

[Second Reprint]

ASSEMBLY, No. 5176

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED FEBRUARY 9, 2023

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Senator SHIRLEY K. TURNER

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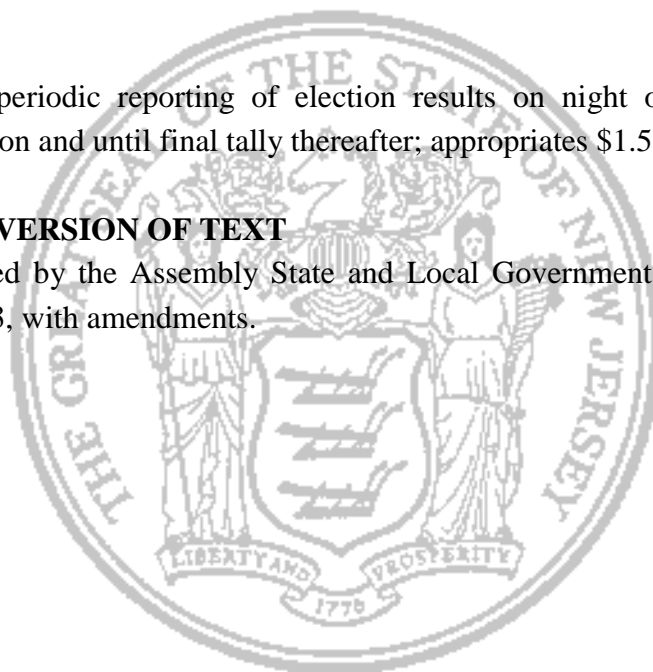
Assemblywoman Jasey, Senators Diegnan and Pou

SYNOPSIS

Requires periodic reporting of election results on night of primary and general election and until final tally thereafter; appropriates \$1.5 million.

CURRENT VERSION OF TEXT

As reported by the Assembly State and Local Government Committee on May 11, 2023, with amendments.



(Sponsorship Updated As Of: 6/26/2023)

1 AN ACT concerning the reporting of election results ²**[and]**,²
 2 amending ²and supplementing² P.L.2018, c.110 ², and making an
 3 appropriation².
 4

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

8 1. Section 1 of P.L.2018, c.110 (C.19:52-3.1) is amended to read
 9 as follows:

10 1. **[The]** a. On the day of each primary and general election,
 11 the district boards of election at each polling place shall create and
 12 publicly display a notice containing an **[official]** unofficial count of
 13 the cumulative number of voters who have voted at each **[precinct]**
 14 election district, indicating the number of voters who have voted at
 15 the election district using a voting machine or voting equipment and
 16 the number of voters who have voted using a provisional ballot. The
 17 first notice shall be produced two hours from the opening of the
 18 polls and updated every two hours thereafter until the time the polls
 19 close ¹**[, with the final unofficial count to be posted as soon as**
 20 **practicable after the closing of the polls]**¹.

21 b. (1) By 11:59 ²**[P.M.]** p.m.² on the day of each primary and
 22 general election, and by 9 ²**[P.M.]** p.m.² of every day thereafter
 23 until all eligible ballots have been counted and the election is
 24 certified, each county clerk, in consultation with the county board
 25 of elections of that county, shall list in an easily accessible location
 26 on the county clerk's Internet site an unofficial report detailing the
 27 number and types of ballots that have been received ²**[,]** and, to the
 28 extent practicable, the number and types of ballots² that have been
 29 counted, ¹and¹ that remain to be counted ¹**[, and the number of**
 30 mail-in ballots that have yet to be received by the county board of
 31 elections or that remain outstanding]¹ in that election. The reports
 32 required by this subsection shall include a date and time stamp
 33 designating the date and time of each report ¹, except that nothing in
 34 this subsection shall be interpreted to require the county board of
 35 elections in each county to conduct the count of ballots on a daily
 36 basis¹. Each report shall detail, at the ²**[election district, ward]**
 37 legislative district², municipal, and county levels, the ²**[unofficial**
 38 election results using the]² following categories ²of information² :

39 (a) for the in-person early voting period, the number of early
 40 voting machines or voting equipment deployed, the number of early
 41 voting machines or voting equipment ²**[remaining to be closed]** not
 42 included in the tally² ¹**[at the conclusion of early voting each day]**¹,
 43 ¹and¹ the total number of votes cast during the early voting period

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 Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted February 23, 2023.

²Assembly ASL committee amendments adopted May 11, 2023.

- 1 1 [the number of provisional ballots cast during the early voting
2 period, and the number of those provisional ballots counted] ¹ ;
- 3 (b) for the election day vote, the number of election day voting
4 machines or voting equipment deployed, the number of election day
5 voting machines or voting equipment ² [remaining to be closed] ² not
6 included in the tally ² ¹ [at the conclusion of voting on election day] ¹
7 , ¹ and ¹ the total number of votes cast in person on election day ¹ [the
8 number of provisional ballots cast on election day, and the
9 number of those provisional ballots counted; and] ; ¹ ² and ²
- 10 (c) for the vote-by-mail vote, the number of vote-by-mail ballots
11 that have been issued ² [] and ² received ² ¹ and scanned] ² into the
12 Statewide Voter Registration System ¹ ² [, counted, ¹ and the
13 approximate number of other vote-by-mail ballots that have been
14 received but ¹ that remain to be counted ² ¹ [, and that have yet to be
15 received or remain outstanding] ¹ ² [in that election ¹ ; and
- 16 (d) the number of provisional ballots cast during the early voting
17 period and on election day, and the number of those provisional ballots
18 counted ¹] , as well as the vote-by-mail ballots that have been tallied
19 and that remain to be processed ² .
- 20 (2) Each county clerk, in consultation with the county board of
21 elections of that county, shall send to the Secretary of State the
22 reports required to be created and posted pursuant to paragraph (1)
23 of this subsection at the time of each posting. Upon receiving each
24 report, the Secretary of State shall provide in an easily
25 [accessible] identifiable ² location on the Internet site of the
26 Division of Elections ² , access to ² the county by county ² [and
27 Statewide] ² totals for each category included in the reports. The
28 county by county ² [and Statewide] ² totals required to be created
29 and posted under this paragraph shall include a date and time stamp
30 designating the date and time of the posting.
- 31 (3) With each report and posting required pursuant to this
32 subsection, each county clerk and the Division of Elections shall
33 note on their respective Internet sites that the reports and postings
34 are unofficial and subject to change as each county clerk and county
35 board of elections, as appropriate, receive and process ballots that
36 have been cast in the election. ¹ The unofficial tally of election
37 results and the daily reports shall not be interpreted to serve as the
38 legal basis for the contest of any election. ¹ The Secretary of State,
39 in consultation with county clerks and county boards of elections,
40 shall promulgate uniform guidelines for all county clerks to follow
41 in creating the reports and postings required by this subsection. ¹ In
42 addition to the uniform guidelines, the Secretary of State shall
43 develop a template for ² [all licensed voting machine vendors and
44 poll book manufacturers in this State to follow to ensure that the
45 voting machines and electronic poll books automatically generate
46 the required reports as specified in the template and in a manner

1 that is compatible with commonly-used election results viewing
2 software and structure. The ability of the voting machines and
3 electronic poll books to generate the required reports shall be a
4 condition for the certification and use of the voting machines and
5 electronic poll books in this State. Any voting machine or electronic
6 poll book previously certified for use in this State shall incorporate
7 the ability to generate the required reports within 120 days of the
8 Secretary of State's development of the template】 standardized
9 reporting for all counties to follow² .¹

10 (4) ²【Whenever the reporting requirements of this subsection
11 would cause a voter's privacy to be violated, the election results
12 shall be reported in a manner that maintains the privacy of the vote,
13 provided that the election results posted on the respective websites
14 shall contain a disclosure stating that the results reported for some
15 individual districts reflect measures to protect the privacy of the
16 vote while the general tally accurately reflects the results】 (a) On
17 the day after each primary and general election, and by 9 【P.M.】
18 p.m. of every day thereafter, each county clerk, in consultation with
19 the commissioner of registration and the county board of elections
20 of that county, shall list in an easily identifiable location on the
21 county clerk's Internet site, an unofficial report of the total number
22 of provisional ballots cast during the early voting period and on
23 election day, which unofficial report shall be generated using the
24 electronic poll book software.

25 (b) Beginning on the seventh day after each primary and general
26 election, each county clerk, in consultation with the commissioner
27 of registration and the county board of elections of that county,
28 shall list in an easily identifiable location on the county clerk's
29 Internet site, an unofficial report detailing the number of eligible
30 provisional ballots that have been received. The reporting required
31 by this subparagraph shall be updated by 9 【P.M.】 p.m. on the date
32 of such report and by 9 【P.M.】 p.m. every day thereafter with the
33 number of eligible provisional ballots that have been counted until
34 all eligible provisional ballots have been counted and the election is
35 certified².

36 (cf: P.L.2018, c.110, s.1)

37

38 ²2. (New section) a. Upon the certification of the results of a
39 primary or general election, each county clerk, in consultation with the
40 commissioner of registration and the county board of elections of that
41 county, shall list in an easily identifiable location on the county clerk's
42 Internet site, the district level results for the in-person early voting
43 period, the election day vote, and the vote-by-mail vote.

44 b. Whenever the reporting requirements of this subsection or
45 section 1 of P.L.2018, c.110 (C.19:52-3.1) would cause a voter's
46 privacy to be violated, the election results shall be reported in a
47 manner that maintains the privacy of the vote, provided that the

1 election results posted on the respective websites shall contain a
2 disclosure stating that the results reported for some individual districts
3 reflect measures to protect the privacy of the vote while the general
4 tally accurately reflects the results.²

5
6 ²3. There is appropriated from the General Fund to the
7 Department of State the sum of \$1,500,000 for the purposes of
8 effectuating the provisions of this act, P.L. , c. (pending before the
9 Legislature as this bill).²

10
11 ²[2.] 4.² This act shall take effect ²[immediately] after the 2023
12 primary election and shall apply to the 2023 general election and all
13 elections thereafter.²