

19:23-45 to 45.3

LEGISLATIVE HISTORY CHECKLIST

NJSA 19:23-45 to 19:23-45.3

Laws of 1976 Chapter 16

Bill No. S1067

Sponsor(s) Dugan

Date Introduced February 3, 1976

Committee: Assembly -

Senate Judiciary

Amended during passage Yes No Amendments during passage denoted by asterisks

Date of passage: Assembly April 1, 1976

Senate February 19, 1976

Date of approval April 8, 1976

Following statements are attached if available:

Sponsor statement Yes No

Committee Statement: Assembly Yes No

Senate Yes No

Fiscal Note Yes No

Veto message Yes No

Message on signing Yes No

Following were printed:

Reports Yes No

Hearings Yes No

Amendment not covered in proposed sec. 19A:15-18 in:

974.90 NJ Election Law Revision Commission.
E38 The New Jersey election law revision. Trenton, 1975.
1975b v.1-Proposed Title 19A of the New Jersey Statutes,
introduced April 21, 1975 in the General Assembly...
as A3334. [page 87 enclosed]

v.2-Final report and commentary to proposed Title 19A.
[pages iv, v, and 23]

10/4/76
SEP 1977

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SENATE, No. 1067

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 3, 1976

By Senator DUGAN

Referred to Committee on Judiciary

AN ACT concerning elections, amending R. S. 19:23-45 and supplementing Title 19 of the Revised Statutes.

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

1 1. R. S. 19:23-45 is amended to read as follows:

2 19:23-45. No voter shall be allowed to vote at the primary elec-
3 tion unless his name appears in the signature copy register.

4 A voter who votes in a primary election of a political party or
5 who signs and files with the municipal clerk or the [county board
6 of elections] *county commissioner of registration* a declaration
7 that he desires to vote in the primary election of a political party
8 shall be deemed to be a member of that party until he signs and
9 files a declaration that he desires to vote in the primary election of
10 another political party at which time he shall be deemed to be a
11 member of such other political party. *The Secretary of State shall*
12 *cause to be prepared political party affiliation declaration forms*
13 *and shall provide such forms to the commissioners of registration*
14 *of the several counties and to the clerks of the municipalities within*
15 *such counties.*

16 No voter, except a newly registered voter at the first primary at
17 which he is eligible to vote, may vote in a primary election of a
18 political party unless he was deemed to be a member of that party
19 on the fiftieth day next preceding such primary election.

20 A member of the county committee of a political party and a
21 public official or public employee holding any office or public
22 employment to which he has been elected or appointed as a member
23 of a political party shall be deemed a member of such political
24 party.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

25 Any person voting in the primary ballot box of any political
26 party in any primary election in contravention of the election law
27 shall be guilty of a misdemeanor, and any person who aids or
28 assists any such person in such violation by means of public
29 proclamation or order, or by means of any public or private direc-
30 tion or suggestions, or by means of any help or assistance or
31 cooperation, shall likewise be guilty of a misdemeanor.

1 2. (New section) a. The municipal clerks in each of the several
2 counties, shall cause a notice to be published in each of their
3 respective municipalities in a newspaper or newspapers circulat-
4 ing therein. The notice to be so published shall be published once
5 during each of the 2 calendar weeks next preceding the week in
6 which the fiftieth day next preceding the primary election of a
7 political party occurs.

8 b. The notice required to be published by the preceding para-
9 graph shall inform the reader thereof that no voter, except a newly
10 registered voter at the first primary at which he is eligible to vote,
11 may vote in a primary election of a political party unless he was
12 deemed to be a member of that party on the fiftieth day next pre-
13 ceding such primary election. It shall further inform the reader
14 thereof that a voter who votes in the primary election of a political
15 party or who signs and files with the municipal clerk or the county
16 commissioner of registration a declaration that he desires to vote
17 in the primary election of a political party shall be deemed to be a
18 member of that party until he signs and files a declaration that he
19 desires to vote in the primary election of another political party
20 at which time he shall be deemed to be a member of such other
21 political party. The notice shall also state the time and location
22 where a person may obtain political party affiliation declaration
23 forms.

1 3. (New section) The cost of the publishing of the notices re-
2 quired to be published by this act by the municipal clerks shall be
3 paid by the respective municipalities.

1 4. (New section) The Secretary of State shall promulgate such
2 rules and regulations as he deems necessary to implement this act,
3 including the procedures to be followed in the filing, reporting and
4 authentication of declarations of political party affiliation pursuant
5 to R. S. 19:23-45.

1 5. This act shall take effect immediately.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1067

STATE OF NEW JERSEY

with Committee amendments

DATED: FEBRUARY 19, 1976

This bill provides procedures by which political party affiliation declaration forms are to be prepared and distributed to county commissioners of registration, and further provides for the publication of notices informing the voters of the requirements for voting in the primary election of political parties.

The committee amended the bill to provide that county commissioners of registration may receive and file the political party affiliation declaration forms and makes them responsible for publication of the notices required by the bill. The committee amendments also make the counties responsible for the cost of publishing the required notices.

SENATE COMMITTEE AMENDMENTS TO

SENATE, No. 1067

STATE OF NEW JERSEY

ADOPTED FEBRUARY 19, 1976

Amend page 2, section 2, line 1, omit "municipal clerks", insert "county commissioner of registration".

Amend page 2, section 2, line 2, after "each", insert "municipality".

Amend page 2, section 2, line 3, omit "municipalities", insert "counties".

Amend page 2, section 3, line 2, omit "municipal clerks", insert "county commissioners of registration".

Amend page 2, section 3, line 3, omit "municipalities", insert "counties".

CHAPTER 16 LAWS OF N. J. 19 76

APPROVED, 4-8-76

[OFFICIAL COPY REPRINT]

SENATE, No. 1067

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 3, 1976

By Senator DUGAN

Referred to Committee on Judiciary

AN ACT concerning elections, amending R. S. 19:23-45 and supplementing Title 19 of the Revised Statutes.

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2 *of New Jersey:*

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10 another political party at which time he shall be deemed to be a
11 member of such other political party. *The Secretary of State shall*
12 *cause to be prepared political party affiliation declaration forms*
13 *and shall provide such forms to the commissioners of registration*
14 *of the several counties and to the clerks of the municipalities within*
15 *such counties.*

16 No voter, except a newly registered voter at the first primary at
17 which he is eligible to vote, may vote in a primary election of a
18 political party unless he was deemed to be a member of that party
19 on the fiftieth day next preceding such primary election.

20 A member of the county committee of a political party and a
21 public official or public employee holding any office or public
22 employment to which he has been elected or appointed as a member
23 of a political party shall be deemed a member of such political
24 party.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

25 Any person voting in the primary ballot box of any political
 26 party in any primary election in contravention of the election law
 27 shall be guilty of a misdemeanor, and any person who aids or
 28 assists any such person in such violation by means of public
 29 proclamation or order, or by means of any public or private direc-
 30 tion or suggestions, or by means of any help or assistance or
 31 cooperation, shall likewise be guilty of a misdemeanor.

1 2. (New section) a. The ***¶municipal clerks**]* **county com-*
 2 *missioner of registration** in each of the several counties, shall
 3 cause a notice to be published in each **municipality** of their respec-
 4 tive ***¶municipalities**]* **counties** in a newspaper or newspapers
 5 circulating therein. The notice to be so published shall be published
 6 once during each of the 2 calendar weeks next preceding the week
 6A in which the fiftieth day next preceding the primary election of a
 7 political party occurs.

8 b. The notice required to be published by the preceding para-
 9 graph shall inform the reader thereof that no voter, except a newly
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 22 where a person may obtain political party affiliation declaration
 23 forms.

1 3. (New section) The cost of the publishing of the notices re-
 2 quired to be published by this act by the ***¶municipal clerks**]*
 3 **county commissioners of registration** shall be paid by the respec-
 4 tive ***¶municipalities**]* **counties**.

1 4. (New section) The Secretary of State shall promulgate such
 2 rules and regulations as he deems necessary to implement this act,
 3 including the procedures to be followed in the filing, reporting and
 4 authentication of declarations of political party affiliation pursuant
 5 to R. S. 19:23-45.

1 5. This act shall take effect immediately.

The Commission reiterates and underscores these views and notes that a similar version of the Commission's proposed legislation became law in New Jersey in 1973. This act as passed has been substantially included in proposed Title 19A, in somewhat rearranged form.

3. Party Organization

The prohibition against party endorsements in primary elections, which was more often honored in devious breaches rather than forthright observance, has been abolished. It has been replaced with a system whereby, as a result of duly held meetings and an equitable system of voting, including use of secret ballots, the political parties may endorse candidates in primary elections. Moreover, even candidates who enjoy a certain amount of support falling short of endorsement are permitted to have their names appear in the same line or column on the primary ballot as the endorsed candidate or candidates. However, notwithstanding endorsement by political committees, no state committee, county committee or municipal committee of the political parties may spend or disburse any moneys to or on behalf of any endorsed candidate prior to the primary election.

The terms of office for municipal, county and state committee officials of the political parties have been set at 2 years. The adoption and filing of constitutions and bylaws by all such committees are mandatory. Meetings of the county committee must be noticed in writing at least 7 days in advance and "unit rule" and "proxy" voting are proscribed, thereby encouraging maximum participation at party meetings.

The revision abolishes the vague phrase "unit of representation," substitutes therefor the phrase "election district," and requires that each county committeeman and committeewoman be elected from each election district in the state. Where vacancies occur in county committees, voting to fill those vacancies is restricted only to those who were members on the day preceding the occurrence of the vacancy. All persons appointed to fill vacancies on the county committee must have the same qualifications as if they were to be elected to such position.

With respect to nominating petitions for statewide offices, the requirement is now that the petition contain 5,000 signatures, of which no more than 15% shall be from any one county.

The Commission is aware of current thought and judicial decision with respect to less rigid strictures on the right to be affiliated or non-affiliated with political parties. It has concluded that there should be a reasonable and affirmative method whereby entry into, or departure from, a political party is accomplished. Accordingly, the draft provides that a voter who votes in the primary election of a

political party shall be deemed to be a member of that party until one subsequent annual primary election has elapsed unless, within eight weeks following the general election, he shall have filed with the county board a certificate of disaffiliation stating that he is not affiliated with any political party, or stating that he is now affiliated with another political party. It is the Commission's view that such a provision provides ample flexibility for the coming and going of party members, but avoids the unseemly colonization of certain primaries by political nomads.

On the question of party primaries, the Commission notes that part of New Jersey's former statute on party primary "cross-overs" (19:23-45) was declared unconstitutional in *Nagler v. Stiles*, 343 F. Supp. 415 (1972). It is the Commission's conclusion that the proposed new section (19A:15-18) meets the constitutional tests implicit in the *Nagler* case, and those more recently applied by the United States Supreme Court in *Rosario v. Rockefeller*, 410 U.S. 752, 93 S. Ct. 1245, 36 L. Ed. 2nd 1 (1973).

4. The Right of Franchise

It is noted that following the decision in *Stephens v. Ycomans*, 327 F. Supp. 1182 (1971), which declared the distinctions in the then existing R.S. 19:4-1 as a denial of the equal protection of the law, and therefore unconstitutional, the New Jersey Legislature amended R.S. 19:4-1 in two important respects. First, the current statute, rather than attempting to distinguish among those persons eligible to vote and those not eligible to vote, prohibits voting by all persons serving sentences, or on parole or probation as a result of convictions for indictable offenses. Second, the current statute has removed references to age and duration of residence, and has substituted a clause requiring voters to meet the age and residence requirements prescribed by the Constitution of this State and the laws of the United States. (The Commission notes that the New Jersey Constitution, specifically Article II, paragraph 3, was amended by referendum at the general election on November 5, 1974.)

The Commission itself had also concluded that no residential duration test for voter eligibility was necessary, and that a 30-day period to permit election officials adequate time to investigate registrants was reasonable. See *Dunn v. Blumstein*, 405 U.S. 330, 92 S. Ct. 995, 31 L. Ed. 2d 274 (1972).

The Commission's proposed revision of R.S. 19:4-1 has substituted the language "who has been adjudged mentally incompetent" for "who is an idiot or is insane" in the current statute. The Commission recognizes that its substituted language may not be a complete solution to this troublesome problem, where a fine constitutional balancing of individual rights with a significantly free exercise of

N. J. Election Law Revision Comm.
FINAL REPORT AND COMMENTARY... 1975.

5 It shall be held for all political parties in the same places as
6 hereinbefore provided for the ensuing general election.

7 The primary election for the general election shall be conducted
8 by the district boards in substantially the same manner as the
9 general election.

10 Source: R. S. 19:23-40; R. S. 19:23-41; R. S. 19:23-42.

1 19A:15-18. Voting Regulations. No voter shall be allowed to
2 vote at the primary election unless his name appears in the signa-
3 ture copy register.

4 A voter who is a member of any political organization espousing
5 the cause of a candidate or candidates of any political party shall
6 be ineligible to vote in the primary of another political party while
7 such membership is in force; such person shall be deemed a member
8 of the political party whose candidate or candidates such organiza-
9 tion is espousing.

10 A voter who votes in a primary election of a political party shall
11 be deemed to be a member of that party until one subsequent
12 annual primary election has elapsed after such party primary vote;
13 unless, within 8 weeks following the general election, he shall have
14 filed with the county board, a certificate of disaffiliation stating he
15 is not affiliated with any political party, or stating that he is now
16 affiliated with another political party. Such certificate shall be
17 executed in duplicate, and the officer receiving it for filing shall
18 promptly forward one copy for retention by the municipal clerk.

19 A voter who has not voted in the last annual primary election
20 of a political party shall not be permitted to vote in any primary
21 election of a political party until he has first signed and filed with
22 the district board a declaration designating the political party in
23 whose primary election he desires to vote.

24 A member of the county committee of a political party and a
25 public official holding any office to which he has been elected or
26 appointed as a member of a political party shall be deemed a
27 member of such political party.

28 Source: R. S. 19:23-45.

1 19A:15-19. Determination of Right to Vote. Each voter offering
2 to vote shall announce his name and the party primary in which
3 he wishes to vote. The district board shall thereupon ascertain by
4 reference to the signature copy register that such voter is entitled
5 to vote. Said voter shall be allowed to so vote, unless the district
6 board shall determine his disqualification to vote in such party
7 primary.

8 Source: R. S. 19:23-46.

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118 Election Law 87 Revision Commission
The New Jersey Election Law Revision
v. 1 - Proposed Title 19A of NJSA.

19A:15-16. COMMENTARY

The revision makes uniform the sample ballot procedures for both general and primary elections.

19A:15-17. COMMENTARY

The revision combines old sections 19:23-40, 19:23-41, and 19:23-42.

19A:15-18. COMMENTARY

The revision eliminates the references to paper ballots and removes the penalty section. In addition, the time which must elapse between changing of parties has been reduced from 2 years to 1 year, with the further provision that if the voter, within 8 weeks following the general election, wishes to disaffiliate or to join another party, he may do so by executing an appropriate certificate. The prohibition on contributing to another political party has been eliminated. Finally, the reference to public employees as appointments of a "political party" has been removed.

19A:15-19. COMMENTARY

The revision eliminates the reference to paper balloting and non-permanent registration.

19A:15-20. COMMENTARY

This revision standardizes challenge procedures in both primary and general elections.

19A:15-21. COMMENTARY

This revision standardizes the counting, canvassing and certification procedures in both primary and general elections.

19A:15-22. COMMENTARY

This is old 19:23-58, unchanged.

19A:16-1. COMMENTARY

The revision substitutes the Election Law Enforcement Commission for the Secretary of State, and changes the inaccurate references as to when the primary election is held. Moreover, the revision ties the date of notification to 90 days prior to the primary election. In addition, the references to state chairmen have been changed to include the State chairmen of any political party.

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N.J. Election Law Revision Commission
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to proposed Title 19A.