place, to determine whether a
5 portion of such a building may be used as a polling place on the day
6 of an election. Reimbursement for the use of a portion of such a
7 building shall be the same as provided by this section for schools
8 and public buildings.

9 Neither the owner nor operator of a facility designated as a
10 polling place by the county board is permitted or authorized to
11 relocate the polling place room in the building without the express
12 prior approval of the board.
13 (cf: P.L.2011, c.134, s.11)
14

15 2. Section 1 of P.L.2021, c.40 (C.19:15A-1) is amended to read
16 as follows:

17 1. a. In addition to all other forms of voting provided for by
18 this Title, a registered voter shall be permitted to vote at a specially
19 designated polling place before the day of certain primary and
20 general elections in this State. This procedure shall be known as
21 early voting. The early voting period shall:

22 (1) start on the 4th calendar day before a non-presidential
23 primary election for a non-presidential general election and end on
24 the second calendar day before that non-presidential primary
25 election;

26 (2) start on the 6th calendar day before a presidential primary
27 election for a presidential general election and end on the second
28 calendar day before that presidential primary election; or

29 (3) start on the 10th calendar day before a general election and
30 end on the second calendar day before that general election.

31 The voting process during the early voting period shall be
32 conducted using electronic poll books and optical-scan voting
33 machines that read hand-marked paper ballots or other voting
34 machines that produce a voter-verifiable paper ballot. Any
35 municipality conducting regular municipal elections in May
36 pursuant to the provisions of the "Uniform Nonpartisan Elections
37 Law," P.L.1981, c.379 (C.40:45-5 et seq.), may, by an ordinance
38 adopted by its governing body, also conduct early voting for the
39 regular municipal election, in accordance with the provisions of this
40 act, P.L.2021, c.40 (C.19:15A-1 et al.). If adopted by a municipal
41 governing body, the early voting period for a regular municipal
42 election in May shall start on the 4th calendar day before the regular
43 municipal election and end on the second calendar day before that
44 regular municipal election. An early voting period shall only be
45 permitted for a non-presidential or presidential primary election and
46 a general election in this State and, if adopted by a municipal
47 governing body, a regular municipal election conducted in May.
48 Pursuant to the provisions of this act and Title 19 of the Revised

1 Statutes and in accordance with procedures that may be established
2 by the Secretary of State for verifying eligible voters, each county
3 board of elections shall verify that a registered voter is qualified to
4 vote in the election and shall prescribe the manner by which a
5 registered voter may vote during such period.

6 b. (1) For the primary and the general election, each county
7 board of elections shall designate at least three, but not more than
8 five, public locations within each county as the sites for early
9 voting to occur, except that the county board shall designate at least
10 five, but not more than seven, public locations for early voting if
11 the number of registered voters in the county is at least 150,000 but
12 less than 300,000, and shall designate at least seven, but not more
13 than 10, public locations for early voting if the number of registered
14 voters in the county is 300,000 or more. This provision shall not be
15 interpreted to prevent county boards of elections, at their discretion,
16 from establishing additional locations in excess of the five, seven,
17 or 10 location limits respectively set forth herein; provided,
18 however, that the State shall be required to provide reimbursement
19 for the costs of locations up to and including the five, seven, or 10
20 respective limits established herein, and shall not be required to
21 provide reimbursement for additional locations beyond those limits
22 under section 6 of this act, P.L.2021, c.40 (C.19:15A-6). The
23 number of registered voters in each county shall be determined
24 ahead of the selection of early voting sites pursuant to a uniform
25 standard which shall be developed by the Secretary of State through
26 the rulemaking process pursuant to the "Administrative Procedure
27 Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Whenever possible,
28 early voting locations shall be geographically located so as to
29 ensure both access in the part of the county that features the greatest
30 concentration of population, according to the most recent federal
31 decennial census of the United States, and access in various
32 geographic areas of the county. All early voting locations shall be
33 public facilities, such as county courthouses, public libraries and the
34 offices of the municipal clerk, county clerk, and county board of
35 elections, or places of public accommodation as provided under
36 Title 10 of the Revised Statutes. No public school building and no
37 building used as a public school, as that term is defined under
38 N.J.S.18A:1-1, shall, however, be designated as an early voting
39 location. The locations shall be designated at the same time as all
40 other polling places are designated by the board of elections. In the
41 event of a tie vote among members of the county board with respect
42 to the selection of sites for early voting, the **【county clerk】**
43 Secretary of State shall cast the deciding vote. Once early voting
44 locations are designated in each county, county boards of election
45 shall evaluate and, if deemed necessary, revise these locations in
46 order to accommodate significant changes in the number of
47 registered voters within each county, reflect the population
48 distribution and density within each county, or because of similar

1 circumstances. The Secretary of State may develop the criteria to
2 be used by county boards of election to revise the location of early
3 voting sites and shall prescribe how often such revision shall take
4 place.

5 A voter shall be permitted to vote at any early voting site in the
6 voter's county.

7 (2) Whenever a municipality that conducts regular municipal
8 elections in May chooses to participate in early voting for the
9 regular municipal election, the county board of elections shall
10 designate at least one public location, but not more than three public
11 locations, within the municipality as the site or sites for early voting
12 to occur. This provision shall not be interpreted to prevent a county
13 board of elections, at its discretion, from establishing additional
14 locations in excess of the three location limit set forth herein;
15 provided, however, that the State shall be required to provide
16 reimbursement for the costs of locations up to and including the
17 three location limit established herein, and shall not be required to
18 provide reimbursement for additional locations beyond that limit
19 under section 6 of this act, P.L.2021, c.40 (C.19:15A-6). Whenever
20 possible, each such location shall be geographically located in the
21 part of the municipality that features the greatest concentration of
22 population, according to the most recent federal decennial census of
23 the United States. All early voting locations shall be public
24 facilities, such as municipal courthouses and the offices of the
25 municipal clerk, or places of public accommodation as provided
26 under Title 10 of the Revised Statutes. No public school building
27 and no building used as a public school, as that term is defined
28 under N.J.S.18A:1-1, shall be designated as an early voting
29 location. The locations shall be designated at the same time as all
30 other polling places are designated by the board of elections. In the
31 event of a tie vote among members of the county board with respect
32 to the selection of sites for early voting, the municipal clerk shall
33 cast the deciding vote. Once early voting locations are designated
34 in each municipality, county boards of election shall evaluate and, if
35 deemed necessary, revise these locations in order to accommodate
36 significant changes in the number of registered voters within each
37 municipality, reflect the population distribution and density within
38 each municipality, or because of similar circumstances. The
39 Secretary of State may develop the criteria to be used by county
40 boards of election to revise the location of early voting sites and
41 shall prescribe how often such revision shall take place.

42 A voter shall be permitted to vote at any early voting site in the
43 voter's municipality.

44 c. Each early voting site in a county or municipality shall be
45 open for early voting on Monday through Saturday from at least 10
46 AM to 8 PM, and on Sunday from at least 10 AM to 6 PM. Any
47 voter who is on line at the time scheduled for the closing of an early
48 voting site shall be permitted to vote.

1 d. The election officers responsible for conducting early voting
2 shall be the same as those responsible for conducting a primary and
3 a general election, as appropriate, pursuant to this Title. The
4 number of such officers and their hours of service shall be as
5 determined by each county board of elections. The compensation
6 for such officers shall be the same as provided to district board of
7 election members serving at a school election pursuant to
8 R.S.19:45-6, or that required pursuant to Article I, paragraph 23 of
9 the New Jersey Constitution, whichever is greater.

10 e. The restrictions governing the conduct of voters at a polling
11 place on the days that early voting occurs, the procedures governing
12 who is permitted in a polling place on such occasions and the
13 prohibition on electioneering within 100 feet of a polling place
14 during an election, shall be as provided in chapters 15, 34, 50 and
15 52 of Title 19 of the Revised Statutes and every other applicable
16 section of this Title.

17 f. In real time using the electronic poll books each day during
18 the early voting period, and prior to the start of each regularly
19 scheduled primary and general election, and regular municipal
20 election in each non-partisan municipality choosing to participate in
21 early voting, each county board shall make such changes as may be
22 necessary to the voter's record in the Statewide voter registration
23 system to indicate that a voter has voted in that election using the
24 early voting procedure.

25 g. (1) Each county board shall be responsible for forming and
26 executing a written plan to ensure, to the greatest extent possible,
27 the integrity of the voting process and the security of ballots used
28 during the early voting period, including the security of voting
29 machines, voted ballots, and election records. The plan shall be
30 based on guidelines established by the Secretary of State and shall
31 be submitted thereto no later than December 15 of each year. The
32 Secretary of State shall review and, if deemed necessary thereby,
33 require changes to a plan no later than February 1 of each year.
34 Each plan shall specify a chain of custody and security plan for the
35 voting machines, and a chain of custody for the voted ballots and
36 election records and materials, and shall require, among other
37 specifications deemed necessary by the Secretary of State and
38 county boards of election, that all voted ballots shall be transferred
39 at the end of each early voting day to county boards of election for
40 safekeeping. After the voted ballots are transferred to the county
41 board of elections at the end of each early voting day, a county
42 board may elect to impound those voted ballots on a secure server,
43 or by any other means deemed appropriate by the Secretary of State.
44 The voted ballots shall not be canvassed until the closing of the
45 polls on election day as required pursuant to section 4 of this act,
46 P.L.2021, c.40 (C.19:15A-4). The results of the voted ballots cast
47 during early voting shall remain confidential and shall be disclosed
48 only in accordance with the provisions of Title 19 of the Revised

1 Statutes, regulations, and guidelines concerning the disclosure of
2 election results, and a violation shall be subject to the penalties
3 established by law.

4 (2) Notwithstanding the provisions of this subsection, in the
5 year in which P.L.2021, c.40 (C.19:15A-1 et al.) becomes law, each
6 county board shall submit its plan to the Secretary of State within
7 30 days following the effective date of this act and the Secretary of
8 State shall review it and, if deemed necessary thereby, require
9 changes in the plan within 45 days following the effective date of
10 this act.

11 h. Each county board shall make certain that each polling place
12 used for early voting shall be accessible to individuals with
13 disabilities and the elderly, in compliance with the "Americans with
14 Disabilities Act of 1990" (42 U.S.C. s.12101 et seq.), and that each
15 polling place provides such voters, including the blind and visually
16 impaired, the same opportunity for access and participation,
17 including privacy and independence, as other voters in compliance
18 with the "Help America Vote Act of 2002" (42 U.S.C. s.15481).

19 i. The Secretary of State shall establish a printing on demand
20 ballot and elections system. At a minimum, the system shall be
21 compatible with the Statewide voter registration system established
22 pursuant to section 1 of P.L.2005, c.145 (C.19:31-31) and any
23 electronic poll books provided by section 1 of P.L.2019, c.80
24 (C.19:31-35). Each polling place used for early voting shall have a
25 computer, tablet, or other electronic device to print provisional
26 ballots for voters required to vote by provisional ballot in
27 accordance with the provisions of Title 19 of the Revised Statutes
28 or due to an equipment malfunction as further provided under
29 section 3 of P.L.2019, c.80 (C.19:31-37), or any other election
30 related material, if needed. A computer, tablet, or other electronic
31 device and the printer used to print election materials at a polling
32 place shall not be used unless it has been certified by the Secretary
33 of State. The Secretary of State shall adopt and publish standards
34 and regulations governing the certification and use of computer,
35 tablets, or other electronic devices and printers to print election
36 materials at each polling place used for early voting. The Secretary
37 of State shall not certify a computer, tablet, or other electronic
38 device or printer unless it is in compliance with the secretary's
39 standards.

40 j. Each polling place used for early voting shall also have such
41 appropriate supplies, ballots and other materials deemed necessary
42 by the Secretary of State or as is required currently for a polling
43 place on the day of any election by Title 19 of the Revised Statutes.
44 (cf: P.L.2021, c.40, s.1)

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46 3. This act shall take effect immediately.

1 STATEMENT

2

3 Under current law, each municipal clerk is required to suggest a
4 list of polling places to the county board of elections in each
5 county. The county board of elections is required to select the
6 polling place or places for the election districts in the county's
7 municipalities, but is not obliged to select the polling places so
8 suggested by the municipal clerks. If the county board fails to
9 agree on the selection of the polling place or places for any election
10 district, within five days of an election, the county clerk is required
11 to select and designate the polling place or places. In the case of
12 early voting, locations are selected by the county board of elections.
13 In the event of a tie, the county clerk casts the deciding vote.

14 This bill changes from the county clerk to the Secretary of State
15 as the official required to make a final selection of a polling place
16 or places in the event the county board of elections cannot agree on
17 a location. The bill further changes from the county clerk to the
18 Secretary of State as the official to cast the deciding vote in the
19 selection of an early voting location should the county board of
20 elections reach a tie.