

19:53A-1 ET SEQ.

LEGISLATIVE HISTORY CHECKLIST

NJSA 19:53A-1 et seq.

Laws of 1973 Chapter 82

Bill No. A892

Sponsor(s) Keogh - Dwyer, Barbour & Littell

Date Introduced March 23, 1972

Committee: Assembly Judiciary

Senate Judiciary

Amended during passage Yes No

Amendments during passage denoted by asterisks.

Date of passage: Assembly January 11, 1973

Senate March 29, 1973

Date of approval April 12, 1973

Following statements are attached if available:

Sponsor statement Yes No

Committee Statement: Assembly Yes No

Senate Yes No

Fiscal Note Yes No

Veto message Yes No

Message on signing Yes No

Following were printed:

Reports Yes No

Hearings Yes No

974.90 New Jersey. Election Law Revision Commission.  
E38 Preliminary report. January, 1966.  
1966 [Recommends legislation]

Note: Several bills introduced previously never became law.

Several earlier reports <sup>ARE</sup> mentioned in 1966 report.

Do Not Remove From Library  
DEPOSITORY COPY

10/4/76

82 173  
4-12-73

[OFFICIAL COPY REPRINT]  
**ASSEMBLY, No. 892**

**STATE OF NEW JERSEY**

INTRODUCED MARCH 23, 1972

By Assemblymen KEOGH-DWYER, BARBOUR and LITTELL

Referred to Committee on Judiciary

AN ACT authorizing the use of electronic voting systems and supplementing Title 19 of the Revised Statutes.

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

1 1. As used in this act, unless otherwise specified:

2 a. "Automatic tabulating equipment" includes apparatus which  
3 automatically examines and counts votes recorded on ballot cards,  
4 and tabulates the results.

5 b. "Ballot card" means a tabulating card on which votes may  
6 be recorded.

7 c. "Ballot labels" means the pages, cards, or other material  
8 containing the names of offices and candidates and the statements  
9 of measures to be voted on, which are placed on the voting device.

10 d. "Counting center" means one or more locations selected by  
11 each of the county boards of election for the automatic counting  
12 of ballots.

13 e. "Electronic voting system" means a system in which votes  
14 are recorded on ballot cards, and such votes are subsequently  
15 counted and tabulated by automatic tabulating equipment at one  
16 or more counting centers.

17 f. "Voting device" means an apparatus which the voter uses  
18 to record his votes on a tabulating card.

19 g. "County boards of elections" shall mean the county board  
20 of elections appointed in the various counties or the person or  
21 board in charge of elections in the various counties as provided  
22 in Title 19 of the New Jersey Revised Statutes.

1 2. a. The board of chosen freeholders of any county may adopt,  
2 acquire by purchase, lease, or otherwise, or abandon any electronic  
3 voting system or mechanical system authorized herein which has  
4 been approved for use in the State, in any election or primary

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

5 or combination thereof, and may use such system in all or a part  
6 of the districts within its boundaries, or in combination with paper  
7 ballots. The county authorities, on the adoption and acquisition  
8 of an electronic voting system, shall provide for the payment there-  
9 for in such manner as they deem for the best interest of the locality,  
10 in such manner as may be provided by law.

11 b. The provisions of this act shall be controlling with respect  
12 to elections where electronic voting systems are used, and shall be  
13 liberally construed so as to carry out the purpose and intent of this  
14 act. Any provisions of law relating to the conduct of elections  
15 which conflict with this act shall not apply to the conduct of elec-  
16 tions with an approved electronic voting system.

1 3. Every electronic voting system, consisting of a voting device  
2 in combination with automatic tabulating equipment, acquired or  
3 used in accordance with this act, shall:

4 a. Provide for voting in secrecy, except in the case of voters  
5 who have received assistance as provided by law;

6 b. Permit each voter to vote at any election for all persons and  
7 offices for whom and for which he is lawfully entitled to vote; to  
8 vote for or against any question upon which he is entitled to vote;  
9 and the automatic tabulating equipment shall reject choices  
10 recorded on his ballot card if the number of choices exceeds the  
11 number which he is entitled to vote for the office or on the measure;

12 c. Permit each voter, at presidential elections, by one mark or  
13 punch to vote for the candidates of that party for president, vice  
14 president, and their presidential electors;

15 d. Permit each voter, at other than primary elections, to vote  
16 for the nominees of one or more parties and for independent  
17 candidates; and personal choice or write-in candidates;

18 e. Permit each voter in primary elections to vote for candidates  
19 in the party primary in which he is qualified to vote, and the  
20 automatic tabulating equipment shall reject any votes cast for  
21 candidates of another party;

22 f. Prevent the voter from voting for the same person more than  
23 once for the same office;

24 g. Be suitably designed for the purpose used, of durable con-  
25 struction, and may be used safely, efficiently, and accurately in the  
26 conduct of elections and counting ballots;

27 h. When properly operated, record correctly and count ac-  
28 curately every vote cast, including all overvotes or undervotes and  
29 all affirmative votes or negative votes on all public questions or  
30 referenda.

1 4. No voting device shall be used in an election in this State  
2 unless in combination with automatic tabulating equipment used  
3 to count and tabulate ballots it meets the requirements in section 3  
4 of this act, and has been approved by the Secretary of State, or  
4A other person, agency or board charged with the examination and  
5 approval of voting machines. When such device has been ap-  
6 proved, any improvement or change which does not impair its  
7 accuracy, efficiency, or ability to meet such requirements shall not  
8 require a reexamination or reapproval thereof.

1 5. a. Ballot labels shall be printed in plain clear type in black  
2 ink, of such size and arrangement as to fit the construction of the  
3 voting device; they shall be printed on clear white material or on  
4 material of different colors to identify different ballots or parts of  
5 the ballot, and in primary elections to identify each political party.

6 b. The titles of offices and the names of candidates may be  
7 arranged in vertical columns or in a series of separate pages. The  
8 office title with a statement of the number of candidates to be voted  
9 for shall be printed above or at the side of the names of the  
10 candidates for that office. The names of candidates shall be printed  
11 in the order provided by law, and in general elections the party  
12 designation of each candidate, which may be abbreviated, *and a*  
13 *slogan not to exceed five words*\* **[shall]**\* *may*\* be printed fol-  
14 lowing his name. In case there are more candidates for an office  
15 than can be printed in one column or on one ballot page, the ballot  
16 label shall be clearly marked that the list of candidates is continued  
17 on the following column or page, and so far as possible, the same  
18 number of names shall be printed on each column or page. Arrows  
19 may be used to indicate the place to vote for each candidate and  
19A on each measure.

20 c. The different parts of the ballot, such as partisan, nonpartisan,  
21 and measures, shall be prominently indicated on the ballot labels,  
22 and, if practicable, each part shall be placed on a separate page  
23 or pages. In the event that two or more elections are held on the  
24 same day, the ballot labels shall be clearly marked to indicate the  
25 ballot for each election, and, if practical, the ballot labels for each  
26 election shall be placed upon separate pages, and labels of a  
27 different color or tint may be used for each election.

28 d. Sample ballots, which shall be facsimile copies of the official  
29 ballot or ballot labels, shall be provided as required by law. At  
30 least three copies shall be posted in each polling place on election  
31 day. Sample ballots may be printed on a single sheet or on a  
32 number of pages stapled together.

33 e. In elections in which voters are authorized to vote for persons  
34 whose names do not appear on the ballot, a separate write-in ballot,  
35 which may be in the form of a paper ballot, card or envelope in  
36 which the voter places his ballot card after voting, shall be provided  
37 to permit voters to write in the title of the office and the name of  
38 the person or persons for whom he wishes to vote.

1 6. a. Prior to any election at which electronic voting devices are  
2 used the county board of elections shall have the voting devices  
3 prepared for the election and shall provide the district election  
4 officers with voting devices, voting booths, ballot boxes, ballot cards,  
5 "write-in" ballots and other records and supplies as required.

6 b. Ballot cards shall be of the size, design and stock suitable for  
7 processing by automatic data processing machines. Each ballot  
8 card shall have an attached numbered perforated stub, which shall  
9 be removed by an election officer before it is deposited in the ballot  
10 box. \***[**The name of the county or other local governmental unit, the  
11 designation and date of the election, and in primary elections the  
12 name of the political party, shall be printed on the ballot card  
13 stub.**]**\* In primary elections the ballot cards of each political party  
14 shall be distinctly marked or shall be of a different color or tint so  
15 that the ballot cards of each political party are readily distinguish-  
15A able.

16 c. Unless the voting device enables the voter to mark his choices  
17 in secret, the board of elections shall provide a sufficient number  
18 of voting booths for each voting district, which shall be of a size  
19 and design so as to enable the voter to mark his ballot in secret.

1 7. a. Thirty minutes before the opening of the polls the local  
2 district election officers shall arrive at the polling place, place the  
3 voting devices in position for voting, and examine them to see  
4 that they have the correct ballot labels by comparing them with the  
5 sample ballots, and are in proper working order. They shall open  
6 and check the ballot cards, supplies, records and forms, and post  
7 the sample ballots and instructions to voters.

8 b. Each voter requesting assistance shall be instructed how to  
9 operate the voting device before he enters the voting booth. If he  
10 needs additional instruction after entering the voting booth and  
11 requests assistance, two members of the district board of opposite  
12 political parties, may if necessary enter the booth and give him  
13 additional instructions.

14 c. The district election official attending the voting machine shall  
15 inspect the face of the machine and the ballot \***[**after each voter  
16 has cast his vote,**]**\* *\*at least once per hour\** to see that the face  
17 of the machine and the ballot are in their proper place and that

18 neither has been mutilated, defaced, tampered with or changed  
19 and that the machine has not been changed.

20 d. After the voter has marked his ballot cards, he shall place the  
21 ballot card inside the envelope provided for this purpose and  
22 return it to the election officer, who shall remove the stub, hand it  
23 to the voter, and deposit the envelope with the ballot card inside  
24 in the ballot box. No ballot card from which the stub has been  
25 detached shall be accepted by the election official in charge of the  
26 ballot box, but it shall be marked "Spoiled" and placed with the  
27 spoiled ballot cards.

28 e. Any voter who spoils his ballot card may return it enclosed  
29 in the envelope and secure another. The word "Spoiled" shall be  
30 written across the face of the envelope which shall be placed in  
31 the spoiled ballot card container.

32 f. As soon as the polls have been closed and the last qualified  
33 voter has voted, all unused ballot cards shall be placed in a con-  
34 tainer and sealed for return to the board of elections. Said  
35 container shall be indestructible, waterproof and shall be sealed  
36 before being removed from the local district election board  
37 premises. The ballot box shall be opened and any write-in votes  
38 counted. Before write-in votes are counted they shall be compared  
39 with votes cast on the ballot card for the same office. If the voter  
40 has cast more votes for an office than he is entitled to vote for  
41 \***[**that office, the write-in vote shall be declared void and  
42 shall not be counted.**]**\* \*, *the vote for that office shall be declared*  
43 *null and void and that vote shall not be counted for that office.\**  
44 Votes cast for duly nominated candidates on the ballot card will  
45 not be voided because of an invalid write-in vote, but if otherwise  
46 valid shall be counted. The voted ballot cards shall next be placed  
47 in the ballot card container for delivery to the counting center, and  
47A the voting devices shall be placed in their containers and locked  
47B or sealed for returning to the county board of elections.

48 g. The district board election officers shall prepare a report of  
49 the number of voters who have voted, as indicated by the poll list,  
50 and shall place the original copy of this report in the ballot card  
51 container for delivery to the counting center, which thereupon  
52 shall be sealed so that no additional ballot cards may be deposited  
53 or removed. The duplicate copy of said report shall be returned  
54 to the county election board with other records. Two district elec-  
55 tion board officers one of each opposite political party as in this act  
56 defined shall forthwith deliver the ballot card container to the  
57 counting center or other place designated by the county board.

1     S. a. Prior to the start of the count of the ballots, each county  
2 board of elections shall have the automatic tabulating equipment  
3 tested to ascertain that it will accurately count the votes cast for  
4 all offices and on all measures. Public notice of the time and place  
5 of the test shall be given at least 48 hours prior thereto by publica-  
6 tion once in three or more daily or weekly newspapers published in  
7 the county or jurisdiction where such equipment is used, if a news-  
8 paper is published therein, otherwise in a newspaper of general  
9 circulation therein; said newspapers shall be selected so as to give  
10 the widest possible notice to the voters of said county and one of  
11 said newspapers shall be the newspaper or one of the newspapers  
12 in which legal notices of the county are required to be published.  
13 The test shall be conducted by processing a preaudited group of  
14 ballot cards so punched as to record a predetermined number of  
15 valid votes for each candidate and on each measure, and shall  
16 include for each office one or more ballots which have votes in ex-  
17 cess of the number allowed by law in order to test the ability of the  
18 automatic tabulating equipment to reject such votes. In such test  
19 a different number of valid votes shall be assigned to each candidate  
20 for an office, and for and against each measure. If any error is  
21 detected, the cause therefor shall be ascertained and corrected and  
22 an errorless count shall be made and certified to by the county board  
23 of elections before the count is started. The tabulating equipment  
24 shall pass the same test at the conclusion of the count before the  
25 election returns are approved as official. On completion of the  
26 count, the programs, test materials, and ballot cards arranged by  
27 districts shall be sealed and retained as provided for paper ballots.

28     b. All proceedings at the counting center shall be under the  
29 direction of the county board of elections or persons designated by  
30 it; there shall always be two persons in charge, one from each  
31 opposite political party as in this act defined; and all proceedings  
32 shall be conducted under the observation of the public, but no  
33 persons except those authorized for the purpose shall touch any  
34 ballot card or return. All persons who are engaged in processing  
35 and counting of the ballots shall be deputized and take an oath  
36 that they will faithfully perform their assigned duties. If any  
37 ballot card is damaged or defective so that it cannot properly be  
38 counted by the automatic tabulating equipment, a true duplicate  
39 copy shall be made and substituted for the damaged ballot card.  
40 All duplicate ballot cards shall be clearly labeled "duplicate,"  
41 and shall bear a serial number which shall be recorded on the  
42 damaged or defective ballot card. The damaged or defective ballot  
43 card as well as the "duplicate" shall be preserved with the other

44 ballot cards. During the count the election officer or board  
45 in charge may from time to time release unofficial returns. Upon  
46 completion of the count the official returns shall be open to the pub-  
47 lic.

48 c. The return of the automatic tabulating equipment, to which  
49 have been added the write-in and absentee votes, shall, after being  
50 duly certified, constitute the official return of each election district.

51 d. If for any reason it becomes impracticable to count all or a  
52 part of the ballot cards with tabulating equipment, the county board  
53 of elections may direct that they be counted manually, following  
54 as far as practicable the provisions governing the counting of paper  
55 ballots contained in Title 19 of the Revised Statutes.

1 9. Absentee votes may be cast on paper ballots or ballot cards,  
2 or both methods may be used. Such ballots may be counted by  
3 automatic tabulating equipment or by special canvassing boards  
4 appointed by and under the direction of the county board of elec-  
5 tions. A true copy of absentee paper ballots may be made on ballot  
6 cards, which after being duly verified, shall forthwith be counted  
7 in the same manner as other ballot cards. Such paper ballots and  
8 ballot cards shall be forthwith marked with corresponding numbers,  
9 which numbering shall be done in such manner as not to identify  
10 any voter and such marking shall not be considered to be a marked  
11 ballot. Such paper ballots and corresponding ballot cards shall  
12 both be preserved in the same manner as other ballot cards are re-  
13 quired to be preserved hereunder.

1 10. Any overvote or misvote for one or more offices shall not  
2 invalidate the entire ballot.

1 11. For instructing the voters on any election day there shall,  
2 so far as practicable, be provided by the county board of elections  
3 or the superintendent of elections or the municipal clerk, as the case  
4 may be, having custody of voting devices, for each polling place a  
5 mechanically operated model of at least a portion of the face of the  
6 device. Such model, if furnished, shall, during the election, be  
7 located on the district election board's table or in some other place  
8 which the voters must pass to reach the voting device, and each  
9 voter shall before entering the voting device booth or before voting,  
10 be instructed regarding the operation of the device and such in-  
11 struction illustrated on the model, and the voter be given oppor-  
12 tunity personally to operate the model. The voter's attention shall  
13 also be directed to the fact of the device and he shall have the ballot  
14 explained as to the location of the public questions or referendum,  
15 the location of the officers and the names of all candidates to be  
16 voted for.



1 12. Challengers may be appointed in the same manner as pro-  
2 vided in R. S. 19:7-1 et seq., for each counting center set up in  
3 each county and said challengers shall have the right to be present  
4 and represent the candidates or party appointing them during any  
5 time the counting center is open or operating whether for testing  
6 of equipment, programs, ballot cards or for counting the ballot  
7 cards or for any other purpose.

1 13. The provisions of Title 19 of the Revised Statutes except as  
2 herein modified shall be applicable to the use of electronic voting  
3 systems in elections as herein provided for.

1 14. In case of a recount the ballot cards shall be recounted in the  
2 manner provided by section 8 of this act unless the court ordering  
3 the recount directs that they be counted manually.

1 15. a. Any person who before, during or after an election tampers  
2 with or willfully injures any voting device, ballot cards, or other  
3 records or equipment used in the election, or interferes or attempts  
4 to interfere with the correct operation of such device or equipment  
5 or the secrecy of voting, is guilty of a high misdemeanor.

6 b. The penal laws and election laws relating to misconduct at  
7 elections apply to elections conducted with voting devices and  
8 automatic tabulating equipment.

1 16. This act shall take effect immediately.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 892**

[OFFICIAL COPY REPRINT]

---

**STATE OF NEW JERSEY**

---

DATED: MARCH 22, 1973

This bill would permit a county to adopt an electronic system of voting. Under this system, the votes would be recorded by the voter on a tabulating card and this card would be counted by an automatic counting machine.

This bill sets up the procedures to be used both at the polls and at the counting centers. It also sets forth the form of the ballot which would be used if such a system of voting were adopted.