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"Christie action extends new rights to N.J. voters abroad – Governor signs into law measure that covers local, state elections," The Record, April 1, 2017

RWH/JA.

P.L.2017, CHAPTER 39, *approved March 30, 2017*
Senate, No. 92 (*First Reprint*)

1 AN ACT concerning voting by New Jersey's overseas residents, and
2 amending and supplementing various parts of the statutory law.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 2 of P.L.1976, c.23 (C.19:59-2) is amended to read
8 as follows:

9 2. As used in this act:

10 a. "United States" means each of the several states, the District
11 of Columbia, Commonwealth of Puerto Rico, Guam, American
12 Samoa and the United States Virgin Islands; the term does not mean
13 or include the Canal Zone or any other territory or possession of the
14 United States.

15 b. "Residing abroad" means residing outside the United States.

16 c. **["Federal election"** means any general, special or primary
17 held for the purpose of nominating or electing any candidate for the
18 office of President or Vice President of the United States,
19 Presidential elector, United States Senator or member of the United
20 States House of Representatives] ¹"Federal election" means any
21 general, special or primary held for the purpose of nominating or
22 electing any candidate for the office of President or Vice President
23 of the United States, Presidential elector, United States Senator or
24 member of the United States House of Representatives.

25 d.¹ "Election" shall have the same meaning as defined in
26 R.S.19:1-1, and include any federal, State, or local election, and any
27 public question placed before the voters.

28 ¹**[d.] e.**¹ "Overseas voter" means any person in military service,
29 or that person's spouse, partner in civil union, domestic partner, or
30 dependent, who, by reason of the person's active duty or service,
31 is, in the case of the person, absent on the date of an election from
32 the place of residence in New Jersey where the person is or would
33 be qualified to vote, [and] or in the case of the person's spouse,
34 partner in civil union, domestic partner, or dependent, absent on the
35 date of an election from the place of residence in New Jersey where
36 that spouse, partner in civil union, domestic partner, or dependent,
37 is or would be qualified to vote.

38 The term also means any citizen of the United States
39 ¹temporarily¹ residing abroad who (1) immediately prior to **[his]**

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:

¹Senate amendments adopted in accordance with Governor's
recommendations February 13, 2017.

1 departure from the United States was domiciled in New Jersey and
2 (a) was last registered to vote, or **【had all the qualifications】** last
3 eligible to register and vote, in New Jersey; or (b) **【had all the**
4 **qualifications】** would have been eligible to register and vote in New
5 Jersey **【other than having】** except that the citizen had not attained
6 18 years of age **【but has since attained that age】** the requirement of
7 which has since been met; or (c) would have been eligible to
8 register and vote in New Jersey **【,** but for residence , have the
9 qualifications to register and vote in New Jersey**】** except that the
10 citizen had not met the residency requirement; (2) **【does not**
11 **maintain a residence in the United States and】** is not registered or
12 qualified to vote elsewhere in the United States; and (3) holds a
13 valid passport or passport card **【of identity and registration】** or
14 other proof of citizenship issued under authority of the Secretary of
15 State of the United States.

16 ¹f. “Overseas federal election voter” means any citizen of the
17 United States residing abroad who does not intend to return or
18 whose intent to return is uncertain and who (1) immediately prior to
19 departure from the United States was domiciled in New Jersey and
20 (a) was last registered to vote, or last eligible to register and vote, in
21 New Jersey; or (b) would have been eligible to register and vote in
22 New Jersey except that the citizen had not attained 18 years of age
23 the requirement of which has since been met; or (c) would have
24 been eligible to register and vote in New Jersey except that the
25 citizen had not met the residency requirement; (2) is not registered
26 or qualified to vote elsewhere in the United States; and (3) holds a
27 valid passport or passport card or other proof of citizenship issued
28 under authority of the Secretary of State of the United States.¹

29 The term also means any citizen of the United States who was
30 born outside of the United States, is not described above, and,
31 except for the residency requirement of New Jersey, otherwise
32 satisfies the State’s voter eligibility requirements, if the last place
33 where a parent ¹**【or】**,¹ legal guardian ¹, spouse, partner in civil
34 union, or domestic partner¹ of the voter was, or under P.L.1976,
35 c.23 (C.19:59-1 et seq.) would have been, eligible to register and
36 vote before departure from the United States is within New Jersey
37 and the voter has not previously registered to vote elsewhere in the
38 United States.

39 ¹**【e.】** ¹g. ¹“Electronic means” means any transmission made by an
40 electronic telefacsimile machine or a similar device or by any other
41 form of electronic transmission including, but not exclusive to
42 electronic mail, that transports an authentic copy of a document
43 from one user to another.

44 ¹**【f.】** ¹h. ¹“Dependent” means an individual recognized as a
45 dependent by a military service.

1 ¹[g.] i. “Federal postcard application” means the application
2 prescribed under section 101 of Pub.L.99-410 (42 U.S.C.
3 s.1973ff(b)(2)).

4 ¹[h.] j. “Federal write-in absentee ballot” means the ballot
5 described under section 103 of Pub.L.99-410 (42 U.S.C. s.1973ff-
6 2).

7 ¹[i.] k. “Military service” means the active and reserve
8 components of the Army, Navy, Air Force, Marine Corps, or Coast
9 Guard of the United States; the Merchant Marine; the commissioned
10 corps of the Public Health Service or the commissioned corps of the
11 National Oceanic and Atmospheric Administration of the United
12 States; or the National Guard or State militia.

13 (cf: P.L.2008, c.61, s.2)

14
15 2. Section 3 of P.L.1976, c.23 (C.19:59-3) is amended to read
16 as follows:

17 3. Upon compliance with the provisions of this act, P.L.1976,
18 c.23 (C.19:59-1 et seq.), ¹as amended by P.L. , c. (C.) (pending
19 before the Legislature as this bill): a. any person meeting the
20 qualifications of an overseas voter may register to vote and may
21 apply for and vote by mail-in ballot in any election held in the
22 election district of this State in which the voter was formerly
23 domiciled; and b.¹ any person meeting the qualifications of an
24 ["Overseas voter"] overseas ¹federal election¹ voter may register to
25 vote and may apply for and vote by ¹[absentee] mail-in¹ ballot in
26 any ¹federal¹ election held in the election district of this State in
27 which the voter, or in the case of an overseas ¹federal election¹
28 voter who was born outside of the United States described ¹[in
29 paragraph (3) of subsection d. of section 2 of P.L.1976, c.23
30 (C.19:59-2), in which the voter’s parent or legal guardian, was] in
31 subsection f. of section 2 of P.L.1976, c. 23 (C.19:59-2), in which
32 the voter’s parent, legal guardian, spouse, partner in civil union, or
33 domestic partner was¹ formerly domiciled.

34 (cf: P.L.2008, c.61, s.3)

35
36 3. Section 4 of P.L.1976, c.23 (C.19:59-4) is amended to read
37 as follows:

38 4. a. Requests for an application to vote in an election as an
39 overseas voter ¹or a federal election as an overseas federal election
40 voter¹ may be made by or on behalf of an applicant to the county
41 clerk of the county in which the applicant, or in the case of an
42 overseas ¹federal election¹ voter who was born outside of the
43 United States ¹[described in paragraph (3) of subsection d. of
44 section 2 of P.L.1976, c.23 (C.19:59-2), in which the applicant’s
45 parent or legal guardian] described in subsection f. of section 2 of
46 P.L.1976, c.23 (C.19:59-2), in which the voter’s parent, legal

1 guardian, spouse, partner in civil union, or domestic partner,¹ was
2 formerly domiciled, or to the Secretary of State of New Jersey if the
3 applicant does not know the county of **【the applicant's】** former
4 domicile. All such applications shall be forwarded to such voters
5 by air mail or electronic means, if so requested by the voter. Any
6 overseas voter ¹or overseas federal election voter¹ requesting that
7 an application for a ballot be sent to that voter by electronic means
8 shall supply in the request to the Secretary of State or the county
9 clerk, as appropriate, the telephone number and location to which
10 the application is to be sent or the electronic address of the voter, as
11 may be appropriate, and, if known, the address where the voter, or
12 the voter's parent ¹**【or】**,¹ legal guardian, spouse, partner in civil
13 union, or domestic partner,¹ as appropriate, was domiciled before
14 departure from the United States. To qualify **【an applicant】** for a
15 ballot to be sent **【a ballot】** by air mail **【in order to vote in an**
16 **election】**, the applicant's completed application shall be received by
17 the appropriate county clerk or the Secretary of State on or before
18 the thirtieth day preceding the election. To qualify **【an applicant to**
19 **be sent】** for a ballot to be distributed by electronic means **【in order**
20 **to vote in an election】**, the applicant's completed application shall
21 be received by the appropriate county clerk **【on or before the fourth**
22 **day】** or the Secretary of State ¹**【by 3:00 p.m. on the day】** on or
23 before the fourth day¹ preceding the election.

24 b. An overseas voter ¹or overseas federal election voter¹ may
25 use the federal postcard application form to register to vote or to
26 apply for an overseas ballot for **【a federal】** any election ¹in which
27 the voter is eligible to vote¹. The voter may send the form by air
28 mail or electronic means to either the appropriate county clerk or
29 the Secretary of State and, in the case of **【an】** the use of a federal
30 postcard application for a ballot, may request that the ballot be sent
31 by air mail or electronic means. Any voter sending the form by
32 electronic means shall also mail simultaneously the federal postcard
33 application form to the appropriate county clerk or the Secretary of
34 State. Any federal postcard application for a ballot sent by an
35 overseas voter ¹or overseas federal election voter¹ and received by a
36 county clerk or the Secretary of State shall also be considered a
37 request for registration if that voter is not already registered.

38 ¹【c. An overseas voter may use the federal write-in absentee
39 ballot to vote in an election or to vote in favor or against any public
40 question placed before the voters in an election. An overseas voter
41 may use the federal write-in absentee ballot to register to vote, if
42 that voter is not already registered, or to request an overseas ballot
43 for all elections held during the calendar year in which the request
44 is made. The voter may send the federal write-in absentee ballot by
45 air mail or electronic means to either the appropriate county clerk or

1 the Secretary of State and, in the case of the use of a federal write-
2 in absentee ballot as an application for an overseas ballot, may
3 request that the ballot be sent by air mail or electronic means. Any
4 voter sending the federal write-in absentee ballot by electronic
5 means shall also mail it simultaneously to the appropriate county
6 clerk or the Secretary of State.】¹

7 (cf: P.L.2008, c.61, s.4)

8
9 4. Section 5 of P.L.1976, c.23 (C.19:59-5) is amended to read
10 as follows:

11 5. a. **【An】** Other than a federal postcard application ¹【or
12 federal】¹ ¹【write-in absentee ballot, an application for an overseas
13 ballot shall】 an application for a ballot by an overseas voter or
14 overseas federal election voter shall¹ be in substantially the
15 following form:

16 **¹【APPLICATION FOR AN OVERSEAS BALLOT】¹**

17 I, the undersigned, certify the following as a basis for an
18 application as citizen of the United States residing outside the
19 United States to receive a ballot to be voted at the election to be
20 held on (date of election) **【that is to say】** for (fill in
21 elected office or public question, or both):

- 22 1. I am a citizen of the United States;
- 23 2. I presently reside at (if mail should be
- 24 addressed other than to my residence, also provide address for
- 25 mail);
- 26 3. I was born on (month, day, year)
- 27 4. **【a.】** I hold a:
- 28 a. valid U.S. Passport #, dated, or
- 29 b. **【I hold a United States Citizens Identity and Registration**
- 30 Card (Form FS 225) dated issued by (name and
- 31 location of U.S. Embassy or Consulate)】 valid U.S. Passport Card #
- 32, dated, or
- 33 c. valid Certificate of Citizenship ¹【(Form N-600)】¹, dated
- 34, or
- 35 d. other valid form of identification recognized as such under
- 36 federal or state law: (form of identification), dated

37
38 5. a. Immediately prior to taking up residence abroad I was
39 domiciled in New Jersey and resided at (street address),
40 (municipality), (county) (If formerly registered
41 to vote from that address check here ()) ,or

42 b. I was born outside of the United States and my parent
43 ¹【or】¹ legal guardian, ¹spouse, partner in civil union, or domestic
44 partner,¹ before leaving the United States, was last domiciled in
45 New Jersey, residing at (street address),
46 (municipality),(county).

1 6. I **[do not maintain a domicile in the United States and]** am
2 not registered, entitled or applying to vote in any state other than
3 New Jersey.

4 7. I understand that any false statement knowingly made in this
5 application subjects me to the penalties provided by law for
6 fraudulent voting.

7 Applicant
8 (Signature)

9 Dated:.....Applicant
10 (Print or type name)

11 b. There shall also be sent to the applicant by air mail or
12 electronic means such instructions and portions of the law or
13 regulations as the Secretary of State shall direct.

14 c. Any overseas voter ¹or overseas federal election voter¹
15 requesting that a ballot be sent to that voter by electronic means
16 shall indicate on the application for the ballot the telephone number
17 and location to which the ballot is to be sent or the electronic
18 address of the voter, as may be appropriate.

19 (cf: P.L.2008, c.61, s.5)

20

21 5. Section 6 of P.L.1976, c.23 (C.19:59-6) is amended to read
22 as follows:

23 6. Each county clerk, upon receipt of an application for ¹**[an**
24 **overseas ballot]** a ballot by an overseas voter or overseas federal
25 election voter¹, including a federal postcard application, shall
26 determine whether or not the applicant is qualified to vote such a
27 ballot, make a list of those applications approved and disapproved,
28 which list shall be open to inspection by election officials and the
29 public, and shall forward an overseas ballot to each person whose
30 application is approved. For each voter whose application is
31 approved, the county clerk shall deliver to the county board of
32 elections the completed application form for retention by the board
33 for signature comparison with that on the certificate on the inner
34 envelope containing the ballot upon its receipt.

35 (cf: P.L.2008, c.61, s.6)

36

37 6. Section 7 of P.L.1976, c.23 (C.19:59-7) is amended to read
38 as follows:

39 7. **[The]** ¹**[Other than a federal write-in absentee ballot, the**
40 **The**¹ county clerk shall prescribe the form of the ¹**[overseas ballot**
41 **ballot for overseas voters and overseas federal election voters**¹.

42 (cf: P.L.2008, c.61, s.7)

43

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

1 10. a. For ¹~~【overseas ballots】~~ ballots sent to overseas voters or
2 overseas federal election voters,¹ other than such ballots sent to the
3 voter by electronic means, the procedure for completing the ballot
4 shall be as follows:

5 Upon completion of the ballot by indicating the voter's choice of
6 candidates for the offices named or the voter's choice regarding a
7 public question, or both, the ballot shall be placed in the inner
8 envelope and sealed. Upon completion and signing in the voter's
9 handwriting the certificate attached to the inner envelope, the inner
10 envelope shall be placed in the outer envelope, which when sealed
11 shall be mailed postage prepaid to the county board of elections
12 whose address is printed thereon.

13 b. For ¹~~【overseas ballots sent to the voter】~~ ballots sent to
14 overseas voters or overseas federal election voters¹ by electronic
15 means, the procedure for completing the ballot shall be as follows:

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

25 c. Notwithstanding the provisions of subsections a. and b. of
26 this section, a copy of ¹~~【a voted overseas】~~ an overseas voter's or
27 overseas federal election voter's¹ ballot may be transmitted by
28 electronic means to the appropriate county board of elections in this
29 State. Such a ballot shall be subject to the provisions of sections 3
30 and 4 of P.L.1995, c.195 (C.19:59-14 and C.19:59-15).

31 (cf: P.L.2008, c.61, s.11)

32

33 8. Section 12 of P.L.1976, c.23 (C.19:59-12) is amended to
34 read as follows:

35 12. An overseas voter ¹or overseas federal election voter¹ may
36 request, on any application form used, ¹~~【an overseas】~~ a¹ ballot for
37 all elections held during the calendar year in which the request is
38 made ¹and in which the voter is eligible to vote¹. Any instructions
39 sent to an applicant pursuant to section 5 of P.L.1976, c.23
40 (C.19:59-5) shall inform the applicant that such a request may be
41 made. If such a request is made, ¹~~【an overseas】~~ a¹ ballot shall be
42 sent in a timely manner to the voter for all such elections ¹in which
43 the voter is eligible to vote¹ and by the transmission method first
44 requested by the voter unless the voter instructs otherwise.

45 (cf: P.L.2008, c.61, s.13)

1 ¹【9. (New section) An electronic address provided by an
2 overseas voter to the county clerk or the Secretary of State shall not
3 be made available to the public or any individual or organization
4 other than an authorized agent of the county clerk or the Secretary
5 of State and shall be exempt from disclosure under
6 P.L.1963, c.73 (C.47:1A-1 et seq.). The address may be used only
7 for official communications with the voter that are related to the
8 voting process, including transmitting ballots and election materials
9 if the voter has requested electronic transmission, and verifying the
10 voter’s mailing address and physical location. The request for an
11 electronic address shall describe the purposes for which the
12 electronic address may be used and include a statement that any
13 other use or disclosure of the electronic address is prohibited.】¹
14

15 ¹【10. (New section) If a voter’s mistake or omission in the
16 completion of a document does not prevent a determination of
17 whether a voter is eligible to vote, the mistake or omission shall not
18 invalidate the document. Failure to satisfy a technical requirement,
19 such as using paper or envelopes of a specified size or weight, shall
20 not invalidate the submitted document. In the case of a federal
21 write-in absentee ballot or a vote for a write-in candidate on a
22 regular ballot, if the intention of the voter is discernable, an
23 abbreviation, misspelling, or other minor variation in the form of
24 the name of a candidate or a political party shall be accepted as a
25 valid vote.

26 This section shall be applied consistent with the requirements of
27 subsection d. of section 4 of P.L.1995, c.195 (C.19:59-15).】¹
28

29 ¹【11. (New section) A court may issue an injunction or grant
30 other appropriate equitable relief to ensure substantial compliance
31 with, or enforcement of, the “Overseas Residents Absentee Voting
32 Law,” P.L.1976, c.23 (C.19:59-1 et seq.) on application by a voter
33 alleging a grievance under that law or by an election official in this
34 State.】¹
35

36 ¹【12.】 9.¹ Section 26 of P.L.2011, c.37 (C.19:59-16) is amended
37 to read as follows:

38 26. For the purpose of complying with the federal “Uniformed
39 and Overseas Citizens Absentee Voting Act,” 42 U.S.C. s.1973ff-1
40 et seq., the office of the Secretary of State shall:

41 a. be designated as the single State office responsible for
42 providing information to all overseas voters ¹and overseas federal
43 election voters¹ who wish to register to vote or vote in any
44 jurisdiction in the State with respect to voter registration procedures
45 and vote by mail procedures to be used by overseas voters ¹and

- 1 overseas federal election voters¹ for all elections in which the
2 voter is eligible to vote¹ **【for federal offices】** ;
- 3 b. work with the federal Election Assistance Commission and
4 the federal Department of Defense to develop standards to report
5 data on the number of **【overseas voter】**¹ ballots transmitted and
6 received by mail or electronic means by overseas voters or
7 overseas federal election voters¹ pursuant to the “Overseas
8 Residents Absentee Voting Law,” P.L.1976, c.23 (C.19:59-1 et
9 seq.) and section 7 of P.L.2004, c.88 (C.19:61-7); and
- 10 c. provide such additional information relating to voting by
11 overseas voters and overseas federal election voters¹ from this
12 State as the Department of Defense determines is necessary.
13 (cf: P.L.2011, c.37, s.26)

14

15 **【13.】** 10.¹ R.S.19:31-6 is amended to read as follows:

16 19:31-6. Any person qualified to vote in an election shall be
17 entitled to vote in the election if the person shall have registered to
18 vote on or before the 21st day preceding the election by:

19 a. registering in person at any offices designated by the
20 commissioner of registration for providing and receiving
21 registration forms;

22 b. completing a voter registration form while applying for a
23 motor vehicle driver's license from an agent of the New Jersey
24 Motor Vehicle Commission, as provided for in section 24 of
25 P.L.1994, c.182 (C.39:2-3.2);

26 c. completing and returning to the **【Attorney General】**
27 Secretary of State or having returned thereto a voter registration
28 form received from a voter registration agency, as defined in
29 subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11), while
30 applying for services or assistance or seeking a recertification,
31 renewal or change of address at an office of that agency;

32 d. completing and returning to the **【Attorney General】**
33 Secretary of State a voter registration form obtained from a public
34 agency, as defined in subsection a. of section 15 of P.L.1974, c.30
35 (C.19:31-6.3);

36 e. completing and returning to the **【Attorney General】**
37 Secretary of State or having returned thereto a voter registration
38 form received from a door-to-door canvass or mobile registration
39 drive, as provided for in section 19 of P.L.1974, c.30 (C.19:31-6.7);

40 f. completing and returning to the **【Attorney General】**
41 Secretary of State a federal mail voter registration form, as
42 prescribed in subsection (b) of section 9 of the "National Voter
43 Registration Act of 1993," (42 U.S.C. s.1973gg et seq.);

44 g. completing and returning to the **【Attorney General】**
45 Secretary of State or the appropriate county clerk an application for
46 a federal postcard application form to register to vote, or a federal

1 write-in absentee ballot,】¹ as 【provided for in】 permitted pursuant
 2 to the "Overseas Absentee Voting Act" (42 U.S.C. s.1973ff-1 et
 3 seq.) and section 4 of P.L.1976, c.23 (C.19:59-4);or

4 h. completing a provisional ballot affirmation statement and
 5 voting the provisional ballot in the previous election, if the person
 6 who submitted the provisional ballot in that election is determined
 7 not to be a registered voter .

8 When the commissioner has designated a place or places other
 9 than his office for receiving registrations, the commissioner shall
 10 cause to be published a notice in a newspaper circulated in the
 11 municipality wherein such place or places of registration shall be
 12 located. Such notice shall be published pursuant to R.S.19:12-7.

13 Any office designated by the commissioner of registration for
 14 receiving registration forms shall have displayed, in a conspicuous
 15 location, registration and voting instructions. These instructions
 16 shall be the same as those provided for polling places under
 17 R.S.19:9-2 and shall be provided by the commissioner.
 18 (cf: P.L.2005, c.139, s.8)

19

20 ¹11. Section 8 of P.L.1976, c.23 (C.19:59-8) is amended to read
 21 as follows:

22 8. a. Each county clerk shall send by air mail, with each
 23 **【overseas】** ballot for an overseas voter or overseas federal election
 24 voter transmitted by such means, appropriate printed instructions
 25 for its completion and return, together with an inner and outer
 26 envelope similar to that required as to civilian **【absentee】** vote by
 27 mail ballots with a legend on the inner envelope stating
 28 "**【Overseas】** Ballot for Overseas Voter" or "Ballot for Overseas
 29 Federal Election Voter," as appropriate.**【"】**

30 b. Each county clerk shall send to each overseas voter or
 31 overseas federal election voter requesting that a **【an overseas】**
 32 ballot be sent to that voter by electronic means all appropriate
 33 printed instructions for its completion and return. The printed
 34 instructions sent to each such voter shall include a certificate
 35 substantially the same as provided for in section 9 of P.L.1976, c.23
 36 (C.19:59-9).

37 c. The printed instructions sent with each **【overseas】** ballot to
 38 an overseas voter or overseas federal election voter, including
 39 instructions sent by electronic means, shall include a copy of the
 40 following notice:

41 **PENALTY FOR FRAUDULENT VOTING**

42 Any person who knowingly violates any of the provisions of the
 43 Overseas Residents Absentee Voting Law, or who, not being
 44 entitled to vote thereunder, fraudulently votes or attempts to vote
 45 thereunder or enables or attempts to enable another person, not
 46 entitled to vote thereunder, to vote fraudulently thereunder or who
 47 prevents or attempts to prevent by fraud the voting of any person

1 legally entitled to vote under this act, shall be guilty of an indictable
2 offense, and upon conviction thereof shall be subject, in addition to
3 such other penalties as are authorized by law, to disenfranchisement
4 unless and until pardoned or restored by law to the right of
5 suffrage.¹

6 (cf: P.L.2008, c.61, s.8)

7

8 ¹12. Section 12 of P.L.1993, c.73 (C.19:59-8.1) is amended to
9 read as follows:

10 12. Whenever a county clerk receives a request by electronic
11 means from an overseas voter or overseas federal election voter that
12 a **【an overseas】** ballot be sent to that person by electronic means,
13 the county clerk shall verify the voter's eligibility to vote as an
14 overseas voter or overseas federal election voter in the State and the
15 county desired. If the overseas voter or overseas federal election
16 voter is eligible to vote therein, the county clerk shall send the
17 appropriate ballot to the voter at least 45 days before the day of the
18 election and thereafter by electronic means using the telephone
19 number or electronic address supplied by the voter for that purpose.
20 If the overseas voter or overseas federal election voter is not
21 eligible to vote in the State or the county desired, notice of
22 noneligibility shall be provided to the voter by electronic means as
23 soon as practicable after the receipt of the request.¹

24 (cf: P.L.2011, c.37, s.25)

25

26 ¹13. Section 9 of P.L.1976, c.23 (C.19:59-9) is amended to read
27 as follows:

28 9. Upon the margin of the flap of the inner envelope to be sent
29 to an overseas voter or overseas federal election voter shall be
30 printed a certificate substantially as follows:

31 I, the undersigned, residing at am the
32 person who applied for, received and voted the enclosed
33 **【Overseas】** Ballot.

34 Dated:.....

35Voter (SIGNATURE)

36Voter (PRINT or type name)¹

37 (cf: P.L.2008, c.61, s.10)

38

39 ¹14. Section 11 of P.L.1976, c.23 (C.19:59-11) is amended to
40 read as follows:

41 11. Upon receipt of each **【overseas】** ballot from an overseas
42 voter or overseas federal election voter, other than a ballot which
43 had been sent by electronic means to an overseas voter or overseas
44 federal election voter, the signature on the certificate on the inner
45 envelope shall be compared to that on the person's application. All
46 ballots, whether originally sent to an overseas voter or overseas
47 federal election voter by air mail or electronic means, shall be

1 approved, disapproved, processed, counted and disputes in
2 connection therewith shall be handled in the same manner as is
3 applicable to other **【absentee】** vote by mail ballots. No ballot
4 received after the time designated for the closing of the polls shall
5 be counted.¹

6 (cf: P.L.2008, c.61, s.12)

7

8 ¹15. Section 3 of P.L.1995, c.195 (C.19:59-14) is amended to
9 read as follows:

10 3. Notwithstanding any law, rule or regulation to the contrary,
11 a copy of **【a】** an overseas voter's or overseas federal election
12 voter's voted **【overseas】** ballot, or **【of】** a voted federal write-in
13 absentee ballot, which is transmitted by electronic means to the
14 appropriate county board of elections in this State shall be
15 considered valid and counted if it:

16 a. is from a qualified voter;

17 b. has been transmitted to the appropriate county board of
18 elections no later than the time designated by law for the closing of
19 the polls on that day; and

20 c. is accompanied by the following statement, which shall be
21 certified by the voter's signature: "I understand that by transmitting
22 by electronic means a copy of my voted ballot I am voluntarily
23 waiving my right to a secret ballot. At the same time, I pledge to
24 place the original voted ballot in a secure envelope, together with
25 any other required certification, and send the documents
26 immediately by air mail to the appropriate county board of
27 elections."¹

28 (cf: P.L.2008, c.61, s.15)

29

30 ¹16. Section 4 of P.L.1995, c.195 (C.19:59-15) is amended to
31 read as follows:

32 4. a. Immediately after a copy of **【the】** an overseas voter's or
33 overseas federal election voter's voted **【overseas】** ballot, or a voted
34 federal write-in absentee ballot, has been transmitted by electronic
35 means to the appropriate county board of elections, as permitted
36 pursuant to section 3 of P.L.1995, c.195 (C.19:59-14), the overseas
37 voter or overseas federal election voter shall place the original
38 voted ballot in a secure envelope, together with a certificate
39 substantially the same as provided for in section 9 of P.L.1976, c.23
40 (C.19:59-9), and send the documents by air mail to the appropriate
41 county board of elections.

42 b. All copies of voted ballots received by electronic means
43 shall be approved, disapproved, processed and counted, and
44 disputes in connection therewith shall be handled, in the same
45 manner as is applicable to other **【absentee】** vote by mail ballots. No

1 ballot received after the time designated for the closing of the polls
2 shall be counted.

3 c. The county board of elections shall take all necessary
4 precautions to preserve the security of the ballot materials and
5 specifically shall ensure that the vote cast by a voter using a ballot
6 transmitted by electronic means is not revealed, except to the extent
7 necessary by law or judicial determination. Upon the completion of
8 all inspections of a ballot transmitted by electronic means required
9 by law, the board or any employee thereof acting under its direction
10 shall promptly separate the waiver certification from the ballot
11 transmitted by electronic means. Any person handling such a ballot
12 shall not identify the votes cast by any voter, except upon judicial
13 determination.

14 d. Prior to certification of the results of the election, the county
15 board shall:

16 (1) compare the information on the copy transmitted by
17 electronic means of each voted ballot with the same on the original
18 voted ballot sent by air mail by the voter who transmitted to the
19 county board a copy of the voted ballot by electronic means, and the
20 signature on the statement received by electronic means with the
21 signature on the certificate received by air mail; and

22 (2) ascertain whether an original voted ballot has been received
23 for each copy of a voted ballot received by electronic means and
24 counted.

25 Whenever the particulars of the copy of a voted ballot
26 transmitted by electronic means do not conform exactly with the
27 particulars of the original voted ballot sent by air mail to the county
28 board afterwards by that voter and whenever an original voted
29 ballot has not been received which corresponds to a copy of a voted
30 ballot transmitted by electronic means which has been received and
31 counted by the county board, those ballots and all other pertinent
32 documents and information relative to those ballots shall be turned
33 over to the superintendent of elections in counties having a
34 superintendent and the prosecutor in all other counties for further
35 investigation and action.

36 e. Within 30 days after the election, the county board shall
37 gather and keep together the copy of the voted ballot transmitted by
38 electronic means, the certified statement and the original voted
39 ballot sent by air mail of each voter who transmitted a copy of a
40 voted ballot by electronic means. Those ballots needed for an
41 investigation conducted by the superintendent of elections or the
42 county prosecutor, as the case may be, or by any other law
43 enforcement official shall be returned to the county board as soon
44 as practicable after the conclusion of the investigation. All ballots
45 and documents relative to a copy of a voted ballot transmitted by
46 electronic means and received by the county board shall be retained
47 by it for a period of one year following the day of the election. The

1 superintendent of elections in counties having a superintendent and
2 the prosecutor in all other counties shall have the authority to
3 impound all such documents whenever the superintendent or
4 prosecutor shall deem such action necessary.¹

5 (cf: P.L.2008, c.61, s.16)

6

7 ¹**[14.] 17.**¹ This act shall take effect on the 90th day after the
8 date of enactment.

9

10

11

12

13

Revises “Overseas Residents Absentee Voting Law.”

SENATE, No. 92

STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Senator JIM WHELAN

District 2 (Atlantic)

SYNOPSIS

Revises “Overseas Residents Absentee Voting Law;” to mirror federal law; permits overseas voters to vote in any election; permits use of federal write-in absentee ballot to vote, register or request ballot for all elections.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning voting by New Jersey's overseas residents, and
2 amending and supplementing various parts of the statutory law.

3

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

6

7 1. Section 2 of P.L.1976, c.23 (C.19:59-2) is amended to read
8 as follows:

9 2. As used in this act:

10 a. "United States" means each of the several states, the District
11 of Columbia, Commonwealth of Puerto Rico, Guam, American
12 Samoa and the United States Virgin Islands; the term does not mean
13 or include the Canal Zone or any other territory or possession of the
14 United States.

15 b. "Residing abroad" means residing outside the United States.

16 c. **["Federal election"** means any general, special or primary
17 held for the purpose of nominating or electing any candidate for the
18 office of President or Vice President of the United States,
19 Presidential elector, United States Senator or member of the United
20 States House of Representatives] "Election" shall have the same
21 meaning as defined in R.S.19:1-1, and include any federal, State, or
22 local election, and any public question placed before the voters.

23 d. "Overseas voter" means any person in military service, or
24 that person's spouse, partner in civil union, domestic partner, or
25 dependent, who, by reason of the person's active duty or service,
26 is, in the case of the person, absent on the date of an election from
27 the place of residence in New Jersey where the person is or would
28 be qualified to vote, [and] or in the case of the person's spouse,
29 partner in civil union, domestic partner, or dependent, absent on the
30 date of an election from the place of residence in New Jersey where
31 that spouse, partner in civil union, domestic partner, or dependent,
32 is or would be qualified to vote.

33 The term also means any citizen of the United States residing
34 abroad who (1) immediately prior to **[his]** departure from the
35 United States was domiciled in New Jersey and (a) was last
36 registered to vote, or [had all the qualifications] last eligible to
37 register and vote, in New Jersey; or (b) **[had all the qualifications]**
38 would have been eligible to register and vote in New Jersey **[other**
39 **than having]** except that the citizen had not attained 18 years of age
40 **[but has since attained that age]** the requirement of which has since
41 been met; or (c) would have been eligible to register and vote in
42 New Jersey [, but for residence , have the qualifications to register
43 and vote in New Jersey] except that the citizen had not met the

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 residency requirement; (2) **【**does not maintain a residence in the
2 United States and**】** is not registered or qualified to vote elsewhere
3 in the United States; and (3) holds a valid passport or passport card
4 **【**of identity and registration**】** or other proof of citizenship issued
5 under authority of the Secretary of State of the United States.

6 The term also means any citizen of the United States who was
7 born outside of the United States, is not described above, and,
8 except for the residency requirement of New Jersey, otherwise
9 satisfies the State’s voter eligibility requirements, if the last place
10 where a parent or legal guardian of the voter was, or under
11 P.L.1976, c.23 (C.19:59-1 et seq.) would have been, eligible to
12 register and vote before departure from the United States is within
13 New Jersey and the voter has not previously registered to vote
14 elsewhere in the United States.

15 e. "Electronic means" means any transmission made by an
16 electronic telefacsimile machine or a similar device or by any other
17 form of electronic transmission including, but not exclusive to
18 electronic mail, that transports an authentic copy of a document
19 from one user to another.

20 f. “Dependent” means an individual recognized as a dependent
21 by a military service.

22 g. “Federal postcard application” means the application
23 prescribed under section 101 of Pub.L.99-410 (42 U.S.C.
24 s.1973ff(b)(2)).

25 h. “Federal write-in absentee ballot” means the ballot described
26 under section 103 of Pub.L.99-410 (42 U.S.C. s.1973ff-2).

27 i. “Military service” means the active and reserve components
28 of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the
29 United States; the Merchant Marine; the commissioned corps of the
30 Public Health Service or the commissioned corps of the National
31 Oceanic and Atmospheric Administration of the United States; or
32 the National Guard or State militia.

33 (cf: P.L.2008, c.61, s.2)

34

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

37 3. Upon compliance with the provisions of this act, P.L.1976,
38 c.23 (C.19:59-1 et seq.), any person meeting the qualifications of an
39 **【**"Overseas voter"**】** overseas voter may register to vote and may
40 apply for and vote by absentee ballot in any election held in the
41 election district of this State in which the voter, or in the case of an
42 overseas voter who was born outside of the United States described
43 in paragraph (3) of subsection d. of section 2 of P.L.1976, c.23
44 (C.19:59-2), in which the voter’s parent or legal guardian, was
45 formerly domiciled.

46 (cf: P.L.2008, c.61, s.3)

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

3 4. a. Requests for an application to vote in an election as an
4 overseas voter may be made by or on behalf of an applicant to the
5 county clerk of the county in which the applicant, or in the case of
6 an overseas voter who was born outside of the United States
7 described in paragraph (3) of subsection d. of section 2 of
8 P.L.1976, c.23 (C.19:59-2), in which the applicant's parent or legal
9 guardian, was formerly domiciled, or to the Secretary of State of
10 New Jersey if the applicant does not know the county of **【the**
11 **applicant's】** former domicile. All such applications shall be
12 forwarded to such voters by air mail or electronic means, if so
13 requested by the voter. Any overseas voter requesting that an
14 application for a ballot be sent to that voter by electronic means
15 shall supply in the request to the Secretary of State or the county
16 clerk, as appropriate, the telephone number and location to which
17 the application is to be sent or the electronic address of the voter, as
18 may be appropriate, and, if known, the address where the voter, or
19 the voter's parent or legal guardian, as appropriate, was domiciled
20 before departure from the United States. To qualify **【an applicant】**
21 for a ballot to be sent **【a ballot】** by air mail **【in order to vote in an**
22 **election】**, the applicant's completed application shall be received by
23 the appropriate county clerk or the Secretary of State on or before
24 the thirtieth day preceding the election. To qualify **【an applicant to**
25 **be sent】** for a ballot to be distributed by electronic means **【in order**
26 **to vote in an election】**, the applicant's completed application shall
27 be received by the appropriate county clerk **【on or before the fourth**
28 **day】** or the Secretary of State by 3:00 p.m. on the day preceding the
29 election.

30 b. An overseas voter may use the federal postcard application
31 form to register to vote or to apply for an overseas ballot for **【a**
32 **federal】** any election. The voter may send the form by air mail or
33 electronic means to either the appropriate county clerk or the
34 Secretary of State and, in the case of **【an】** the use of a federal
35 postcard application for a ballot, may request that the ballot be sent
36 by air mail or electronic means. Any voter sending the form by
37 electronic means shall also mail simultaneously the federal postcard
38 application form to the appropriate county clerk or the Secretary of
39 State. Any federal postcard application for a ballot sent by an
40 overseas voter and received by a county clerk or the Secretary of
41 State shall also be considered a request for registration if that voter
42 is not already registered.

43 c. An overseas voter may use the federal write-in absentee
44 ballot to vote in an election or to vote in favor or against any public
45 question placed before the voters in an election. An overseas voter
46 may use the federal write-in absentee ballot to register to vote, if

1 that voter is not already registered, or to request an overseas ballot
2 for all elections held during the calendar year in which the request
3 is made. The voter may send the federal write-in absentee ballot by
4 air mail or electronic means to either the appropriate county clerk or
5 the Secretary of State and, in the case of the use of a federal write-
6 in absentee ballot as an application for an overseas ballot, may
7 request that the ballot be sent by air mail or electronic means. Any
8 voter sending the federal write-in absentee ballot by electronic
9 means shall also mail it simultaneously to the appropriate county
10 clerk or the Secretary of State.

11 (cf: P.L.2008, c.61, s.4)

12

13 4. Section 5 of P.L.1976, c.23 (C.19:59-5) is amended to read
14 as follows:

15 5. a. **[An]** Other than a federal postcard application or federal
16 write-in absentee ballot, an application for an overseas ballot shall
17 be in substantially the following form:

18 APPLICATION FOR AN OVERSEAS BALLOT

19 I, the undersigned, certify the following as a basis for an
20 application as citizen of the United States residing outside the
21 United States to receive a ballot to be voted at the election to be
22 held on (date of election) **[that is to say]** for (fill in
23 elected office or public question, or both):

- 24 1. I am a citizen of the United States;
- 25 2. I presently reside at (if mail should be
26 addressed other than to my residence, also provide address for
27 mail);
- 28 3. I was born on (month, day, year)
- 29 4. **[a.]** I hold a:
 - 30 a. valid U.S. Passport #, dated, or
 - 31 b. **[I hold a United States Citizens Identity and Registration**
32 Card (Form FS 225) dated issued by (name and
33 location of U.S. Embassy or Consulate)] valid U.S. Passport Card #
34, dated, or
 - 35 c. valid Certificate of Citizenship (Form N-600), dated
36, or
 - 37 d. other valid form of identification recognized as such under
38 federal or state law: (form of identification), dated

39 5. a. Immediately prior to taking up residence abroad I was
40 domiciled in New Jersey and resided at (street address),
41 (municipality), (county) (If formerly registered
42 to vote from that address check here ()), or

43 b. I was born outside of the United States and my parent or
44 legal guardian, before leaving the United States, was last domiciled
45 in New Jersey, residing at (street address),
46 (municipality),(county).

1 6. I **【do not maintain a domicile in the United States and】** am
2 not registered, entitled or applying to vote in any state other than
3 New Jersey.

4 7. I understand that any false statement knowingly made in this
5 application subjects me to the penalties provided by law for
6 fraudulent voting.

7 Applicant
8 (Signature)

9 Dated:.....Applicant
10 (Print or type name)

11 b. There shall also be sent to the applicant by air mail or
12 electronic means such instructions and portions of the law or
13 regulations as the Secretary of State shall direct.

14 c. Any overseas voter requesting that a ballot be sent to that
15 voter by electronic means shall indicate on the application for the
16 ballot the telephone number and location to which the ballot is to be
17 sent or the electronic address of the voter, as may be appropriate.
18 (cf: P.L.2008, c.61, s.5)

19
20 5. Section 6 of P.L.1976, c.23 (C.19:59-6) is amended to read
21 as follows:

22 6. Each county clerk, upon receipt of an application for an
23 overseas ballot, including a federal postcard application, shall
24 determine whether or not the applicant is qualified to vote such a
25 ballot, make a list of those applications approved and disapproved,
26 which list shall be open to inspection by election officials and the
27 public, and shall forward an overseas ballot to each person whose
28 application is approved. For each voter whose application is
29 approved, the county clerk shall deliver to the county board of
30 elections the completed application form for retention by the board
31 for signature comparison with that on the certificate on the inner
32 envelope containing the ballot upon its receipt.
33 (cf: P.L.2008, c.61, s.6)

34
35 6. Section 7 of P.L.1976, c.23 (C.19:59-7) is amended to read
36 as follows:

37 7. **【The】** Other than a federal write-in absentee ballot, the
38 county clerk shall prescribe the form of the overseas ballot.
39 (cf: P.L.2008, c.61, s.7)

40
41 7. Section 10 of P.L.1976, c.23 (C.19:59-10) is amended to
42 read as follows:

43 10. a. For overseas ballots other than such ballots sent to the
44 voter by electronic means, the procedure for completing the ballot
45 shall be as follows:

46 Upon completion of the ballot by indicating the voter's choice of
47 candidates for the offices named or the voter's choice regarding a

1 public question, or both, the ballot shall be placed in the inner
2 envelope and sealed. Upon completion and signing in the voter's
3 handwriting the certificate attached to the inner envelope, the inner
4 envelope shall be placed in the outer envelope, which when sealed
5 shall be mailed postage prepaid to the county board of elections
6 whose address is printed thereon.

7 b. For overseas ballots sent to the voter by electronic means,
8 the procedure for completing the ballot shall be as follows:

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

18 c. Notwithstanding the provisions of subsections a. and b. of
19 this section, a copy of a voted overseas ballot may be transmitted by
20 electronic means to the appropriate county board of elections in this
21 State. Such a ballot shall be subject to the provisions of sections 3
22 and 4 of P.L.1995, c.195 (C.19:59-14 and C.19:59-15).

23 (cf: P.L.2008, c.61, s.11)

24

25 8. Section 12 of P.L.1976, c.23 (C.19:59-12) is amended to
26 read as follows:

27 12. An overseas voter may request, on any application form
28 used, an overseas ballot for all elections held during the calendar
29 year in which the request is made. Any instructions sent to an
30 applicant pursuant to section 5 of P.L.1976, c.23 (C.19:59-5) shall
31 inform the applicant that such a request may be made. If such a
32 request is made, an overseas ballot shall be sent in a timely manner
33 to the voter for all such elections and by the transmission method
34 first requested by the voter unless the voter instructs otherwise.

35 (cf: P.L.2008, c.61, s.13)

36

37 9. (New section) An electronic address provided by an
38 overseas voter to the county clerk or the Secretary of State shall not
39 be made available to the public or any individual or organization
40 other than an authorized agent of the county clerk or the Secretary
41 of State and shall be exempt from disclosure under
42 P.L.1963, c.73 (C.47:1A-1 et seq.). The address may be used only
43 for official communications with the voter that are related to the
44 voting process, including transmitting ballots and election materials
45 if the voter has requested electronic transmission, and verifying the
46 voter's mailing address and physical location. The request for an
47 electronic address shall describe the purposes for which the

1 electronic address may be used and include a statement that any
2 other use or disclosure of the electronic address is prohibited.

3

4 10. (New section) If a voter's mistake or omission in the
5 completion of a document does not prevent a determination of
6 whether a voter is eligible to vote, the mistake or omission shall not
7 invalidate the document. Failure to satisfy a technical requirement,
8 such as using paper or envelopes of a specified size or weight, shall
9 not invalidate the submitted document. In the case of a federal
10 write-in absentee ballot or a vote for a write-in candidate on a
11 regular ballot, if the intention of the voter is discernable, an
12 abbreviation, misspelling, or other minor variation in the form of
13 the name of a candidate or a political party shall be accepted as a
14 valid vote.

15 This section shall be applied consistent with the requirements of
16 subsection d. of section 4 of P.L.1995, c.195 (C.19:59-15).

17

18 11. (New section) A court may issue an injunction or grant
19 other appropriate equitable relief to ensure substantial compliance
20 with, or enforcement of, the "Overseas Residents Absentee Voting
21 Law," P.L.1976, c.23 (C.19:59-1 et seq.) on application by a voter
22 alleging a grievance under that law or by an election official in this
23 State.

24

25 12. Section 26 of P.L.2011, c.37 (C.19:59-16) is amended to
26 read as follows:

27 26. For the purpose of complying with the federal "Uniformed
28 and Overseas Citizens Absentee Voting Act," 42 U.S.C. s.1973ff-1
29 et seq., the office of the Secretary of State shall:

30 a. be designated as the single State office responsible for
31 providing information to all overseas voters who wish to register to
32 vote or vote in any jurisdiction in the State with respect to voter
33 registration procedures and vote by mail procedures to be used by
34 overseas voters for all elections **【for federal offices】** ;

35 b. work with the federal Election Assistance Commission and
36 the federal Department of Defense to develop standards to report
37 data on the number of overseas voter ballots transmitted and
38 received by mail or electronic means pursuant to the "Overseas
39 Residents Absentee Voting Law," P.L.1976, c.23 (C.19:59-1 et
40 seq.) and section 7 of P.L.2004, c.88 (C.19:61-7); and

41 c. provide such additional information relating to voting by
42 overseas voters from this State as the Department of Defense
43 determines is necessary.

44 (cf: P.L.2011, c.37, s.26)

45

46 13. R.S.19:31-6 is amended to read as follows:

- 1 19:31-6. Any person qualified to vote in an election shall be
2 entitled to vote in the election if the person shall have registered to
3 vote on or before the 21st day preceding the election by:
- 4 a. registering in person at any offices designated by the
5 commissioner of registration for providing and receiving
6 registration forms;
 - 7 b. completing a voter registration form while applying for a
8 motor vehicle driver's license from an agent of the New Jersey
9 Motor Vehicle Commission, as provided for in section 24 of
10 P.L.1994, c.182 (C.39:2-3.2);
 - 11 c. completing and returning to the **【Attorney General】**
12 Secretary of State or having returned thereto a voter registration
13 form received from a voter registration agency, as defined in
14 subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11), while
15 applying for services or assistance or seeking a recertification,
16 renewal or change of address at an office of that agency;
 - 17 d. completing and returning to the **【Attorney General】**
18 Secretary of State a voter registration form obtained from a public
19 agency, as defined in subsection a. of section 15 of P.L.1974, c.30
20 (C.19:31-6.3);
 - 21 e. completing and returning to the **【Attorney General】**
22 Secretary of State or having returned thereto a voter registration
23 form received from a door-to-door canvass or mobile registration
24 drive, as provided for in section 19 of P.L.1974, c.30 (C.19:31-6.7);
 - 25 f. completing and returning to the **【Attorney General】**
26 Secretary of State a federal mail voter registration form, as
27 prescribed in subsection (b) of section 9 of the "National Voter
28 Registration Act of 1993," (42 U.S.C. s.1973gg et seq.);
 - 29 g. completing and returning to the **【Attorney General】**
30 Secretary of State or the appropriate county clerk an application for
31 a federal postcard application form to register to vote, or a federal
32 write-in absentee ballot, as **【provided for in】** permitted pursuant to
33 the "Overseas Absentee Voting Act" (42 U.S.C. s.1973ff-1 et seq.)
34 and section 4 of P.L.1976, c.23 (C.19:59-4);or
 - 35 h. completing a provisional ballot affirmation statement and
36 voting the provisional ballot in the previous election, if the person
37 who submitted the provisional ballot in that election is determined
38 not to be a registered voter .
- 39 When the commissioner has designated a place or places other
40 than his office for receiving registrations, the commissioner shall
41 cause to be published a notice in a newspaper circulated in the
42 municipality wherein such place or places of registration shall be
43 located. Such notice shall be published pursuant to R.S.19:12-7.
- 44 Any office designated by the commissioner of registration for
45 receiving registration forms shall have displayed, in a conspicuous
46 location, registration and voting instructions. These instructions

1 shall be the same as those provided for polling places under
2 R.S.19:9-2 and shall be provided by the commissioner.
3 (cf: P.L.2005, c.139, s.8)
4

5 14. This act shall take effect on the 90th day after the date of
6 enactment.
7

8

9

STATEMENT

10

11 This bill revises the “Overseas Residents Absentee Voting Law” to
12 more closely resemble the federal overseas voting laws. Based on the
13 federal Uniform Military and Overseas Voters Act, which was
14 approved and recommended for enactment by the Uniform Law
15 Commission in 2010, this bill would incorporate into New Jersey law
16 those provisions that have not yet been adopted. The bill adds
17 definitions for previously undefined statutory terms, and expands the
18 definition of “overseas voter” to expressly include legally recognized
19 partners of military service personnel, voters born outside of the
20 United States, and overseas voters with a residence in New Jersey.

21 The bill permits an overseas voter to use the federal write-in
22 absentee ballot to vote, to register to vote, and to request an overseas
23 ballot for all elections held in the State. Under current law, such ballots
24 can be used to vote only in elections for federal offices.

25 Additionally, the bill permits the use of the federal postcard
26 application to apply for an overseas ballot or to register to vote in all
27 elections. Under the bill, for a ballot to be distributed via electronic
28 means, the completed application must be received by 3 p.m. on the
29 day preceding the election. Under current law, the application must be
30 received on or before the fourth day preceding the election.

31 The bill also eliminates references to an outdated form of
32 identification and adds other types of valid identification that may be
33 used in an application for an overseas ballot. In addition to using a
34 valid U.S. Passport, the bill permits an individual to use a valid U.S.
35 Passport Card, a valid Certificate of Citizenship, or any other valid
36 form of identification recognized under federal or State law.

37 The bill expressly limits the permitted uses, or disclosures, of a
38 voter’s electronic address and requires that these limitations be
39 described on the request to use an electronic address. In completing
40 any document under the provisions of this bill, a voter’s mistake or
41 omission that is not substantive in nature would not invalidate the
42 document. On write-in ballots, where the intention of the voter is
43 discernable, the ballot would not be invalidated.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 92

STATE OF NEW JERSEY

DATED: APRIL 4, 2016

The Assembly Judiciary Committee reports favorably Senate Bill No. 92.

This bill revises the “Overseas Residents Absentee Voting Law” to more closely resemble the federal overseas voting laws. Based on the federal Uniform Military and Overseas Voters Act, which was approved and recommended for enactment by the Uniform Law Commission in 2010, this bill would incorporate into New Jersey law those provisions that have not yet been adopted. The bill adds definitions for previously undefined statutory terms, and expands the definition of “overseas voter” to expressly include legally recognized partners of military service personnel, voters born outside of the United States, and overseas voters with a residence in New Jersey.

The bill permits an overseas voter to use the federal write-in absentee ballot to vote, to register to vote, and to request an overseas ballot for all elections held in the State. Under current law, such ballots can be used to vote only in elections for federal offices.

Additionally, the bill permits the use of the federal postcard application to apply for an overseas ballot or to register to vote in all elections. Under the bill, for a ballot to be distributed via electronic means, the completed application must be received by 3 p.m. on the day preceding the election. Under current law, the application must be received on or before the fourth day preceding the election.

The bill also eliminates references to an outdated form of identification and adds other types of valid identification that may be used in an application for an overseas ballot. In addition to using a valid U.S. Passport, the bill permits an individual to use a valid U.S. Passport Card, a valid Certificate of Citizenship, or any other valid form of identification recognized under federal or State law.

The bill expressly limits the permitted uses, or disclosures, of a voter’s electronic address and requires that these limitations be described on the request to use an electronic address. In completing any document under the provisions of this bill, a voter’s mistake or omission that is not substantive in nature would not invalidate the document. On write-in ballots, where the intention of the voter is discernable, the ballot would not be invalidated.

This bill is identical to Assembly Bill No. 2815 which was also reported by the committee on this date.

SENATE STATE GOVERNMENT, WAGERING, TOURISM &
HISTORIC PRESERVATION COMMITTEE

STATEMENT TO

SENATE, No. 92

STATE OF NEW JERSEY

DATED: JANUARY 28, 2016

The Senate State Government, Wagering, Tourism and Historic Preservation Committee reports favorably Senate Bill No. 92.

This bill revises the “Overseas Residents Absentee Voting Law” to more closely resemble the federal overseas voting laws. Based on the federal Uniform Military and Overseas Voters Act, which was approved and recommended for enactment by the Uniform Law Commission in 2010, this bill would incorporate into New Jersey law those provisions that have not yet been adopted. The bill adds definitions for previously undefined statutory terms, and expands the definition of “overseas voter” to expressly include legally recognized partners of military service personnel, voters born outside of the United States, and overseas voters with a residence in New Jersey.

The bill permits an overseas voter to use the federal write-in absentee ballot to vote, to register to vote, and to request an overseas ballot for all elections held in the State. Under current law, such ballots can be used to vote only in elections for federal offices.

Additionally, the bill permits the use of the federal postcard application to apply for an overseas ballot or to register to vote in all elections. Under the bill, for a ballot to be distributed via electronic means, the completed application must be received by 3 p.m. on the day preceding the election. Under current law, the application must be received on or before the fourth day preceding the election.

The bill also eliminates references to an outdated form of identification and adds other types of valid identification that may be used in an application for an overseas ballot. In addition to using a valid U.S. Passport, the bill permits an individual to use a valid U.S. Passport Card, a valid Certificate of Citizenship, or any other valid form of identification recognized under federal or State law.

The bill expressly limits the permitted uses, or disclosures, of a voter’s electronic address and requires that these limitations be described on the request to use an electronic address. In completing any document under the provisions of this bill, a voter’s mistake or omission that is not substantive in nature would not invalidate the document. On write-in ballots, where the intention of the voter is discernable, the ballot would not be invalidated.

This bill was pre-filed for introduction in the 2016-2017 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

ASSEMBLY, No. 2815

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED FEBRUARY 16, 2016

Sponsored by:

Assemblywoman GABRIELA M. MOSQUERA

District 4 (Camden and Gloucester)

Assemblywoman PATRICIA EGAN JONES

District 5 (Camden and Gloucester)

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

Assemblyman VINCENT MAZZEO

District 2 (Atlantic)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblyman ERIC HOUGHTALING

District 11 (Monmouth)

Co-Sponsored by:

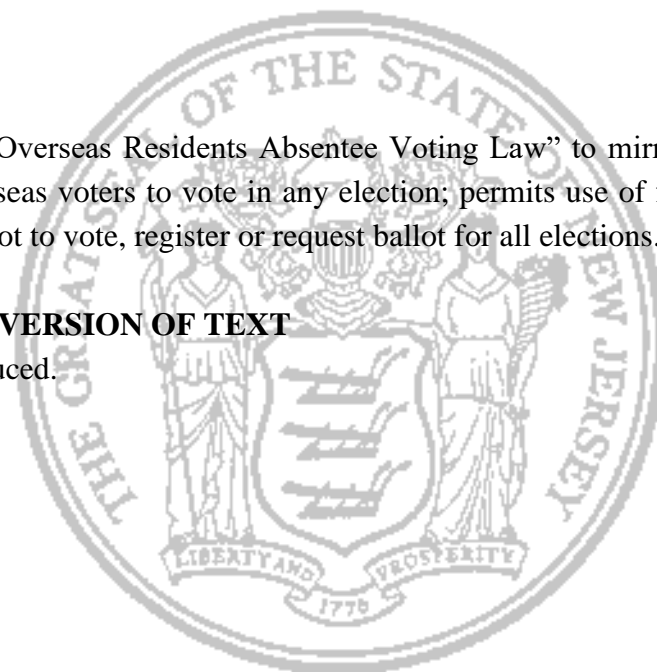
Assemblywoman Downey, Assemblyman Conaway, Assemblywoman Lampitt, Assemblymen Chiaravalloti, Eustace and Barclay

SYNOPSIS

Revises “Overseas Residents Absentee Voting Law” to mirror federal law; permits overseas voters to vote in any election; permits use of federal write-in absentee ballot to vote, register or request ballot for all elections.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/21/2016)

A2815 MOSQUERA, JONES

2

1 AN ACT concerning voting by New Jersey's overseas residents, and
2 amending and supplementing various parts of the statutory law.

3

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

6

7 1. Section 2 of P.L.1976, c.23 (C.19:59-2) is amended to read
8 as follows:

9 2. As used in this act:

10 a. "United States" means each of the several states, the District
11 of Columbia, Commonwealth of Puerto Rico, Guam, American
12 Samoa and the United States Virgin Islands; the term does not mean
13 or include the Canal Zone or any other territory or possession of the
14 United States.

15 b. "Residing abroad" means residing outside the United States.

16 c. **["Federal election"** means any general, special or primary
17 held for the purpose of nominating or electing any candidate for the
18 office of President or Vice President of the United States,
19 Presidential elector, United States Senator or member of the United
20 States House of Representatives] "Election" shall have the same
21 meaning as defined in R.S.19:1-1, and include any federal, State, or
22 local election, and any public question placed before the voters.

23 d. "Overseas voter" means any person in military service, or
24 that person's spouse, partner in civil union, domestic partner, or
25 dependent, who, by reason of the person's active duty or service,
26 is, in the case of the person, absent on the date of an election from
27 the place of residence in New Jersey where the person is or would
28 be qualified to vote, [and] or in the case of the person's spouse,
29 partner in civil union, domestic partner, or dependent, absent on the
30 date of an election from the place of residence in New Jersey where
31 that spouse, partner in civil union, domestic partner, or dependent,
32 is or would be qualified to vote.

33 The term also means any citizen of the United States residing
34 abroad who (1) immediately prior to **[his]** departure from the
35 United States was domiciled in New Jersey and (a) was last
36 registered to vote, or [had all the qualifications] last eligible to
37 register and vote, in New Jersey; or (b) **[had all the qualifications]**
38 would have been eligible to register and vote in New Jersey **[other**
39 **than having]** except that the citizen had not attained 18 years of age
40 **[but has since attained that age]** the requirement of which has since
41 been met; or (c) would have been eligible to register and vote in
42 New Jersey [, but for residence , have the qualifications to register
43 and vote in New Jersey] except that the citizen had not met the
44 residency requirement; (2) [does not maintain a residence in the

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 United States and] is not registered or qualified to vote elsewhere
2 in the United States; and (3) holds a valid passport or passport card
3 [of identity and registration] or other proof of citizenship issued
4 under authority of the Secretary of State of the United States.

5 The term also means any citizen of the United States who was
6 born outside of the United States, is not described above, and,
7 except for the residency requirement of New Jersey, otherwise
8 satisfies the State's voter eligibility requirements, if the last place
9 where a parent or legal guardian of the voter was, or under
10 P.L.1976, c.23 (C.19:59-1 et seq.) would have been, eligible to
11 register and vote before departure from the United States is within
12 New Jersey and the voter has not previously registered to vote
13 elsewhere in the United States.

14 e. "Electronic means" means any transmission made by an
15 electronic telefacsimile machine or a similar device or by any other
16 form of electronic transmission including, but not exclusive to
17 electronic mail, that transports an authentic copy of a document
18 from one user to another.

19 f. "Dependent" means an individual recognized as a dependent
20 by a military service.

21 g. "Federal postcard application" means the application
22 prescribed under section 101 of Pub.L.99-410 (42 U.S.C.
23 s.1973ff(b)(2)).

24 h. "Federal write-in absentee ballot" means the ballot described
25 under section 103 of Pub.L.99-410 (42 U.S.C. s.1973ff-2).

26 i. "Military service" means the active and reserve components
27 of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the
28 United States; the Merchant Marine; the commissioned corps of the
29 Public Health Service or the commissioned corps of the National
30 Oceanic and Atmospheric Administration of the United States; or
31 the National Guard or State militia.

32 (cf: P.L.2008, c.61, s.2)

33

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

36 3. Upon compliance with the provisions of this act, P.L.1976,
37 c.23 (C.19:59-1 et seq.), any person meeting the qualifications of an
38 **["Overseas voter"]** overseas voter may register to vote and may
39 apply for and vote by absentee ballot in any election held in the
40 election district of this State in which the voter, or in the case of an
41 overseas voter who was born outside of the United States described
42 in paragraph (3) of subsection d. of section 2 of P.L.1976, c.23
43 (C.19:59-2), in which the voter's parent or legal guardian, was
44 formerly domiciled.

45 (cf: P.L.2008, c.61, s.3)

46

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

1 4. a. Requests for an application to vote in an election as an
2 overseas voter may be made by or on behalf of an applicant to the
3 county clerk of the county in which the applicant, or in the case of
4 an overseas voter who was born outside of the United States
5 described in paragraph (3) of subsection d. of section 2 of
6 P.L.1976, c.23 (C.19:59-2), in which the applicant's parent or legal
7 guardian, was formerly domiciled, or to the Secretary of State of
8 New Jersey if the applicant does not know the county of **【the**
9 **applicant's】** former domicile. All such applications shall be
10 forwarded to such voters by air mail or electronic means, if so
11 requested by the voter. Any overseas voter requesting that an
12 application for a ballot be sent to that voter by electronic means
13 shall supply in the request to the Secretary of State or the county
14 clerk, as appropriate, the telephone number and location to which
15 the application is to be sent or the electronic address of the voter, as
16 may be appropriate, and, if known, the address where the voter, or
17 the voter's parent or legal guardian, as appropriate, was domiciled
18 before departure from the United States. To qualify **【an applicant】**
19 **for a ballot** to be sent **【a ballot】** by air mail **【in order to vote in an**
20 **election】**, the applicant's completed application shall be received by
21 the appropriate county clerk or the Secretary of State on or before
22 the thirtieth day preceding the election. To qualify **【an applicant to**
23 **be sent】** **for a ballot to be distributed** by electronic means **【in order**
24 **to vote in an election】**, the applicant's completed application shall
25 be received by the appropriate county clerk **【on or before the fourth**
26 **day】** or the Secretary of State by 3:00 p.m. on the day preceding the
27 election.

28 b. An overseas voter may use the federal postcard application
29 form to register to vote or to apply for an overseas ballot for **【a**
30 **federal】** any election. The voter may send the form by air mail or
31 electronic means to either the appropriate county clerk or the
32 Secretary of State and, in the case of **【an】** the use of a federal
33 postcard application for a ballot, may request that the ballot be sent
34 by air mail or electronic means. Any voter sending the form by
35 electronic means shall also mail simultaneously the federal postcard
36 application form to the appropriate county clerk or the Secretary of
37 State. Any federal postcard application for a ballot sent by an
38 overseas voter and received by a county clerk or the Secretary of
39 State shall also be considered a request for registration if that voter
40 is not already registered.

41 c. An overseas voter may use the federal write-in absentee
42 ballot to vote in an election or to vote in favor or against any public
43 question placed before the voters in an election. An overseas voter
44 may use the federal write-in absentee ballot to register to vote, if
45 that voter is not already registered, or to request an overseas ballot
46 for all elections held during the calendar year in which the request
47 is made. The voter may send the federal write-in absentee ballot by

1 air mail or electronic means to either the appropriate county clerk or
2 the Secretary of State and, in the case of the use of a federal write-
3 in absentee ballot as an application for an overseas ballot, may
4 request that the ballot be sent by air mail or electronic means. Any
5 voter sending the federal write-in absentee ballot by electronic
6 means shall also mail it simultaneously to the appropriate county
7 clerk or the Secretary of State.

8 (cf: P.L.2008, c.61, s.4)

9

10 4. Section 5 of P.L.1976, c.23 (C.19:59-5) is amended to read
11 as follows:

12 5. a. **【An】** Other than a federal postcard application or federal
13 write-in absentee ballot, an application for an overseas ballot shall
14 be in substantially the following form:

15 APPLICATION FOR AN OVERSEAS BALLOT

16 I, the undersigned, certify the following as a basis for an
17 application as citizen of the United States residing outside the
18 United States to receive a ballot to be voted at the election to be
19 held on (date of election) **【that is to say】** for (fill in
20 elected office or public question, or both):

21 1. I am a citizen of the United States;

22 2. I presently reside at (if mail should be
23 addressed other than to my residence, also provide address for
24 mail);

25 3. I was born on (month, day, year)

26 4. **【a.】** I hold a:

27 a. valid U.S. Passport #, dated, or

28 b. **【I hold a United States Citizens Identity and Registration**
29 Card (Form FS 225) dated issued by (name and
30 location of U.S. Embassy or Consulate) **】** valid U.S. Passport Card #
31, dated, or

32 c. valid Certificate of Citizenship (Form N-600), dated
33, or

34 d. other valid form of identification recognized as such under
35 federal or state law: (form of identification), dated

36 5. a. Immediately prior to taking up residence abroad I was
37 domiciled in New Jersey and resided at (street address),
38 (municipality), (county) (If formerly registered
39 to vote from that address check here ()) , or

40 b. I was born outside of the United States and my parent or
41 legal guardian, before leaving the United States, was last domiciled
42 in New Jersey, residing at (street address), (
43 municipality),(county).

44 6. I **【do not maintain a domicile in the United States and】** am
45 not registered, entitled or applying to vote in any state other than
46 New Jersey.

1 shall be mailed postage prepaid to the county board of elections
2 whose address is printed thereon.

3 b. For overseas ballots sent to the voter by electronic means,
4 the procedure for completing the ballot shall be as follows:

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

14 c. Notwithstanding the provisions of subsections a. and b. of
15 this section, a copy of a voted overseas ballot may be transmitted by
16 electronic means to the appropriate county board of elections in this
17 State. Such a ballot shall be subject to the provisions of sections 3
18 and 4 of P.L.1995, c.195 (C.19:59-14 and C.19:59-15).

19 (cf: P.L.2008, c.61, s.11)

20

21 8. Section 12 of P.L.1976, c.23 (C.19:59-12) is amended to
22 read as follows:

23 12. An overseas voter may request, on any application form
24 used, an overseas ballot for all elections held during the calendar
25 year in which the request is made. Any instructions sent to an
26 applicant pursuant to section 5 of P.L.1976, c.23 (C.19:59-5) shall
27 inform the applicant that such a request may be made. If such a
28 request is made, an overseas ballot shall be sent in a timely manner
29 to the voter for all such elections and by the transmission method
30 first requested by the voter unless the voter instructs otherwise.

31 (cf: P.L.2008, c.61, s.13)

32

33 9. (New section) An electronic address provided by an
34 overseas voter to the county clerk or the Secretary of State shall not
35 be made available to the public or any individual or organization
36 other than an authorized agent of the county clerk or the Secretary
37 of State and shall be exempt from disclosure under
38 P.L.1963, c.73 (C.47:1A-1 et seq.). The address may be used only
39 for official communications with the voter that are related to the
40 voting process, including transmitting ballots and election materials
41 if the voter has requested electronic transmission, and verifying the
42 voter's mailing address and physical location. The request for an
43 electronic address shall describe the purposes for which the
44 electronic address may be used and include a statement that any
45 other use or disclosure of the electronic address is prohibited.

46

47 10. (New section) If a voter's mistake or omission in the
48 completion of a document does not prevent a determination of

1 whether a voter is eligible to vote, the mistake or omission shall not
2 invalidate the document. Failure to satisfy a technical requirement,
3 such as using paper or envelopes of a specified size or weight, shall
4 not invalidate the submitted document. In the case of a federal
5 write-in absentee ballot or a vote for a write-in candidate on a
6 regular ballot, if the intention of the voter is discernable, an
7 abbreviation, misspelling, or other minor variation in the form of
8 the name of a candidate or a political party shall be accepted as a
9 valid vote.

10 This section shall be applied consistent with the requirements of
11 subsection d. of section 4 of P.L.1995, c.195 (C.19:59-15).

12

13 11. (New section) A court may issue an injunction or grant
14 other appropriate equitable relief to ensure substantial compliance
15 with, or enforcement of, the “Overseas Residents Absentee Voting
16 Law,” P.L.1976, c.23 (C.19:59-1 et seq.) on application by a voter
17 alleging a grievance under that law or by an election official in this
18 State.

19

20 12. Section 26 of P.L.2011, c.37 (C.19:59-16) is amended to
21 read as follows:

22 26. For the purpose of complying with the federal “Uniformed
23 and Overseas Citizens Absentee Voting Act,” 42 U.S.C. s.1973ff-1
24 et seq., the office of the Secretary of State shall:

25 a. be designated as the single State office responsible for
26 providing information to all overseas voters who wish to register to
27 vote or vote in any jurisdiction in the State with respect to voter
28 registration procedures and vote by mail procedures to be used by
29 overseas voters for all elections **【for federal offices】** ;

30 b. work with the federal Election Assistance Commission and
31 the federal Department of Defense to develop standards to report
32 data on the number of overseas voter ballots transmitted and
33 received by mail or electronic means pursuant to the “Overseas
34 Residents Absentee Voting Law,” P.L.1976, c.23 (C.19:59-1 et
35 seq.) and section 7 of P.L.2004, c.88 (C.19:61-7); and

36 c. provide such additional information relating to voting by
37 overseas voters from this State as the Department of Defense
38 determines is necessary.

39 (cf: P.L.2011, c.37, s.26)

40

41 13. R.S.19:31-6 is amended to read as follows:

42 19:31-6. Any person qualified to vote in an election shall be
43 entitled to vote in the election if the person shall have registered to
44 vote on or before the 21st day preceding the election by:

45 a. registering in person at any offices designated by the
46 commissioner of registration for providing and receiving
47 registration forms;

1 b. completing a voter registration form while applying for a
2 motor vehicle driver's license from an agent of the New Jersey
3 Motor Vehicle Commission, as provided for in section 24 of
4 P.L.1994, c.182 (C.39:2-3.2);

5 c. completing and returning to the **【Attorney General】**
6 Secretary of State or having returned thereto a voter registration
7 form received from a voter registration agency, as defined in
8 subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11), while
9 applying for services or assistance or seeking a recertification,
10 renewal or change of address at an office of that agency;

11 d. completing and returning to the **【Attorney General】**
12 Secretary of State a voter registration form obtained from a public
13 agency, as defined in subsection a. of section 15 of P.L.1974, c.30
14 (C.19:31-6.3);

15 e. completing and returning to the **【Attorney General】**
16 Secretary of State or having returned thereto a voter registration
17 form received from a door-to-door canvass or mobile registration
18 drive, as provided for in section 19 of P.L.1974, c.30 (C.19:31-6.7);

19 f. completing and returning to the **【Attorney General】**
20 Secretary of State a federal mail voter registration form, as
21 prescribed in subsection (b) of section 9 of the "National Voter
22 Registration Act of 1993," (42 U.S.C. s.1973gg et seq.);

23 g. completing and returning to the **【Attorney General】**
24 Secretary of State or the appropriate county clerk an application for
25 a federal postcard application form to register to vote, or a federal
26 write-in absentee ballot, as **【provided for in】** permitted pursuant to
27 the "Overseas Absentee Voting Act" (42 U.S.C. s.1973ff-1 et seq.)
28 and section 4 of P.L.1976, c.23 (C.19:59-4);or

29 h. completing a provisional ballot affirmation statement and
30 voting the provisional ballot in the previous election, if the person
31 who submitted the provisional ballot in that election is determined
32 not to be a registered voter .

33 When the commissioner has designated a place or places other
34 than his office for receiving registrations, the commissioner shall
35 cause to be published a notice in a newspaper circulated in the
36 municipality wherein such place or places of registration shall be
37 located. Such notice shall be published pursuant to R.S.19:12-7.

38 Any office designated by the commissioner of registration for
39 receiving registration forms shall have displayed, in a conspicuous
40 location, registration and voting instructions. These instructions
41 shall be the same as those provided for polling places under
42 R.S.19:9-2 and shall be provided by the commissioner.

43 (cf: P.L.2005, c.139, s.8)

44
45 14. This act shall take effect on the 90th day after the date of
46 enactment.

STATEMENT

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This bill revises the “Overseas Residents Absentee Voting Law” to more closely resemble the federal overseas voting laws. Based on the federal Uniform Military and Overseas Voters Act, which was approved and recommended for enactment by the Uniform Law Commission in 2010, this bill would incorporate into New Jersey law those provisions that have not yet been adopted. The bill adds definitions for previously undefined statutory terms, and expands the definition of “overseas voter” to expressly include legally recognized partners of military service personnel, voters born outside of the United States, and overseas voters with a residence in New Jersey.

The bill permits an overseas voter to use the federal write-in absentee ballot to vote, to register to vote, and to request an overseas ballot for all elections held in the State. Under current law, such ballots can be used to vote only in elections for federal offices.

Additionally, the bill permits the use of the federal postcard application to apply for an overseas ballot or to register to vote in all elections. Under the bill, for a ballot to be distributed via electronic means, the completed application must be received by 3 p.m. on the day preceding the election. Under current law, the application must be received on or before the fourth day preceding the election.

The bill also eliminates references to an outdated form of identification and adds other types of valid identification that may be used in an application for an overseas ballot. In addition to using a valid U.S. Passport, the bill permits an individual to use a valid U.S. Passport Card, a valid Certificate of Citizenship, or any other valid form of identification recognized under federal or State law.

The bill expressly limits the permitted uses, or disclosures, of a voter’s electronic address and requires that these limitations be described on the request to use an electronic address. In completing any document under the provisions of this bill, a voter’s mistake or omission that is not substantive in nature would not invalidate the document. On write-in ballots, where the intention of the voter is discernable, the ballot would not be invalidated.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2815

STATE OF NEW JERSEY

DATED: APRIL 4, 2016

The Assembly Judiciary Committee reports favorably Assembly Bill No. 2815.

This bill revises the “Overseas Residents Absentee Voting Law” to more closely resemble the federal overseas voting laws. Based on the federal Uniform Military and Overseas Voters Act, which was approved and recommended for enactment by the Uniform Law Commission in 2010, this bill would incorporate into New Jersey law those provisions that have not yet been adopted. The bill adds definitions for previously undefined statutory terms, and expands the definition of “overseas voter” to expressly include legally recognized partners of military service personnel, voters born outside of the United States, and overseas voters with a residence in New Jersey.

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The bill also eliminates references to an outdated form of identification and adds other types of valid identification that may be used in an application for an overseas ballot. In addition to using a valid U.S. Passport, the bill permits an individual to use a valid U.S. Passport Card, a valid Certificate of Citizenship, or any other valid form of identification recognized under federal or State law.

The bill expressly limits the permitted uses, or disclosures, of a voter’s electronic address and requires that these limitations be described on the request to use an electronic address. In completing any document under the provisions of this bill, a voter’s mistake or omission that is not substantive in nature would not invalidate the

document. On write-in ballots, where the intention of the voter is discernable, the ballot would not be invalidated.

This bill is identical to Senate Bill No. 92 which was also reported by the committee on this date.

SENATE BILL NO. 92

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 92 with my recommendations for reconsideration.

This bill contains commendable amendments to New Jersey's Overseas Residents Absentee Voting Law (the "Act") that expand the definition of overseas voters to include spouses, civil union partners, domestic partners, and dependents of military service members as well as foreign-born United States citizens; clarify certain definitions and language in the Act; and make certain technical changes. I endorse these proposed amendments to the Act that recognize the rights of overseas United States citizens who are not currently included within the Act's scope to participate in the election process, and also that appropriately update the language of the Act.

However, the bill also proposes amendments to the Act that raise policy, legal, and practical concerns, and are inconsistent with our State's treatment of domestic voters.

I am predominantly concerned with the bill's proposal to permit all overseas voters to vote in New Jersey state and local elections regardless of their intention to return to the United States. Certainly, I agree with the sponsors that overseas voters should continue to be permitted to vote in federal elections if they are United States citizens. Moreover, both military service members sent overseas and temporarily relocated voters have a stake in the future governance of New Jersey and the locality where they previously resided because they plan to return, and therefore should be encouraged to participate in local elections. However, allowing overseas voters to participate in elections on state and local issues when they have no intention of ever returning to the United States (or, in

the case of U.S. citizens born abroad, have never resided in the United States and never intend to do so) makes little sense and is inconsistent with how most other states address this issue.

I am also concerned that the bill would provide virtually unfettered discretion to local election officials to determine which mistakes, omissions, and technical errors disqualify an election document, particularly where the bill is devoid of any guidelines. Further, changes to the Act that would allow the Federal Write-in Absentee Ballot to simultaneously be used by an overseas voter to register to vote, apply for a ballot, and to cast a vote creates a significant administrative burden and the potential for voter fraud. Finally, amending the Act to provide that an electronic address provided by an overseas voter for purposes of receiving a ballot is exempt from disclosure under the Open Public Records Act is not only inconsistent with how information from domestic voters is treated, it is also anathema to the principles underlying that statute.

Based on the foregoing, I am recommending changes that eliminate parts of the bill that raise legal and practical concerns, while accepting those provisions that expand participation for overseas military members and citizens and their family members, and that recognize the commonsense distinction between those overseas voters who intend to return to the United States, and those who do not.

Accordingly, I herewith return Senate Bill No. 92 and recommend that it be amended as follows:

Page 2, Section 1, Line 16:

After "c." insert ""Federal election" means any general, special or primary held for the purpose of nominating or electing any candidate for the office of President or Vice President of the United States, Presidential elector, United States Senator or

member of the United States House of Representatives.
d."

- Page 2, Section 1, Line 23: Delete "d." and insert "e."
- Page 2, Section 1, Line 33: After "States" insert "temporarily"
- Page 3, Section 1, Line 5: After "States." insert "f. "Overseas federal election voter" means any citizen of the United States residing abroad who does not intend to return or whose intent to return is uncertain and who (1) immediately prior to departure from the United States was domiciled in New Jersey and (a) was last registered to vote, or last eligible to register and vote, in New Jersey; or (b) would have been eligible to register and vote in New Jersey except that the citizen had not attained 18 years of age the requirement of which has since been met; or (c) would have been eligible to register and vote in New Jersey except that the citizen had not met the residency requirement; (2) is not registered or qualified to vote elsewhere in the United States; and (3) holds a valid passport or passport card or other proof of citizenship issued under authority of the Secretary of State of the United States."
- Page 3, Section 1, Line 10: Delete "or" and insert ","
- Page 3, Section 1, Line 10: After "guardian" insert ", spouse, partner in civil union, or domestic partner"
- Page 3, Section 1, Line 15: Delete "e." and insert "g."
- Page 3, Section 1, Line 20: Delete "f." and insert "h."
- Page 3, Section 1, Line 22: Delete "g." and insert "i."
- Page 3, Section 1, Line 25: Delete "h." and insert "j."
- Page 3, Section 1, Line 27: Delete "i." and insert "k."
- Page 3, Section 2, Line 38: After "(C.19:59-1 et seq.)," insert "as amended by P.L. , c. (C.) (pending before the Legislature as this bill):
a. any person meeting the qualifications of an overseas voter may register to vote and may apply for

and vote by mail-in ballot in any election held in the election district of this State in which the voter was formerly domiciled; and b."

- Page 3, Section 2, Line 39: After "overseas" insert "federal election"
- Page 3, Section 2, Line 40: Delete "absentee" and insert "mail-in"
- Page 3, Section 2, Line 40: After "any" insert "federal"
- Page 3, Section 2, Line 42: After "overseas" insert "federal election"
- Page 3, Section 2, Lines 43-44: Delete in their entirety and insert "in subsection f. of section 2 of P.L. 1976, c. 23 (C.19:59-2), in which the voter's parent, legal guardian, spouse, partner in civil union, or domestic partner was"
- Page 4, Section 3, Line 4: After "voter" insert "or a federal election as an overseas federal election voter"
- Page 4, Section 3, Line 6: After "overseas" insert "federal election"
- Page 4, Section 3, Lines 7-8: Delete in their entirety and insert "described in subsection f. of section 2 of P.L. 1976, c. 23 (C.19:59-2), in which the voter's parent, legal guardian, spouse, partner in civil union, or domestic partner"
- Page 4, Section 3, Line 9: Delete "guardian"
- Page 4, Section 3, Line 13: After "overseas voter" insert "or overseas federal election voter"
- Page 4, Section 3, Line 19: Delete "or" and insert ","
- Page 4, Section 3, Line 19: After "guardian," insert "spouse, partner in civil union, or domestic partner,"
- Page 4, Section 3, Line 28: Delete "by 3:00 p.m. on the day" and insert "on or before the fourth day"
- Page 4, Section 3, Line 30: After "voter" insert "or overseas federal election voter"
- Page 4, Section 3, Line 32: After "election" insert "in which the voter is eligible to vote"

<u>Page 4, Section 3, Line 40:</u>	After "voter" insert "or overseas federal election voter"
<u>Page 4, Section 3, Lines 43-46:</u>	Delete in their entirety
<u>Page 5, Section 3, Lines 1-10:</u>	Delete in their entirety
<u>Page 5, Section 4, Line 15:</u>	Delete "or federal" and insert ", "
<u>Page 5, Section 4, Line 16:</u>	Delete in its entirety and insert "an application for a ballot by an overseas voter or overseas federal election voter shall"
<u>Page 5, Section 4, Line 18:</u>	Delete in its entirety
<u>Page 5, Section 4, Line 35:</u>	Delete "(Form N-600)"
<u>Page 5, Section 4, Line 43:</u>	Delete "or" and insert ", "
<u>Page 5, Section 4, Line 44:</u>	After "guardian," insert "spouse, partner in civil union, or domestic partner,"
<u>Page 6, Section 4, Line 14:</u>	After "voter" insert "or overseas federal election voter"
<u>Page 6, Section 5, Line 22:</u>	After "for" delete "an" and insert "a ballot by an overseas voter or overseas federal election voter"
<u>Page 6, Section 5, Line 23:</u>	Delete "overseas ballot"
<u>Page 6, Section 6, Line 37:</u>	Delete "Other than a federal write-in absentee ballot, the" and insert "The"
<u>Page 6, Section 6, Line 38:</u>	Delete "overseas ballot" and insert "ballot for overseas voters and overseas federal election voters"
<u>Page 6, Section 7, Line 43:</u>	Delete "overseas ballots" and insert "ballots sent to overseas voters or overseas federal election voters,"
<u>Page 7, Section 7, Line 7:</u>	Delete "overseas ballots sent to the voter" and insert "ballots sent to overseas voters or overseas federal election voters"
<u>Page 7, Section 7, Line 19:</u>	Delete "a voted overseas" and insert "an overseas voter's or overseas federal election voter's"
<u>Page 7, Section 8, Line 27:</u>	After "voter" insert "or overseas federal election voter"

Page 7, Section 8, Line 28: Delete "an overseas" and insert "a"

Page 7, Section 8, Line 29: After "made" insert "and in which the voter is eligible to vote"

Page 7, Section 8, Line 32: Delete "an overseas" and insert "a"

Page 7, Section 8, Line 33: After "elections" insert "in which the voter is eligible to vote"

Page 7, Section 9, Lines 37-47: Delete in their entirety

Page 8, Section 9, Lines 1-2: Delete in their entirety

Page 8, Section 10, Lines 4-16: Delete in their entirety

Page 8, Section 11, Lines 18-23: Delete in their entirety

Page 8, Section 12, Line 25: Delete "12." and insert "9."

Page 8, Section 12, Line 31: After "voters" insert "and overseas federal election voters"

Page 8, Section 12, Line 34: After "voters" insert "and overseas federal election voters"

Page 8, Section 12, Line 34: After "elections" insert "in which the voter is eligible to vote"

Page 8, Section 12, Line 37: Delete "overseas voter"

Page 8, Section 12, Line 38: After "means" insert "by overseas voters or overseas federal election voters"

Page 8, Section 12, Line 42: After "voters" insert "and overseas federal election voters"

Page 8, Section 13, Line 46: Delete "13." and insert "10."

Page 9, Section 13, Line 31: Delete "or a federal"

Page 9, Section 13, Line 32: Delete "write-in absentee ballot,"

Page 10, Line 4: Insert new sections 11 through 16 to read as follows:

"11. Section 8 of P.L.1976, c.23 (C.19:59-8) is amended to read as follows:

a. Each county clerk shall send by air mail, with each [overseas] ballot for an overseas voter or overseas federal election voter

transmitted by such means, appropriate printed instructions for its completion and return, together with an inner and outer envelope similar to that required as to civilian **[absentee]** vote by mail ballots with a legend on the inner envelope stating "[Overseas] Ballot for Overseas Voter" or "Ballot for Overseas Federal Election Voter," as appropriate. [""]

b. Each county clerk shall send to each overseas voter or overseas federal election voter requesting that a **[an overseas]** ballot be sent to that voter by electronic means all appropriate printed instructions for its completion and return. The printed instructions sent to each such voter shall include a certificate substantially the same as provided for in section 9 of P.L.1976, c.23 (C.19:59-9).

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

PENALTY FOR FRAUDULENT VOTING

Any person who knowingly violates any of the provisions of the Overseas Residents Absentee Voting Law, or who, not being entitled to vote thereunder, fraudulently votes or attempts to vote thereunder or enables or attempts to enable another person, not entitled to vote thereunder, to vote fraudulently thereunder or who prevents or attempts to prevent by fraud the voting of any person legally entitled to vote under this act, shall be guilty of an indictable offense, and upon conviction thereof shall be subject, in addition to such other penalties as are authorized

by law, to disenfranchisement unless and until pardoned or restored by law to the right of suffrage.

12. Section 12 of P.L.1993, c.73 (C.19:59-8.1) is amended to read as follows:

Whenever a county clerk receives a request by electronic means from an overseas voter or overseas federal election voter that a **[an overseas]** ballot be sent to that person by electronic means, the county clerk shall verify the voter's eligibility to vote as an overseas voter or overseas federal election voter in the State and the county desired. If the overseas voter or overseas federal election voter is eligible to vote therein, the county clerk shall send the appropriate ballot to the voter at least 45 days before the day of the election and thereafter by electronic means using the telephone number or electronic address supplied by the voter for that purpose. If the overseas voter or overseas federal election voter is not eligible to vote in the State or the county desired, notice of noneligibility shall be provided to the voter by electronic means as soon as practicable after the receipt of the request.

13. Section 9 of P.L.1976, c.23 (C.19:59-9) is amended to read as follows:

Upon the margin of the flap of the inner envelope to be sent to an overseas voter or overseas federal election voter shall be printed a certificate substantially as follows:

I, the undersigned, residing at
.
. am the person who applied for,

received and voted the enclosed **[Overseas]** Ballot.

Dated:

.....
.....Voter
(SIGNATURE)

.....
..Voter (PRINT or type
name)

14. Section 11 of
P.L.1976, c.23 (C.19:59-11)
is amended to read as
follows:

Upon receipt of each
[overseas] ballot from an
overseas voter or overseas
federal election voter,
other than a ballot which
had been sent by electronic
means to an overseas voter
or overseas federal
election voter, the
signature on the
certificate on the inner
envelope shall be compared
to that on the person's
application. All ballots,
whether originally sent to
an overseas voter or
overseas federal election
voter by air mail or
electronic means, shall be
approved, disapproved,
processed, counted and
disputes in connection
therewith shall be handled
in the same manner as is
applicable to other
[absentee] vote by mail
ballots. No ballot received
after the time designated
for the closing of the
polls shall be counted.

15. Section 3 of
P.L.1995, c.196 (C.19:59-
14) is amended to read as
follows:

Notwithstanding any law,
rule or regulation to the
contrary, a copy of **[a]** an
overseas voter's or
overseas federal election
voter's voted **[overseas]**
ballot, or **[of]** a voted
federal write-in absentee
ballot, which is
transmitted by electronic
means to the appropriate
county board of elections
in this State shall be
considered valid and
counted if it:

a. is from a qualified
voter;

b. has been transmitted to the appropriate county board of elections no later than the time designated by law for the closing of the polls on that day; and

c. is accompanied by the following statement, which shall be certified by the voter's signature: "I understand that by transmitting by electronic means a copy of my voted ballot I am voluntarily waiving my right to a secret ballot. At the same time, I pledge to place the original voted ballot in a secure envelope, together with any other required certification, and send the documents immediately by air mail to the appropriate county board of elections."

16. Section 4 of P.L.1995, c.196 (C.19:59-15) is amended to read as follows:

a. Immediately after a copy of ~~the~~ an overseas voter's or overseas federal election voter's ~~voted~~ [overseas] ballot, or a voted federal write-in absentee ballot, has been transmitted by electronic means to the appropriate county board of elections, as permitted pursuant to section 3 of P.L.1995, c.195 (C.19:59-14), the overseas voter or overseas federal election voter shall place the original voted ballot in a secure envelope, together with a certificate substantially the same as provided for in section 9 of P.L.1976, c.23 (C.19:59-9), and send the documents by air mail to the appropriate county board of elections.

b. All copies of voted ballots received by electronic means shall be approved, disapproved, processed and counted, and disputes in connection therewith shall be handled, in the same manner as is applicable to other [absentee] vote by mail ballots. No ballot received after the time designated

for the closing of the polls shall be counted.

c. The county board of elections shall take all necessary precautions to preserve the security of the ballot materials and specifically shall ensure that the vote cast by a voter using a ballot transmitted by electronic means is not revealed, except to the extent necessary by law or judicial determination. Upon the completion of all inspections of a ballot transmitted by electronic means required by law, the board or any employee thereof acting under its direction shall promptly separate the waiver certification from the ballot transmitted by electronic means. Any person handling such a ballot shall not identify the votes cast by any voter, except upon judicial determination.

d. Prior to certification of the results of the election, the county board shall:

(1) compare the information on the copy transmitted by electronic means of each voted ballot with the same on the original voted ballot sent by air mail by the voter who transmitted to the county board a copy of the voted ballot by electronic means, and the signature on the statement received by electronic means with the signature on the certificate received by air mail; and

(2) ascertain whether an original voted ballot has been received for each copy of a voted ballot received by electronic means and counted.

Whenever the particulars of the copy of a voted ballot transmitted by electronic means do not conform exactly with the particulars of the original voted ballot sent by air mail to the county board

afterwards by that voter and whenever an original voted ballot has not been received which corresponds to a copy of a voted ballot transmitted by electronic means which has been received and counted by the county board, those ballots and all other pertinent documents and information relative to those ballots shall be turned over to the superintendent of elections in counties having a superintendent and the prosecutor in all other counties for further investigation and action.

e. Within 30 days after the election, the county board shall gather and keep together the copy of the voted ballot transmitted by electronic means, the certified statement and the original voted ballot sent by air mail of each voter who transmitted a copy of a voted ballot by electronic means. Those ballots needed for an investigation conducted by the superintendent of elections or the county prosecutor, as the case may be, or by any other law enforcement official shall be returned to the county board as soon as practicable after the conclusion of the investigation. All ballots and documents relative to a copy of a voted ballot transmitted by electronic means and received by the county board shall be retained by it for a period of one year following the day of the election. The superintendent of elections in counties having a superintendent and the prosecutor in all other counties shall have the authority to impound all such documents whenever the superintendent or prosecutor shall deem such action necessary."

Page 10, Section 14, Line 5:

Delete "14." and insert
"17."

[seal]

Respectfully,

/s/ Chris Christie

Governor

Attest:

/s/ Scott A. Coffina

Senior Deputy Chief Counsel to the Governor

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Trenton, NJ – Governor Chris Christie announced that he has taken action on the following legislation:

BILL SIGNINGS:

S-92 wGR/A-2815 (Whelan/Mosquera, Jones, DeAngelo, Mazzeo, Johnson, Houghtaling) - Revises "Overseas Residents Absentee Voting Law"

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Press Contact:
Brian Murray
609-777-2600



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Office of the Governor
PO Box 001
Trenton, NJ 08625
609-292-6000