

R.S. 19:48-6,7

May 7, 1970

LEGISLATIVE HISTORY OF R.S. 19:48-6, 7
(Duties of officials concerning machines; voting machine out of order)

L. 1930, Chapter 187 - S242

General revision of State Election Law (very long and hence, no copy attached).

March 25 - Introduced by Wolber.

April 15 - Reported with committee amendment.

April 15 - Passed in Senate.

April 16 - Passed in Assembly.

April 18 - Approved, Chapter 187.

Amended during passage.

No statement.

COPY NO. 2

Bill drafted and recommended by:

974.90 N.J. Commission to Codify and Revise
E38 Elections Laws.
1930 Report. 1930.

Amended by:

L. 1935, Chapter 302 - A115

January 28 - Introduced by Sanford.

April 8 - Passed in Assembly, amended.

June 10 - Passed in Senate.

June 29 - Approved, Chapter 302.

Amended during passage (copy enclosed).

Statement on bill (copy enclosed).

L. 1945, Chapter 56 - A299

February 19 - Introduced by Lusher.

March 12 - Passed in Assembly, amended.

March 26 - Passed in Senate.

March 31 - Approved, Chapter 56.

Amended during passage.

Statement on bill (copy enclosed).

Copy also attached of original bill showing changes this law made.

DEPOSITORY COPY
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L. 1947, Chapter 168 - A333

March 3 - Introduced by Kates.
March 25 - Reported by Committee Substitutes A & B.
April 8 - Committee Substitutes A & B passed Assembly.
April 15 - Passed in Senate.
May 20 - Committee Substitute A approved, Chapter 167.
May 20 - Committee Substitute B approved, Chapter 168.
No statement on original bill or substitutes.
Not amended during passage.
Copy enclosed of Sec. 25 of Committee Substitute B
which affects this section.

Reports (copies enclosed):

974.90 N.J. State board of voting machine commissioners.
E38 Report.
1906

974.90 N.J. Voting machine commissioners.
E38 ... The report on voting machines.
1910

974.90 N.J. Senate. Committee on Elections.
E38 Public hearing [on elections]
1940b Assembly Bill 14.

974.90 N.J. Legislature. Assembly. Committee on
E38 Revision and Amendment of Laws.
1961a Public hearing ... on A.C.R. 17 and 18
and A.J.R. no. 10 ...

974.90 N.J. Election Law Revision Commission.
E38 Preliminary report.
1966

3 voting machine, one set thereof shall be inserted or placed in or upon the
4 voting machine and the other shall be retained in the custody and possession
5 of the district board of registry and election, unless it shall become necessary
6 during the course of the election to make use of the same upon or in the voting
7 machine; at the close of the election all official ballots (except those actually
8 in or upon the voting machine at the close of the election) whether the same
9 shall have been used in the machine or not, shall be returned to the official
10 providing the same in the manner herein provided.

11 If the official ballots for an election district or precinct, at which a voting
12 machine is to be used, shall not be delivered in time for use on election day
13 or after delivery shall be lost, destroyed or stolen, the municipal clerk whose
14 duty it now is in such cases to provide other ballots for use at such elections
15 in lieu of those lost, destroyed or stolen, shall cause other ballots to be pre-
16 pared, printed or written as nearly as may be of the form and description of
17 the official ballots, and the district boards of registry and election shall cause
18 the ballots so substituted to be used at the election in the same manner, as
19 nearly as may be, as the official ballots would have been.

DUTY OF AUTHORITIES OF MUNICIPALITIES

1 9. It shall be the duty of the municipal clerk of the municipality wherein
2 voting machines have been adopted to have the machine and all necessary fur-
3 niture and appliances at the proper polling place or places before the time
4 fixed for opening the polls, and the counters set at zero (000), and otherwise
5 in good and proper order for use at such election; and for the purpose of
6 placing ballots in the ballot frames of the machine; putting it in order, set-
7 ting, testing, and adjusting and delivering the machine the county election of-
8 ficials may employ or appoint one or more competent persons to be known
9 as custodian or custodians of voting machines; who shall be fully competent,
10 thoroughly instructed by said county election officials and sworn to perform
11 their duties honestly and faithfully, and for such purpose shall be appointed
12 and instructed at least thirty days before the election and shall be considered
13 as officers of elections. Before preparing a voting machine for any election,
14 written notice shall be mailed to the chairman of the county committee of at

15 least two of the principal political parties, stating the time and place where
16 the machines will be prepared, at which time one representative of each such
17 political parties shall be afforded an opportunity to see that the machines
18 are in proper condition for use in election; such representatives shall be
19 sworn to faithfully perform their duties and shall be regarded as election of-
20 ficials, but shall not interfere with the custodians or assume any of their du-
21 ties. When a machine has been so examined by such representatives it shall
22 be sealed with a numbered metal seal. Such representatives shall certify,
23 upon a form to be provided by the municipal clerk, to the numbers of the ma-
24 chines, that all of the counters are set at zero (000), and as to the number
25 registered on the protective counter, if one is provided, and on the seal. After
26 the preparation of the machines, the said municipal clerk shall inspect each
27 machine, and report in writing, to the county board of elections, certifying
28 to the facts as to whether or not all of the registering counters are set at zero
29 (000), the machine is arranged in all respects in good order for the election
30 and locked; and as to the number registered on the protective counter; and
31 on the seal. When a voting machine has been properly prepared for elec-
32 tion, it shall be locked against voting and sealed; and the keys thereof shall
33 be delivered to the county election officials together with a written report
34 made by the custodian stating that it is in every way properly prepared for
35 the election. After the voting machines shall be transferred to the polling
36 places by the municipal clerk, it shall be the duty of the governing body of
37 said municipality to provide ample police protection against molestation, or
38 injury to the machine. Every voting machine shall be furnished with a lan-
39 tern, or an electric light fixture, which shall give sufficient light to enable vot-
40 ers while voting to read the ballots and suitable for use by the district board
41 of registry and election in examining the counters. The lantern or electric
42 light fixture shall be prepared in good order by the said municipal clerk for
43 use before the opening of the polls.

INSTRUCTION OF ELECTION OFFICERS

1 10. Not less than ten nor more than twenty-one days before each elec-
2 tion, the custodian or custodians of the machines shall instruct the members

12 term "official ballot" shall mean the printed strips of cardboard, or paper
13 containing the names of the candidates nominated and a statement of the
14 questions submitted. The term "irregular ballot" shall mean a vote cast, by
15 or on a special device, for a person whose name does not appear on the bal-
16 lots. The term "voting machine custodian" shall mean the person who shall
17 have charge of preparing and arranging the voting machine for elections.
18 The term "protective counter" shall mean a separate counter built into the
19 voting machine which cannot be reset, which records the total number of
20 movements of the operating lever.

APPLICATION

1 26. All laws relating to elections now in force in this State shall apply
2 to all elections under this act so far as the same may be applicable thereto;
3 and so far as such provisions are not inconsistent with the provisions of the
4 act pertaining to the use of the paper ballots and ballot boxes.

STATEMENT

This bill provides for the legal use of the mechanical ballot at all elections held in this State.

The voting machine or mechanical ballot provides the following advantages over the paper ballot:

It affords an easier and speedier method of voting.

It insures absolute secrecy in voting.

It makes impossible spoiled and defective ballots.

It produces an accurate automatic count of the votes cast.

Results of an election are known immediately after the close of the polls.

It preserves a permanent record of the vote that cannot be tampered with.

It reduces election expenses to a minimum and makes any necessary recount a simple and inexpensive proceeding.

The voting machine is not an experiment nor a new idea. It was first introduced in Buffalo and Rochester, New York, thirty-five years ago and has been in

constant use since that time. Today voting machines are used at every election in upward of 3,000 communities in the States of Arizona, New York, Pennsylvania, Connecticut, Michigan, Wisconsin, Indiana, Iowa, Washington, California, Maryland, and Texas.

The use of the mechanical ballot is being extended to other States as fast as legislative restrictions are removed and proper voting machine laws enacted.

The purpose of this act is expressed in its title.

The Commission for the Revision of Election Laws, composed of members of the two major parties, in its report in 1930, recommended the use of voting machines.

Page 4, section 4, strike out the title "providing machines" and substitute therefor "custody and care of machines." Strike out the entire section and substitute the following section: "When voting machines are installed in any county or municipality they shall be placed and remain in the custody of the county board of elections or the officials in charge of elections or the municipal clerk as the case may be, who shall preserve and keep them in repair."

Page 4, section 5, line 1, add the following after the numeral 5: "any voting machines owned and in use by a municipality at the time of a county-wide installation at county expense may be taken over by the county if mutually agreeable between the county and municipality. In no case, however, shall the municipality be reimbursed to the extent of more than the original cost of the machines."

Page 4, section 5, line 3, strike out the word "may" and substitute therefor the word "shall". Insert after the word "thereof" the following: "in such manner as the governing body of such governmental unit deems best according to the financial of said unit and said governing body may meet the necessary expenditure by budget appropriation."

Page 5, section 7, line 7, after the word "sample" insert the words "or instruction."

Page 5, section 8, line 1, after the numeral "8" insert the words "at least one week prior to any primary, local, or general election," and substitute a small "t" for the capital "t" in the word "too."

Page 6, section 8, line 5, strike the words "district board of registry and election" and substitute therefor the word "custodian".

Page 6, section 8, strike out lines 11 to 19 inclusive.

Page 6, section 9, strike out the title "duty of authorities of municipalities" and substitute therefor the title "duties of municipal officials."

Page 6, section 9, line 1, after the words "duty of the county officials in charge of elections or". After the word "municipality" insert the words "as the case may be"

Page 6, section 9, line 5, after the word "election" insert a period and strike out the word "and" and substitute a capital "I" for the small "f" in the word "for".

Page 6, section 9, line 8, after the first two syllables "ficials" insert the words "or the municipal clerk as the case may be."

Page 6, section 9, line 10, after the word "officials" insert "or municipal clerk as the case may be."

Page 7, section 9, line 23, after the words "provided by the" insert the words "county election official or." After the word "clerk" insert the words "as the case may be".

Page 7, section 9, line 25, after the word "sal" insert the following sentence: "such certificate shall be filed with the county election officials or the municipal clerk as the case may be." Strike out the word "after."

Page 7, section 9, strike out lines 26-30 inclusive and in line 31 strike out the words "on this seal."

Page 7, section 9, line 33, after the word "officials" insert the words "or municipal clerk as the case may be."

Page 7, section 9, line 38, strike out the word "injury" and substitute the words "tempering or damage."

Page 7, section 9, line 42, after the word "said" insert the words "county election officials or", after the word "clerk" insert a comma by the words "as the case may be."

Page 8, section 11, line 1, after the word "election" insert the words "or municipal clerk as the case may be."

Page 9, section 11, line 12, after the first syllable "cials" insert the words "or municipal as the case may be"

Page 9, section 12, line 2, strike out the word "at" and in line 3 strike out the words "the same time, and be delivered to the same officials."

Page 9, section 13, after the words "number of" in the title insert the word "registered".

Page 9, section 13, line 4, after the word "fifty" insert the word "registered."

Page 9, section 13, line 5, after the word "thousand" insert the word "registered."

A299-1945

23 tions in each county of the first class by the board of chosen freeholders
24 thereof for the year one thousand nine hundred and forty-five for the pur-
25 pose of defraying the cost, including all salaries, and of storing, delivering
26 to and from polling places, repairing, servicing, and maintaining voting
27 machines, shall be transferred forthwith to the account of the superintendent
28 of elections and shall be used by him solely for such purpose, and no other.

1 12. This act shall take effect immediately.

STATEMENT

The purpose of this act is to amend the election law so that in counties of the first class voting machines will be placed and remain in the custody of the superintendent of elections instead of the county board of elections, and to make certain other necessary adjustments and corrections.

16 The county board of elections or the superintendent of elections or the
 17 municipal clerk, as the case may be, shall preserve and keep in repair all vot-
 18 ing machines placed in its or his custody pursuant to the provisions of this
 19 section.

1 2. Section 19:48-6 of the Revised Statutes is amended to read as fol-
 2 lows:

3 19:48-6. ~~["The county officials in charge of elections"]~~ The county board
 4 of elections or the superintendent of elections or the municipal clerk ~~["of the~~
 5 ~~municipality"]~~, as the case may be, ~~["wherein voting machines have been~~
 6 ~~adopted,"]~~ having custody of voting machines, shall have the machine or
 7 machines and all necessary furniture and appliances at the proper polling
 8 place or places before the time fixed for opening the polls, and the counters
 9 set at zero (000), and otherwise in good and proper order for use at such
 10 election. For the purpose of placing ballots in the ballot frames of the
 11 machines ~~["machine"]~~; putting ~~["it"]~~ in order, setting, testing, adjusting and
 12 delivering the machines ~~["machine"]~~, such ~~["the county election officials"]~~ county
 13 board of elections or such superintendent of elections or ~~["the"]~~ such municipal
 14 clerk, as the case may be, may employ or appoint one or more fully competent
 15 persons to be known as custodian or custodians of voting machines, who shall
 16 be ~~["fully competent,"]~~ thoroughly instructed in their duties by such ~~["the county~~
 17 ~~election officials"]~~ county board of elections or such superintendent of elections
 18-19 or such municipal clerk, as the case may be, and shall be sworn to perform
 20 their duties honestly and faithfully ~~[","]~~ . ~~["and for such purpose"]~~ Such cus-
 21 todians shall be employed or appointed and instructed at least thirty days be-
 22 fore the election and shall be considered as officers of elections ~~["."]~~ ; provided,
 23 however, that for the purpose aforesaid in counties of the first class, the super-
 24 intendent of elections may employ or appoint, in addition to one or more
 25 custodian or custodians, other fully competent persons and may classify
 26 them, assign their duties, and fix their compensation according to the par-
 27 ticular duties assigned them, which said persons shall also be employed or

28 appointed, and thoroughly instructed and sworn to perform their duties
29 honestly and faithfully, at least thirty days before the election and shall
30 likewise be considered as officers of election.

31 Before preparing a voting machine for any election, written notice shall
32 be mailed by such board of elections or such superintendent of elections or
33 such municipal clerk, as the case may be, to the chairman of the county com-
34 mittee of at least two of the principal political parties, stating the time and
35 place where the machines will be prepared, at which time one representative
36 of each such political party shall be afforded an opportunity to see that
37 the machines are in proper condition for use in the election; such represen-
38 tatives shall be sworn to faithfully perform their duties and shall be regarded
39 as election officials, but shall not interfere with the custodian or custodians
40 or other persons employed or appointed as aforesaid or assume any of his
41 or their duties. When a machine has been so examined by such representa-
42 tives it shall be sealed with a numbered metal seal. Such representatives
43 shall certify, upon a form to be provided by ~~the county election official~~
44 such county board of elections or such superintendent of elections or such
45 municipal clerk, as the case may be, as to the numbers of the machines, that
46 all of the counters are set at zero (000), and as to the number registered on
47 the protective counter, if one is provided, and on the seal. Such certificate
48 shall be filed by them with the county election officials, such county board
49 of elections or such superintendent of elections or such municipal clerk, as the
50 case may be. When a voting machine has been properly prepared for the
51 election, it shall be locked against voting and sealed; and the keys thereof
52 shall be delivered to the county election officials, such county board of
53 elections or such superintendent of elections or such municipal clerk, as the
54 case may be, together with a written report made by the a custodian
55 stating that it is in every way properly prepared for the election.

56 After the voting machines shall be ~~transferred~~ delivered to the polling
57 places ~~by the municipal clerk~~, the governing body of ~~such~~ the municipi-
58 ality, wherein such polling places are located, shall provide ample police

59 protection against molestation, or tampering or damage to the [machine]
 60 machines. Every voting machine shall be furnished with a lantern, or an
 61 electric light fixture, which shall give sufficient light to enable voters while
 62 voting to read the ballots and be suitable for use by the district board in
 63 examining the counters. The lantern or electric light fixture shall be pre-
 64 pared in good order by [the county election officials] such county board of
 65 elections or such superintendent of elections or such municipal clerk, as the
 66 case may be, for use before the opening of the polls.

1 3. Section 19:48-7 of the Revised Statutes is amended to read as fol-
 2 lows:

3 19:48-7. If any voting machine being used in any election district shall,
 4 during the time the polls are open, become damaged so as to render it in-
 5 operative in whole or in part, the election officers shall immediately give
 6 notice thereof to the [custodian,] county board of elections or the superin-
 7 tendent of elections or the municipal clerk, as the case may be, having custody
 8 of voting machines, and such [custodian] county board of elections or such
 9 superintendent of elections or such municipal clerk, as the case may be, shall
 10 cause any person or persons employed or appointed pursuant to section
 11 19:48-6 of this Title to substitute a machine in perfect mechanical order for
 12 the damaged machine. At the close of the polls the records of both machines
 13 shall be taken and the votes shown on their counters shall be added together
 14 in ascertaining and determining the results of the election. Unofficial ballots
 15 made as nearly as possible in the form of the official ballot may be used,
 16 received by the election officers and placed by them in a ballot box in such
 17 case to be provided as now required by law, and counted with the votes
 18 registered on the voting machines. The result shall be declared the same as
 19 though there had been no accident to the voting machine. The ballots thus
 20 voted shall be preserved and returned as herein directed with a certificate or
 21 statement setting forth how and why the same were voted.

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9 that voting machines, heretofore or hereafter installed in any municipality
10 by the governing body thereof, in any manner provided by law, shall be
11 placed, and remain, in the custody of the municipal clerk unless taken over
12 by the county according to law.

13 The county board of elections or the superintendent of elections or the
14 municipal clerk, as the case may be, shall preserve and keep in repair all
15 voting machines placed in its or his custody pursuant to the provisions of
16 this section.

1 25. Section 19:48-6 of the Revised Statutes is amended to read as
2 follows:

3 19:48-6. The county board of elections or the superintendent of elec-
4 tions or the municipal clerk, as the case may be, having custody of voting
5 machines, shall have the machine or machines and all necessary furniture
6 and appliances at the proper polling place or places before the time fixed
7 for opening the polls, and the counters set at zero (000), and otherwise in
8 good and proper order for use at such election. For the purpose of plac-
9 ing ballots in the ballot frames of the machines; putting in order, setting,
10 testing, adjusting and delivering the machines, such county board of elec-
11 tions or such superintendent of elections or such municipal clerk, as the
12 case may be, may employ or appoint one or more fully competent persons
13 to be known as custodian or custodians of voting machines, who shall be
14 thoroughly instructed in their duties by such county board of elections or
15 such superintendent of elections or such municipal clerk, as the case may
16 be, and shall be sworn to perform their duties honestly and faithfully. Such
17 custodians shall be employed or appointed and instructed at least thirty days
18 before the election and shall be considered as officers of elections; *provided,*
19 *however,* that for the purpose aforesaid in counties having a superin-
20 tendent of elections, the superintendent of elections may employ or
21 appoint, in addition to one or more custodian or custodians, other fully
22 competent persons and may classify them, assign their duties, and fix their
23 compensation according to the particular duties assigned them, which said

24 persons shall also be employed or appointed, and thoroughly instructed and
25 sworn to perform their duties honestly and faithfully, at least thirty days
26 before the election and shall likewise be considered as officers of election.

27 Before preparing a voting machine for any election, written notice shall
28 be mailed by such board of elections or such superintendent of elections or
29 such municipal clerk, as the case may be, to the chairman of the county com-
30 mittee of at least two of the principal political parties, stating the time and
31 place where the machines will be prepared, at which time one representative
32 of each such political party shall be afforded an opportunity to see that the
33 machines are in proper condition for use in the election; such representa-
34 tives shall be sworn to faithfully perform their duties and shall be regarded
35 as election officials, but shall not interfere with the custodian or custodians
36 or other persons employed or appointed as aforesaid or assume any of his
37 or their duties. When a machine has been so examined by such represen-
38 tatives it shall be sealed with a numbered metal seal. Such representatives
39 shall certify, upon a form to be provided by such county board of elections
40 or such superintendent of elections or such municipal clerk, as the case may
41 be, as to the numbers of the machines, that all of the counters are set at zero
42 (000), and as to the number registered on the protective counter, if one is
43 provided, and on the seal. Such certificate shall be filed by them with such
44 county board of elections or such superintendent of elections or such munic-
45 ipal clerk, as the case may be. When a voting machine has been properly
46 prepared for the election, it shall be locked against voting and sealed; and
47 the keys thereof shall be delivered to such county board of elections or such
48 superintendent of elections or such municipal clerk, as the case may be,
49 together with a written report made by a custodian stating that it is in
50 every way properly prepared for the election.

51 After the voting machines shall be delivered to the polling places, the
52 governing body of the municipality, wherein such polling places are located,
53 shall provide ample police protection against molestation, or tampering or
54 damage to the machines. Every voting machine shall be furnished with a

55 lantern, or an electric light fixture, which shall give sufficient light to enable
56 voters while voting to read the ballots and be suitable for use by the dis-
57 trict board in examining the counters. The lantern or electric light fixture
58 shall be prepared in good order by such county board of elections or such
59 superintendent of elections or such municipal clerk, as the case may be, for
60 use before the opening of the polls.

1 26. Section five of chapter seven of the laws of one thousand nine hun-
2 dred and forty-four is amended to read as follows:

3 5. All voting machines purchased by the State House Commission pur-
4 suant to this act shall be delivered to the superintendent of elections in coun-
5 ties having a superintendent of elections and to the county board of elections
6 in each county of the second class. If the State House Commission is unable
7 at its first purchase to purchase sufficient voting machines to meet the re-
8 quirements of this act, it shall determine in its discretion the county or
9 counties to which the voting machines purchased are to be delivered and the
10 machines shall be delivered as required by such determination, and as
11 further purchases are made the same procedure shall be followed.

1 27. Section nine of chapter seven of the laws of one thousand nine hun-
2 dred and forty-four is amended to read as follows:

3 9. When voting machines are delivered to any county pursuant to the
4 provisions of this act and they are insufficient to provide voting machines
5 for use in all election districts of said county, such voting machines shall be
6 installed and used in such municipalities of said county and in such wards
7 thereof as, in counties having a superintendent of elections, the superintendent
8 of elections shall designate and as, in counties of the second class, not hav-
9 ing a superintendent of elections the commissioner of registration shall des-
10 ignate, giving preference to municipalities in the descending order of popu-
11 lation measured by the last Federal census and, in any municipality, giving
12 preference to the several wards thereof according to the same standard.

1 28. Section eleven of chapter seven of the laws of one thousand nine hun-
2 dred and forty-four is amended to read as follows: