

SENATE, No. 1235

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED FEBRUARY 3, 2022

Sponsored by:

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Senator ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

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Senator Turner

SYNOPSIS

Requires outer envelope for mailing of voted mail-in ballot by voter to include postage prepaid.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/2/2023)

1 AN ACT concerning the mailing of voted mail-in ballots and
2 amending various parts of the statutory law and supplementing
3 P.L.2009, c.79.

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

7
8 1. Section 11 of P.L.1964, c.134 (C.19:58-11) is amended to
9 read as follows:

10 11. Each county clerk shall cause to be printed a sufficient
11 number of Presidential ballots for each Presidential election to be
12 held in this State and along with all such ballots there shall also be
13 furnished by the county clerk inner and outer envelopes which shall
14 be of different color than those used to enclose military service and
15 civilian absentee ballots, and also printed directions for the
16 preparation and transmitting of such ballots and all expenses of
17 printing and mailing such ballots shall be paid in the same manner as
18 other expenses of such election are paid. The outer envelopes shall
19 have affixed thereon the proper and sufficient first-class or air-mail
20 prepaid postage, the costs of which shall be paid by the county clerk
21 and reimbursed by the State pursuant to section 8 of
22 P.L. , c. (C.) (pending before the Legislature as this bill).
23 (cf: P.L.1964, c.134, s.11)

24
25 2. Section 22 of P.L.1964, c.134 (C.19:58-22) is amended to
26 read as follows:

27 22. Said sealed postage prepaid outer envelope with the inner
28 envelope and the ballot enclosed therein, shall then be mailed **[with**
29 **sufficient postage]** to the county board of elections to which it is
30 addressed, or shall be presented in person to the county board of
31 elections at the office of said board.
32 (cf: P.L.1964, c.134, s.22)

33
34 3. Section 8 of P.L.1976, c.23 (C.19:59-8) is amended to read as
35 follows:

36 8. a. Each county clerk shall send by air mail, with each ballot
37 for an overseas voter or overseas federal election voter transmitted
38 by such means, appropriate printed instructions for its completion
39 and return, together with an inner envelope and an outer envelope
40 with proper and sufficient postage thereon similar to that required as
41 to civilian vote by mail ballots with a legend on the inner envelope
42 stating "Ballot for Overseas Voter" or "Ballot for Overseas Federal
43 Election Voter," as appropriate.

44 b. Each county clerk shall send to each overseas voter or
45 overseas federal election voter requesting that a ballot be sent to that

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 voter by electronic means all appropriate printed instructions for its
2 completion and return. The printed instructions sent to each such
3 voter shall include a certificate substantially the same as provided for
4 in section 9 of P.L.1976, c.23 (C.19:59-9).

5 c. The printed instructions sent with each ballot to an overseas
6 voter or overseas federal election voter, including instructions sent
7 by electronic means, shall include a copy of the following notice:

8 **PENALTY FOR FRAUDULENT VOTING**

9 Any person who knowingly violates any of the provisions of the
10 Overseas Residents Absentee Voting Law, or who, not being entitled
11 to vote thereunder, fraudulently votes or attempts to vote thereunder
12 or enables or attempts to enable another person, not entitled to vote
13 thereunder, to vote fraudulently thereunder or who prevents or
14 attempts to prevent by fraud the voting of any person legally entitled
15 to vote under this act, shall be guilty of an indictable offense, and
16 upon conviction thereof shall be subject, in addition to such other
17 penalties as are authorized by law, to disenfranchisement while
18 serving a sentence of incarceration unless and until pardoned or
19 restored by law to the right of suffrage.

20 (cf: P.L.2019, c.270, s.9)

21

22 4. Section 10 of P.L.1976, c.23 (C.19:59-10) is amended to read
23 as follows:

24 10. a. For ballots sent to overseas voters or overseas federal
25 election voters, other than such ballots sent to the voter by electronic
26 means, the procedure for completing the ballot shall be as follows:

27 Upon completion of the ballot by indicating the voter's choice of
28 candidates for the offices named or the voter's choice regarding a
29 public question, or both, the ballot shall be placed in the inner
30 envelope and sealed. Upon completion and signing in the voter's
31 handwriting the certificate attached to the inner envelope, the inner
32 envelope shall be placed in the outer envelope, which when sealed
33 shall be mailed, postage prepaid by the county clerk, to the county
34 board of elections whose address is printed thereon.

35 b. For ballots sent to overseas voters or overseas federal election
36 voters by electronic means, the procedure for completing the ballot
37 shall be as follows:

38 After the ballot is received and completed by the voter by
39 indicating that person's choice of candidates for the offices named or
40 that person's choice regarding a public question, or both, the ballot
41 shall be placed in a secure envelope. Upon completion and signing
42 in the voter's handwriting of the certificate sent to the voter pursuant
43 to section 8 of P.L.1976, c.23 (C.19:59-8), it shall be placed in the
44 same envelope as the voted ballot. The envelope shall then be sealed
45 securely and sent immediately by air mail to the appropriate county
46 board of elections in this State.

47 c. Notwithstanding the provisions of subsections a. and b. of this
48 section, a copy of an overseas voter's or overseas federal election

1 voter's ballot may be transmitted by electronic means to the
2 appropriate county board of elections in this State. Such a ballot shall
3 be subject to the provisions of sections 3 and 4 of P.L.1995, c.195
4 (C.19:59-14 and C.19:59-15).
5 (cf: P.L.2017, c.39, s.6)

6
7 5. Section 2 of P.L.2005, c.148 (C.19:62-2) is amended to read
8 as follows:

9 2. If an election by mail is authorized pursuant to section 1 of
10 this act, P.L.2005, c.148 (C.19:62-1), the county clerk shall:

11 a. publish, in advance of the election and pursuant to rules and
12 regulations promulgated by the Secretary of State, official notice that
13 the election shall be conducted by mail together with such other
14 information regarding the conduct of the election as shall be deemed
15 necessary by the Secretary of State;

16 b. mail a ballot, including an outer envelope with proper and
17 sufficient postage prepaid thereon and an inner envelope
18 substantially similar to the envelopes provided for mail-in ballots
19 pursuant to sections 12 and 13 of P.L.2009, c.79 (C.19:63-12 and
20 C.19:63-13), not sooner than the 20th day prior to the day of the
21 election nor later than the 14th day prior to the day of the election, to
22 each person registered to vote in the municipality at that election;

23 c. designate the county clerk's office or the municipal clerk's
24 office as the places to obtain a replacement ballot pursuant to section
25 5 of P.L.2005, c.148 (C.19:62-5);

26 d. designate, after consultation with the county board of
27 elections and pursuant to criteria established by the Secretary of
28 State, places within the county or municipality that shall be available
29 for the deposit of voted ballots for the election;

30 e. make a provisional ballot available at the office of the county
31 clerk and the office of the municipal clerk so that each person who
32 has been a resident of the county or municipality in which the person
33 seeks to register and vote at least 21 days prior to the day of the
34 election and has moved to a location within the municipality after
35 that 21st day and prior to the day of the election may vote;

36 f. suspend distribution to each registered voter in the
37 municipality of samples of the official ballot of any election, but
38 distribute to each registered voter in the municipality with each ballot
39 a copy of the voter information notice provided for in section 1 of
40 P.L.2005, c.149 (C.19:12-7.1) as modified and supplemented by the
41 Secretary of State as deemed appropriate for use in municipalities
42 conducting elections by mail, and such instruction about the
43 completion of the ballot as deemed necessary by the Secretary of
44 State;

45 g. make certain that all qualified voters in the municipality
46 requesting a mail-in ballot between the 45th day and the 21st day
47 prior to the day of an election receive such ballot after the 20th day

1 prior to the day of an election and voters requesting a ballot on or
2 before the seventh day prior to the date of the election shall receive
3 a ballot authorized pursuant to this section; and

4 h. establish, after consultation with the county board of elections
5 and in accordance with rules and regulations adopted by the Secretary
6 of State, the time by which all ballots must be received by the board
7 on the day of an election to be considered valid and counted.

8 (cf: P.L.2011, c.37, s.29)

9

10 6. Section 8 of P.L.2005, c.148 (C.19:62-8) is amended to read
11 as follows:

12 8. Prior to transmitting a ballot to the county board of elections,
13 a registered voter shall mark it and place it in the inner envelope. The
14 inner envelope shall then be placed in the outer envelope and that
15 envelope shall be signed and certified by the voter pursuant to
16 instructions provided with the ballot. The voter may return the
17 envelopes containing the marked ballot to the county board by United
18 States mail or by depositing it at the office of the county board or any
19 other place of deposit designated for that purpose. **【If the voter**
20 **returns the ballot by United States mail, the voter shall provide the**
21 **postage】** Each outer envelope shall be a postage prepaid return
22 envelope.

23 (cf: P.L.2005, c.148, s.8)

24

25 7. Section 12 of P.L.2009, c.79 (C.19:63-12) is amended to read
26 as follows:

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

35 The outer envelope shall be addressed to the county board of
36 elections of the county in which is located the home address of the
37 person to whom the mail-in ballot is sent, as certified by the county
38 clerk. **【At the discretion of the county clerk, the】** The outer envelope
39 **【may】** shall be a postage **【paid】** prepaid return envelope. On the
40 outside and front of each outer envelope, there shall be printed or
41 stamped the following:

42 To protect your vote:

43 IT IS AGAINST THE LAW FOR ANYONE EXCEPT YOU THE
44 VOTER TO MAIL OR TRANSPORT THIS BALLOT UNLESS
45 THE ENVELOPE IS SEALED AND THE FOLLOWING IS
46 COMPLETED:

47 Ballot mailed or transported by

48 (signature of bearer)

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1 (print name of bearer)

2 (address of bearer)

3 The reverse side of the outer envelope shall contain the following:

4 REMINDER

5 For your vote to count, you must:

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

8 2) Seal the envelope.

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

11 4) If another person will be mailing your ballot or bringing it to
12 the board of elections, MAKE CERTAIN THAT PERSON
13 COMPLETES THE "BEARER PORTION" ON THE ENVELOPE
14 ADDRESSED TO THE BOARD OF ELECTIONS BEFORE THE
15 BALLOT IS TAKEN FROM YOU. NO PERSON WHO IS A
16 CANDIDATE IN THE ELECTION FOR WHICH THE VOTER
17 REQUESTS THIS BALLOT IS PERMITTED TO SERVE AS A
18 BEARER. NO PERSON IS PERMITTED TO SERVE AS A
19 BEARER FOR MORE THAN THREE QUALIFIED VOTERS IN
20 AN ELECTION, BUT A PERSON MAY SERVE AS SUCH FOR
21 UP TO FIVE QUALIFIED VOTERS IN AN ELECTION IF THOSE
22 VOTERS ARE IMMEDIATE FAMILY MEMBERS RESIDING IN
23 THE SAME HOUSEHOLD AS THE BEARER.

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

27 The inner envelope shall be so designed that it can be sealed after
28 the mail-in ballot has been placed therein and the flap thereof shall
29 be of such length and size as to leave sufficient margin, after sealing,
30 for the printing thereon of the certificate hereinafter described. The
31 flap shall be so arranged that, after the inner envelope has been
32 sealed, the certificate can be contained, with the inner envelope, in
33 the outer envelope, and that the margin containing the certificate can
34 be detached without unsealing the inner envelope.

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

39 To protect your vote:

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

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

43 The reverse side of each inner envelope shall contain the following
44 statement:

45 A PERSON MAY BE FINED AND IMPRISONED AND MAY
46 ALSO LOSE THE RIGHT TO VOTE UNTIL RESTORED BY LAW
47 if that person attempts to vote fraudulently by mail-in ballot, prevents
48 the voting of a legal voter, certifies falsely any information, interferes

1 with a person's secrecy of voting, tampers with ballots or election
2 documents or helps another person to do so.

3 (cf: P.L.2015, c.84, s.4)

4

5 8. (New section) Upon application for reimbursement by a
6 county governing body to the Secretary of State, and approval of the
7 application by the State Treasurer or the Director of the Division of
8 Budget and Accounting in the Department of the Treasury,
9 reimbursement shall be made by the State to the county for the costs
10 of affixing proper and sufficient first-class or air-mail postage to the
11 mail-in ballot outer envelopes, and for any additional costs incurred
12 by the county as a result of the provisions of P.L. , c. (pending
13 before the Legislature as this bill).

14

15 9. This act shall take effect immediately.

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17

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STATEMENT

19

20 This bill requires that the cost of mailing a voted mail-in ballot by
21 a voter to cast a vote during any election be paid for by the county
22 and reimbursed to the county by the State.

23 Under current law, a voter who votes by mail using a mail-in ballot
24 is required to affix the proper postage to the outer envelope
25 containing the inner envelope, the voted ballot, and the required
26 certification. Counties are permitted under current law to supply a
27 postage prepaid outer envelope, but are not required to do so. This
28 bill would require the county clerk to affix the proper and necessary
29 first-class or air-mail prepaid postage to the outer envelopes used by
30 the voters to return the voted mail-in ballot prior to mailing the
31 ballots to the voters.

32 To avoid an unfunded mandate and a challenge under Article VIII,
33 Section II, paragraph 5 of the New Jersey Constitution, the bill
34 requires that these costs be reimbursed to the county by the State
35 upon application for reimbursement to the Secretary of State and
36 approval of the application by the Department of the Treasury.