

19:63-17.1 & 19:63-17.2 et al.
LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2020 **CHAPTER:** 70

NJSA: 19:63-17.1 & 19:63-17.2 et al. (Establishes "The Ballot Cure Act" to modify and establish various voting procedures.)

BILL NO: A4276 (Substituted for S2598/2699)

SPONSOR(S) Andrew Zwicker and others

DATE INTRODUCED: 6/15/2020

COMMITTEE: **ASSEMBLY:** State & Local Government
Appropriations

SENATE: ---

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 8/27/2020

SENATE: 8/27/2020

DATE OF APPROVAL: 8/28/2020

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Second Reprint enacted)	Yes	
A4276		
INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT):	Yes	
COMMITTEE STATEMENT:	ASSEMBLY: Yes	State & Local Government Appropriations
	SENATE: No	

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

S2598/2699

INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT): (S2598) Yes

INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT): (S2699) Yes

COMMITTEE STATEMENT: (2598 and 2699) ASSEMBLY: No

COMMITTEE STATEMENT: (2598 and 2699) SENATE: Yes State Gov., Wagering, Tourism & Historic Preservation Budget & Appropriations

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:

LEGISLATIVE FISCAL ESTIMATE: (2699) Yes

LEGISLATIVE FISCAL ESTIMATE: (2598 and 2699) Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

A3. "MURPHY APPROVES BILLS SUPPORTING VOTE-BY-MAIL." The Record (Hackensack, NJ), August 31,2020:

"Gov. signs bills paving way for mostly mail-in voting." The Times, (Trenton, NJ), August 30, 2020: 009.

"Gov. signs bills paving way for mostly mail-in." The Star-Ledger, (Trenton, NJ), August 29, 2020: 008.

RWH/CL

§§4,5 -
C.19:63-17.1 and
19:63-17.2
§10 - Repealer
§11 - Note

P.L. 2020, CHAPTER 70, *approved August 28, 2020*
Assembly, No. 4276 (*Second Reprint*)

1 AN ACT concerning ²certain voting procedures and² a voter's
2 opportunity to cure their voted mail-in ballot and amending
3 various parts of the statutory law ¹and supplementing P.L.2009,
4 c.79 (C.19:63-1 et seq.)¹ ²and repealing section 18 of P.L.2009,
5 c. 79 (C.19:63-18)².

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

9
10 1. Section 1 of P.L.2005, c.149 (C.19:12-7.1) is amended to
11 read as follows:

12 1. a. A county board of elections shall have posted a voter
13 information notice, which shall be referred to as a voter's bill of
14 rights, in a conspicuous location in each polling place before the
15 opening of the polls on the day of any election.

16 The notice shall contain:

17 the date of the election and the hours during which polling places
18 will be open;

19 a statement that sample ballots are available at the polling place
20 for review by the voter;

21 instruction for the use of the voting machine in that polling place
22 and an explanation of what instructions for voting are available at
23 the polling place for the voter;

24 instruction for a voter who is voting for the first time;

25 instruction for a voter who is required to provide identification
26 pursuant to the federal "Help America Vote Act of 2002" and
27 R.S.19:15-17 prior to casting a vote;

28 instruction on how to cast a vote if the voter cannot be present at
29 a polling place on the day of the election;

30 an explanation of the right of the voter to vote in privacy,
31 regardless of the voter's physical abilities;

32 an explanation of the right of the voter to a provisional ballot,
33 including in the event that a mail-in ballot has been applied for and
34 not received or not transmitted to the county board of elections
35 before the day of any election, and the other circumstances under
36 which a voter has a right to a provisional ballot;

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:

¹Assembly ASL committee amendments adopted August 13, 2020.

²Assembly AAP committee amendments adopted August 24, 2020.

1 an explanation of the right of the voter to receive a replacement
2 ballot for a ballot that has been spoiled, destroyed, lost or never
3 received;

4 an explanation of the right of the voter to ask for and receive
5 assistance in voting;

6 an explanation of the right of the voter to take a reasonable
7 amount of time in casting a vote on a voting machine;

8 an explanation of the right of the voter to bring written material
9 into the polling place for the voter's personal use in casting a vote;

10 instruction on how to contact the appropriate officials if a voter's
11 right to vote or right to otherwise participate in the electoral process
12 has been challenged or violated;

13 general information on federal and State laws that prohibit acts
14 of fraud or misrepresentation and the penalties for those acts; **[and]**

15 an explanation of the right of the voter to confidentially discover
16 the status of their ballot using the "Track My Ballot" user portal;

17 an explanation that "All ballots are counted and your vote
18 remains anonymous;"

19 an explanation of the right of the voter that if their ballot was
20 rejected, ²**[they will be notified]** a notice will be issued to the voter²
21 within ¹**[72** hours of the receipt of the ballot or, if the voter voted
22 using a provisional ballot, within 48 hours of the closing of the
23 polls by email, mail, or phone with the reason for rejection] ²⁴
24 hours after a decision is made to reject the ballot¹ . The voter will
25 have up to ¹**[5]** ²**[14** days after the close of the polls on Election
26 Day] 48 hours prior to the date for the final certification of the results
27 of the election² to provide a cure for their ballot;

28 an explanation giving the options for the voter to provide the
29 cure to their rejected ballot;

30 an explanation that no voters shall be intimidated or otherwise
31 unduly influenced by political insignia while voting. No person
32 shall wear, display, sell, give or provide any political or campaign
33 slogan, badge, button or other insignia associated with any political
34 party or candidate to be worn at or within one hundred feet of the
35 polls or within the polling place or room, on any primary, general or
36 special election day or on any commission government election day,
37 except the badge furnished by the county board as provided by law.
38 This includes any political gear representing the campaign slogans,
39 logos, or depictions or representations of any political party or
40 candidate such as merchandise sold directly from a political party,
41 campaign, candidate, or by third parties and vendors representing
42 any political party or campaign or candidate. A person violating any
43 of these provisions is guilty of a disorderly persons offense and will
44 not be permitted on the premises and can only return to vote after
45 the removal of prohibited political insignia; and

1 such other statement, instruction or explanation the Secretary of
2 State may deem appropriate to ensure the full and knowledgeable
3 participation of the voter in the process.

4 The requirement to post this notice in each polling place shall
5 not replace, supersede or void any other requirement set forth in law
6 for the posting of information in each polling place apart from the
7 voter information notice.

8 b. The Secretary of State shall prescribe the form and specific
9 content of the voter information notice, which may be comprised of
10 more than one page. If the notice is comprised of more than one
11 page, each page shall be posted separately. For an election district
12 in which the primary language of 10 percent or more of the
13 registered voters is a language other than English, the Secretary of
14 State shall prescribe an official version of the voter information
15 notice in that other language or languages for use in that election
16 district. The notice shall be posted in English and in the other
17 language or languages in the polling places in each such district.
18 The alternate language shall be determined based on information
19 from the latest federal decennial census.

20 c. A county board of elections may modify or supplement the
21 voter information notice used in a county or municipality to provide
22 additional information specific to that county or a municipality in
23 that county, provided, however, that any such modification or
24 supplementation shall be submitted to the Secretary of State for
25 prior approval.

26 d. The voter information notice shall be printed on each sample
27 ballot, to the extent practicable, or if not practicable, information on
28 how to view or obtain a copy of the voter information notice shall
29 be printed on each sample ballot.

30 e. The voter information notice, including one modified or
31 supplemented pursuant to subsection c. of this section, shall be
32 made accessible on the official Internet site of the State by the
33 Secretary of State and each county board of elections shall ensure
34 that the official Internet site of the county contains a link to that
35 notice.

36 f. **【The provisions of this section shall not give rise to a legal**
37 **cause of action.】 Deleted by amendment, P.L. , c. (pending**
38 **before the Legislature as this bill**)

39 g. The State shall be liable for the costs incurred by local
40 government entities for compliance with this section, and they shall
41 be reimbursed for those costs, upon application, by the State
42 Treasurer.

43 (cf: P.L.2009, c.79, s.30)

44
45 2. Section 4 of P.L.2004, c.88 (C.19:61-4) is amended to read
46 as follows:

47 4. a. The **【Attorney General】** Secretary of State shall establish
48 a free-access system, such as a toll-free telephone number, an

1 Internet website or any combination thereof, that any individual
 2 who casts a provisional ballot, mail-in ballot, or overseas ballot in
 3 all elections where they are qualified to vote, may access to
 4 ascertain whether the ballot of that individual was accepted for
 5 counting and, if the vote was not counted, the reason for the
 6 rejection of the ballot. The system shall at all times preserve the
 7 confidentiality of each voter, and shall ensure that no person, other
 8 than the individual who cast the ballot, may discover whether or not
 9 that individual's ballot was accepted or rejected, unless so informed
 10 by the voter.

11 b. The free-access system shall be prominently displayed on
 12 the New Jersey Division of Elections website under a “Track My
 13 Ballot” user portal.

14 c. To applicable situations, the free-access system shall record
 15 the date that the mail-in ballot was mailed; the date that the
 16 overseas ballot was mailed or transmitted via electronic mail; the
 17 date the ballot was received; the notation that the ballot was
 18 “Accepted” or “Rejected;” ²and² the code for rejection ²;
 19 and method that the board of elections notified the voter (mail,
 20 email, or phone) and, in cases where the ballot was initially
 21 “Rejected” and the voter provided a cure as provided under section
 22 17 of P.L.2009, c.79 (C.19:63-17), the date when the ballot was
 23 “Accepted.” If no cure was provided successfully or at all, no other
 24 input shall be required]² .

25 d. ²[The free-access system shall provide a legend containing all
 26 the codes used for rejection and their explanation for rejection. The
 27 system shall provide voters with the methods to cure the ballot, and
 28 the deadline of ¹[5] 14¹ days after the closing of the polls on
 29 Election Day to provide the cure.

30 e. The] Beginning on February 1, 2021, the² free-access system
 31 shall provide a publicly viewable macro-report of the total number
 32 of rejected ballots by county and by code along with the totals for
 33 votes cast by mail-in ballot, overseas ballots, and total ballots cast.
 34 This report shall be kept and made available on the Secretary of
 35 State’s website for a period of 10 years.

36 (cf: P.L.2004, c.88, s.4)

37

38 3. Section 17 of P.L.2009, c.79 ¹[, s.17]¹ (C.19:63-17) is
 39 amended to read as follows:

40 17. a. The county board of elections shall, promptly after
 41 receiving each mail-in ballot, remove the inner envelope containing
 42 the ballot from the outer envelope and shall compare the signature
 43 and the information contained on the flap of the inner envelope with
 44 the ²[digitized signature image] signature and information contained
 45 in the respective requests for mail-in ballots, and the signature² and
 46 information contained in the [respective requests for mail-in
 47 ballots] Statewide voter registration system ²[¹and the New Jersey

1 Motor Vehicle Commission's database¹². In addition, as to mail-in
2 ballots issued less than seven days prior to an election, the county
3 board of elections shall also check to establish that the mail-in voter
4 did not vote in person. The county board shall reject such a ballot if
5 it is not satisfied, pursuant to a comparison with the Statewide voter
6 registration system, that the voter is legally entitled to vote and that
7 the ballot conforms with the requirements of this act. The county
8 board of elections shall conduct the determination of qualification
9 of each voter in accordance with the requirements of the Certificate
10 of Mail-in Voter pursuant to section 13 of P.L.2009, c.79 (C.19:63-
11 13).

12 In the case of a mail-in ballot to be voted at a primary election
13 for the general election, the ballot shall be rejected if the mail-in
14 voter has indicated in the certificate the voter's intention to vote in a
15 primary election of any political party in which the voter is not
16 entitled to vote according to the Statewide voter registration system,
17 and if it shall appear from the record that the voter is not entitled to
18 vote in a primary election of the political party which has been so
19 indicated.

20 Any mail-in ballot which is received by a county board of
21 elections shall be rejected if ¹~~both~~¹ the inner ¹~~and outer~~
22 envelopes are ~~envelope is~~¹ unsealed or if either ¹~~the inner or outer~~¹
23 envelope has a seal that has been tampered with. Mail-in ballots
24 shall not be rejected ¹~~due to any defect arising out of or relating to~~
25 the preparation or mailing of the ballot or envelope that was not
26 reasonably caused by the voters, such as a torn envelope and
27 missing or insufficient glue to allow the ballot to be sealed ²~~when~~
28 the defect is attributable to a physical defect in the inner envelope,
29 outer envelope, certificate, or ballot outside the control of the
30 voter.¹ ~~due to any defect arising out of or relating to the preparation~~
31 or mailing of the ballot or envelope that was not reasonably caused by
32 the voters, such as a torn envelope and missing or insufficient glue to
33 allow the ballot to be sealed.²

34 Disputes about the qualifications of a mail-in voter to vote or
35 about whether or not or how any mail-in ballot shall be counted in
36 such election shall be referred to the Superior Court for
37 determination ¹, as provided under section ²~~5~~⁴ of P.L. , c.
38 (C.) (pending before the Legislature as this bill)¹.

39 After such investigation, the county board of elections shall
40 detach or separate the certificate from the inner envelope containing
41 the mail-in ballot, unless it has been rejected by it or by the
42 Superior Court, marking the envelope so as to identify the election
43 district in which the ballot contained therein is to be voted as
44 indicated by the voter's home address appearing on the certificate
45 attached to or accompanying the inner envelope and, in the case of
46 ballots to be voted at a primary election for a general election, so as

1 to identify the political party in the primary election of which it is
2 to be voted.

3 The location at which a county board of elections determines
4 whether a mail-in ballot shall be accepted or rejected shall be
5 considered an election district for the purposes of appointment of
6 challengers.

7 b. The county board of elections shall, promptly after receiving
8 each mail-in ballot, undertake the following procedures and
9 requirements concerning the acceptance or rejection of each mail-in
10 ballot:

11 ²[(1) record in the Statewide voter registration system and the
12 free-access system the acceptance or rejection of the voter's ballot.
13 Where the voter's ballot is rejected, a code shall be input and
14 displayed showing the reason ¹for rejection¹.]²

15 ¹[(2) in rejecting a voter's ballot, shall notify the voter within
16 72 hours of the receipt of the ballot or, if the voter voted by
17 provisional ballot, within 48 hours of the closing of the polls, by
18 email, mail, or phone with the reason for rejection. The voter shall
19 have up to 5 days after the close of the polls on Election Day to
20 provide a cure for their ballot. The county board of elections shall
21 provide an explanation giving the options for the voter to provide
22 the cure to their rejected ballot. To the extent the county board of
23 elections cannot provide such explanation and give the voter
24 sufficient and reasonable time to provide a cure for their ballot
25 within the deadlines for the counting of ballots as established by
26 law, the county board of elections shall seek an order from a Judge
27 of the Superior Court to reasonably extend the deadlines consistent
28 with this State's liberal interpretation of election law statutes so as
29 to prevent voter disenfranchisement;

30 (3) in cases of rejected ballots, retain the voter's outer envelope,
31 inner envelope, self-certification certificate, and mail-in ballot in a
32 bundle unique to each voter for a period of two years in accordance
33 with section 24 of P.L.2009, c.79 (C.19:63-24); and

34 (4) where the rejection is due to signature mismatch, missing
35 signature, or otherwise related to the questionable or inability to
36 verify the voter's ballot by way of signature, the county board of
37 elections shall allow and accept other methods from the voter to
38 confirm their vote. These methods may include the voter providing
39 a new signature, signing an affidavit attesting that they were the
40 voter who sent in the mail-in ballot, and providing any form of
41 identification that would satisfy the requirement of voter
42 verification. Identification shall include a valid New Jersey driver's
43 license number, a valid New Jersey non driver identification card
44 number, or another form of identification issued or recognized as
45 official by the federal government, the State, or any of its
46 subdivisions, providing the identification carries the full address
47 and signature of the person.

1 c. The Secretary of State shall prepare educational materials
2 regarding the provisions of this section that all county boards of
3 elections persons handling ballots shall be required to read or view
4 prior to the election. The materials shall provide clear information
5 regarding the standards for acceptance and rejection of mail-in
6 ballots and the safe holding of all materials in the case of rejection.】

7 ²【(2)】 (1)² within 24 hours after the decision has been made to
8 ²【tentatively reject or to】² reject a voter’s mail-in or provisional
9 ballot ²on the basis of a missing signature or discrepant signature² ,
10 issue a “Cure Letter” ²by mail or email² to the voter whose ballot
11 was ²【tentatively rejected or】² rejected, which shall inform the
12 voter of that fact and provide the reasoning for rejection ², and
13 attempt to contact the voter by telephone, if a telephone number is
14 available² . The cure letter shall include a ²【pre-printed】² “Cure
15 Form” and the form shall include the voter’s name and instruct the
16 voter on how to cure the alleged or actual deficiency. Cure forms
17 shall not be referred to as affidavits or certifications and shall not be
18 required to be sworn;

19 ²【(3)】 (2)² when the alleged or actual deficiency involves the
20 signature of the voter, instruct the voter that they may cure the
21 deficiency by completing the cure form and returning it to the
22 county board of elections in person, by fax, or by email, not later
23 than ²【14 days after the date】 48 hours prior to the final certification
24 of the results² of the election, or by returning it to the county board
25 of elections by mail, and that the completed cure form must be
26 received by the county board of elections not later than ²【14 days
27 after the date】 48 hours prior to the final certification of the results²
28 of the election;

29 ²【(4)】 (3)² include, with the cure letter ²【and cure form,】 ,
30 when sent by mail, a pre-printed cure form and² a postage-paid
31 return envelope addressed to the county board of elections which
32 the voter may use to return the cure form; and

33 ²【(5)】 (4)² inform voters that they shall not be required to submit
34 any form of hard-copy identification document or copy thereof in
35 order to cure a signature deficiency, but may do so by declaring that
36 they submitted their provisional ballot or mail-in ballot, and
37 verifying their identity by either: (a) providing a valid New Jersey
38 driver’s license number or Motor Vehicle Commission non-driver
39 identification number; ²or² (b) ²if the voter does not have a valid
40 New Jersey driver’s license number or Motor Vehicle Commission
41 non-driver identification number, then by² providing the last four
42 digits of their Social Security Number; or (c) ²if the voter does not
43 have the identification in (a) or (b), then² attaching a legible copy of
44 a New Jersey State-accepted form of identification, including either
45 a sample ballot which lists the voter’s name and address, an official
46 federal, State, county, or municipal document which lists the voter’s

1 name and address, or a utility bill, telephone bill, or tax or rent
2 receipt which lists the voter's name and address; and (d) signing
3 and dating the cure form prior to returning it.

4 c. If a voter ²[whose mail-in or provisional ballot was
5 tentatively rejected or rejected based solely on a signature
6 deficiency]² returns a completed cure form in a timely manner and
7 the information provided verifies the voter's identity, pursuant to
8 this section, their otherwise valid mail-in or provisional ballot shall
9 be counted in the final election results irrespective of any signature
10 deficiency previously identified and, under those circumstances, the
11 cure form may not be verified or authenticated using signature
12 matching.

13 d. ²[If a voter whose mail-in or provisional ballot was
14 tentatively rejected or rejected based solely on a signature
15 deficiency returns a completed cure form in a timely manner and
16 provides a copy of an identification document as set forth in
17 paragraph (5) of subsection b. of this section, the address listed on
18 the identification document shall not be required to match the voter
19 registration address, provided that the identification document
20 otherwise verifies the voter's identity.

21 e.]² In accordance with this section, variations in voter
22 signatures caused by the substitution of initials for the first name,
23 middle name, or both, shall not be grounds for the county board of
24 elections to determine that the signatures are non-conforming or do
25 not match.

26 ²[f. In circumstances when it would be appropriate to do so, and
27 not later than the day of the election, the county board of elections
28 may provide the voter with a replacement mail-in ballot and return
29 envelope.

30 g. To prevent voter disenfranchisement, and as needed to
31 comply with this section, the county board of elections may seek an
32 order from a Judge of the Superior Court to reasonably extend any
33 deadlines established herein.

34 h.] e.² In cases of rejected ballots, the county board of elections
35 shall retain the voter's outer envelope, inner envelope, self-
36 certification certificate, and mail-in ballot in a bundle unique to
37 each voter for a period of two years in accordance with section 24
38 of P.L.2009, c.79 (C.19:63-24).¹

39 ²f. County boards of elections shall be required to meet at least
40 once each week during the three-week period preceding each election
41 to conduct the ballot processing and curing provisions specified in this
42 section, and shall meet more frequently as may be required by the
43 Secretary of State to ensure the timely processing of ballots.²

44 (cf: P.L.2011, c.134, s.55)

45

46 ¹4. (New section) a. Following the attempt to cure any alleged
47 deficiencies in a mail-in ballot pursuant to section 17 of P.L.2009,

1 c.79 (C.19:63-17), the county board of elections shall make a final
2 determination about ²[the qualifications of a mail-in voter and]²
3 whether or not the mail-in ballot alleged to be deficient shall be
4 counted. The failure or alleged failure of any voter to cure alleged
5 deficiencies in the voter's mail-in ballot shall not create a
6 presumption that the vote is improper or invalid, nor shall it be
7 considered evidence that the vote is improper or invalid.

8 b. Following final determination under subsection a. of this
9 section, disputes about the qualifications of a voter to vote, or about
10 whether or not or how any mail-in ballot shall be counted in that
11 election, shall be referred to the Superior Court for determination.

12 ²[c. Upon referral to the Superior Court for determination, the
13 Superior Court shall set a date and time for a hearing during which
14 each of the county parties may designate an attorney to be present
15 and provide limited argument to the Superior Court as to the
16 qualifications of a mail-in voter to vote, or about whether or not or
17 how any mail-in ballot shall be counted in that election. Prior to any
18 hearing, the proofs presented to the Superior Court from the county
19 board of elections shall be provided to the designated representative
20 for each of the county parties. Any hearing shall be conducted in a
21 summary manner to which there shall be no right to additional
22 discovery or presentation of witnesses. ¹]²

23
24 ¹5. (New section) a. The Secretary of State shall prepare
25 educational materials regarding the provisions of section 17 of
26 P.L.2009, c.79 (C.19:63-17) that all county boards of elections
27 persons handling ballots shall be required to read or view prior to
28 the election. The materials shall provide clear information regarding
29 the standards for acceptance and rejection of mail-in ballots and the
30 safe holding of all materials in the case of rejection.

31 b. Prior to each election, the Secretary of State shall direct all
32 county boards of elections and their members, agents, employees,
33 and representatives, who shall be collectively known as the
34 “evaluators,” and who are responsible for authenticating or
35 verifying mail-in ballots pursuant to section 17 of P.L.2009, c.79
36 (C.19:63-17), or authenticating or verifying provisional ballots
37 pursuant to section 19 of P.L.1999, c.232 (C.19:53C-13), to comply
38 with the provisions of subsection c. of this section.

39 c. The Secretary of State and each county board of elections
40 shall ensure that all evaluators receive, and are directed to comply
41 with, written guidance stating as follows:

42 (1) when verifying signatures, evaluators shall keep in mind that
43 everyone writes differently, and no one signs their name exactly the
44 same way twice;

45 (2) some variation in signatures is to be expected;

46 (3) many factors can lead to signature variance, including, but
47 not limited to, age, disability, underlying health conditions, writing

1 implement or surface, level of concentration, and educational
 2 background;

3 (4) according to studies, evaluators are more likely to declare
 4 genuine signatures to be non-genuine than they are to accept a non-
 5 genuine signature as genuine, and the goal is to prevent these errors
 6 in signature verification; and

7 (5) evaluators shall presume that the documents were signed by
 8 the same person and shall accept a signature as valid unless there is
 9 a clear discrepancy that cannot be reasonably explained.

10 d. The Secretary of State shall, not later than 14 days prior to
 11 the election, publish the signature matching guidelines required
 12 under subsection c. of this section which each evaluator shall be
 13 required to follow in determining if mail-in voter signatures match.¹

14 ²e. The Secretary of State shall, at least 30 days prior to the
 15 election, conduct a voter education campaign to inform voters about
 16 the signature matching and ballot curing provisions established by this
 17 act, P.L. , c. (pending before the Legislature as this bill), which
 18 campaign shall also exhort voters to update their contact information
 19 with their respective county board of elections, including their email
 20 address and telephone number, to enable the county board to contact
 21 the voter in case the need arises for the voter to cure their ballot.²

22
 23 ¹[4.] 6.¹ Section 23 of P.L.2009, c.79 (C.19:63-23) is
 24 amended to read as follows:

25 23. [As soon as practicable after each election] **On an ongoing**
 26 **basis as each action is completed,** the county clerk ²**[and the board**
 27 **of elections]**² shall mark in the Statewide voter registration system
 28 ²**[and all duplicate voting records] , which will be shared with the**
 29 **free-access system,² to show that mail-in ballots were delivered or**
 30 **forwarded to the respective registered voters. ²[Pursuant to section**
 31 **9 of P.L.2009, c.79 (C.19:63-9), whenever the clerk mails or hand-**
 32 **delivers a mail-in ballot, the county clerk shall input the**
 33 **information as such in the free-access system, including the date of**
 34 **mailing or delivery.]² For each mail-in ballot that has been voted,**
 35 received and counted, the board of elections shall also, by reference
 36 to the certificates removed from the inner envelopes of such ballots,
 37 place the word "Voted" in the space provided in the Statewide voter
 38 registration system and duplicate voting record for recording the
 39 ballot number of the voter's ballot in the election. For each mail-in
 40 ballot that has been voted, received and rejected pursuant to section
 41 17 of P.L.2009, c.79 (C.19:63-17), the board of elections shall mark
 42 as "Rejected" in the Statewide voter registration system, ²[the free-
 43 access system, and all duplicate voting records] which will be
 44 shared with the free-access system² . For each of the rejected mail-in
 45 ballots where the voter provided a cure and therefore were accepted,
 46 the board of elections shall provide an additional input as

1 “Accepted” in the ²[same systems] Statewide voter registration
 2 system, which will be shared with the free access system² . In the case
 3 of the primary election for the general election, the board shall also
 4 cause to be noted in the proper space of the Statewide voter
 5 registration system or other record of voting form the first three
 6 letters of the name of the political party primary in which such
 7 ballot was voted. The record contained in the Statewide voter
 8 registration system and of voting forms in the original permanent
 9 registration binders shall be conformed to the foregoing entries in
 10 the duplicate forms.

11 (cf: P.L.2011, c.134, s.57)

12

13 ¹[5.] ²[7.1 Section 24 of P.L.2009, c.79 (C.19:63-24) is
 14 amended to read as follows:

15 24. The county board of elections shall keep, for two years, all
 16 of the requests and applications for mail-in ballots, all voted mail-in
 17 ballots, and all of the certificates that have been detached or
 18 separated by them from the inner envelopes. The county board of
 19 elections shall also keep, for two years, all of the rejected mail-in
 20 ballots, accompanying outer and inner envelopes, and the self-
 21 certification certificates that have been detached or separated by
 22 them from the inner envelopes. These contents shall be kept in
 23 bundles unique and belonging to individual voters, and shall be
 24 made available for inspection by the voter for challenges. All inner
 25 envelopes together with their certificates, and the contents of those
 26 envelopes not opened by order of the county board or Superior
 27 Court, shall also be retained for the same period by the board. The
 28 superintendent of elections in counties having a superintendent of
 29 elections and the prosecutor in all other counties shall have the
 30 authority to impound all mail-in ballots whenever the
 31 superintendent or prosecutor, as may be appropriate, shall deem
 32 such action to be necessary.

33 (cf: P.L.2009, c.79, s.24)²

34

35 ²7. Section 7 of P.L.1999, c.232 (C.19:53C-1) is amended to read
 36 as follows:

37 7. a. (1) The county clerk or the municipal clerk, in the case of a
 38 municipal election, shall arrange for the preparation of a provisional
 39 ballot packet for each election district. It shall include the
 40 appropriate number of provisional ballots, the appropriate number
 41 of envelopes with an affirmation statement, the appropriate number
 42 of written notices to be distributed to voters who vote by
 43 provisional ballot and one provisional ballot inventory form affixed
 44 to the provisional ballot bag. The clerk shall arrange for the
 45 preparation of and placement in each provisional ballot bag of a
 46 provisional ballot packet and an envelope containing a numbered
 47 seal. The envelope shall contain, on its face, the instructions for the

1 use of the seal, the number and the election district location of the
2 provisional ballot bag, and the identification numbers of the seal
3 placed in the envelope. Each provisional ballot bag shall be sealed
4 with a numbered security seal before being forwarded to the
5 appropriate election district.

6 (2) Each provisional ballot bag and the inventory of the contents
7 of each such bag shall be delivered to the designated polling place
8 no later than the opening of the polls on the day of an election.

9 b. The county clerk or the municipal clerk, in the case of a
10 municipal election, shall arrange for the preparation of the
11 envelope, affirmation statement, and written notice that is to
12 accompany each provisional ballot. The envelope shall be of
13 sufficient size to accommodate the provisional ballot, and the
14 affirmation statement shall be affixed thereto in a manner that
15 enables it to be detached once completed and verified by the county
16 commissioner of registration. The statement shall require the voter
17 to provide the voter's name, and to indicate whether the voter is
18 registered to vote in a county but has moved within that county
19 since registering to vote; or is registered to vote in the election
20 district in which that polling place is located but the voter's
21 registration information is missing or otherwise deficient; or
22 indicate the voter has applied for a mail-in ballot and not received
23 either the ballot or an explanation for not receiving such a ballot
24 pursuant to notification by the county clerk or from the free-access
25 system, or has applied for and received a mail-in ballot and has not
26 transmitted it to the county board of elections or given it to a bearer
27 for delivery to the county board before the time for the opening of
28 the polls on the day of an election but wants, nevertheless, to vote
29 in the election. The statement shall further require the voter to
30 provide the voter's most recent prior voter registration address and
31 address on the day of the election and date of birth. The statement
32 shall include the statement: "I swear or affirm, that the foregoing
33 statements made by me are true and correct and that I understand
34 that any fraudulent voting may subject me to a fine of up to
35 \$15,000, imprisonment up to five years or both, pursuant to
36 R.S.19:34-11." It shall be followed immediately by spaces for the
37 voter's signature and printed name, and in the case of a name
38 change, the voter's printed old and new name and a signature for
39 each name, the date the statement was completed, political party
40 affiliation, if used in a primary election, and the name of the person
41 providing assistance to the voter, if applicable. Each statement
42 shall also provide spaces for the voter's telephone number and
43 email address, including language informing the voter that this
44 contact information will be used to contact the voter concerning the
45 acceptance or rejection of the ballot, and how the voter may cure a
46 defect. A voter's telephone number and email address shall not be
47 subject to public disclosure and shall not be considered a
48 government record. Each statement shall also note the number of

1 the election district, or ward, and name of the municipality at which
2 the statement will be used. The Secretary of State shall prepare for
3 inclusion in the affirmation statement language for the voter to
4 submit the information required in the registration form described
5 in section 16 of P.L.1974, c.30 (C.19:31-6.4) in order to enable the
6 county commissioner of registration to process the statement as a
7 voter registration application, which shall be valid for future
8 elections if the individual who submitted the provisional ballot is
9 determined not to be a registered voter. The Secretary of State
10 shall also prepare and shall provide language for any written
11 instructions necessary to assure proper completion of the statement.

12 The written notice shall contain information to be distributed to
13 each voter who votes by provisional ballot. The notice shall state
14 that, if the voter is a mail-in registrant voting for the first time in his
15 or her current county of residence following registration and was
16 given a provisional ballot because he or she did not provide
17 required personal identification information, the voter shall be
18 given until the close of business on the second day after the election
19 to provide identification to the applicable county commissioner of
20 registration, and the notice shall contain a telephone number at
21 which the commissioner may be contacted. The notice shall further
22 state that failure to provide the required personal identification
23 information within that time period shall result in the rejection of
24 the ballot. The notice shall state that pursuant to section 4 of
25 P.L.2004, c.88 (C.19:61-4), any individual who casts a provisional
26 ballot will be able to ascertain under a system established by the
27 State whether the ballot was accepted for counting, and if the vote
28 was not counted, the reason for the rejection of the ballot. The
29 notice shall include instructions on how to access such information.

30 c. For the primary for the general election, the provisional
31 ballots shall be printed in ink on paper of a color that matches the
32 color of the voting authority, which shall indicate the party primary
33 of the voter. The provisional ballots shall be uniform in size, quality
34 and type and of a thickness that the printing thereon cannot be
35 distinguished from the back of the paper, and without any mark,
36 device or figure on the front or back other than as provided in
37 P.L.1999, c.232 (C.19:53C-1 et seq.). Each such ballot shall
38 include near the top thereof and in large type the designation
39 PROVISIONAL BALLOT. In all other respects, the provisional
40 ballots shall conform generally to the other ballots to be used in the
41 election district for the primary election.

42 The clerk of the county or municipality shall arrange for the
43 preparation of each provisional ballot package with an appropriate
44 number of provisional ballots for each political party, a
45 corresponding number of envelopes with affirmation statements,
46 and a corresponding number of written notices. Additional
47 provisional ballots, envelopes, and notices shall be available for

1 delivery to that election district on the day of the election, if
2 necessary.

3 d. For the general election the provisional ballots shall be
4 printed in ink. The provisional ballots shall be uniform in size,
5 quality and type and of a thickness that the printing thereon cannot
6 be distinguished from the back of the paper, and without any mark,
7 device or figure on the front or back other than as provided in this
8 act. Each such ballot shall include near the top thereof and in large
9 type the designation PROVISIONAL BALLOT. In all other
10 respects, the provisional ballots shall conform generally to the other
11 ballots to be used in the election district for the general election.

12 The clerk of the county or municipality shall arrange for the
13 preparation of each provisional ballot package with an appropriate
14 number of provisional ballots, a corresponding number of envelopes
15 with affirmation statements, and a corresponding number of written
16 notices. Additional provisional ballots, envelopes, and notices shall
17 be available for delivery to that election district on the day of the
18 election, if necessary.

19 e. For a school election the provisional ballots shall be printed
20 in ink. The provisional ballots shall be uniform in size, quality and
21 type and of a thickness that the printing thereon cannot be
22 distinguished from the back of the paper, and without any mark,
23 device or figure on the front or back other than as provided in this
24 act. Each such ballot shall include near the top thereof and in large
25 type the designation PROVISIONAL BALLOT. In all other
26 respects, the provisional ballots shall conform generally to the other
27 ballots to be used in the election district for the school election.

28 The clerk of the county shall arrange for the preparation of each
29 provisional ballot package with an appropriate number of
30 provisional ballots, a corresponding number of envelopes with
31 affirmation statements, and a corresponding number of written
32 notices. Additional provisional ballots, envelopes, and notices shall
33 be available for delivery to that election district on the day of the
34 election, if necessary.

35 f. Following the effective date of P.L.2004, c.88 (C.19:61-1 et
36 al.), a provisional ballot that requires the voter to punch out a hole
37 in the ballot as a means of recording the voter's vote shall not be
38 used in any election in this State.

39 g. (Deleted by amendment, P.L.2011, c.134).²

40 (cf: P.L.2011, c.134, s.47)

41

42 ²8. Section 3 of P.L.2009, c.79 (C.19:63-3) is amended to read as
43 follows:

44 3. a. A qualified voter shall be entitled to vote using a mail-in
45 ballot:

46 (1) in all future elections, including general elections, held in
47 this State, in which the voter is eligible to vote; or

48 (2) in any single election held in this State.

1 The qualified voter who chooses the option to vote using a mail-
2 in ballot in all future elections shall be furnished with such a ballot
3 by the county clerk without further request on the part of the voter
4 and until the voter requests in writing that the voter no longer be
5 sent a mail-in ballot.

6 The mail-in ballot application form prepared by the Secretary of
7 State shall present the two options in the order provided above. The
8 mail-in ballot application shall also provide spaces for the voter's
9 telephone number and email address, including language informing
10 the voter that this contact information will be used to contact the
11 voter concerning the acceptance or rejection of the ballot, and how
12 the voter may cure a defect. A voter's telephone number and email
13 address shall not be subject to public disclosure and shall not be
14 considered a government record.

15 The additional direct expenditures required for the
16 implementation of the provisions of this subsection as amended by
17 section 1 of P.L.2018, c.72 shall be offset pursuant to section 1 of
18 P.L.2019, c.459 (C.19:63-29).

19 b. Not less than seven days before an election in which a voter
20 wants to vote by mail, the voter may apply to the person designated
21 in section 5 of P.L.2009, c.79 (C.19:63-5), for a mail-in ballot. The
22 application shall be in writing, shall be signed by the applicant and
23 shall state the applicant's place of voting residence and the address
24 to which the ballot shall be sent. The Secretary of State shall
25 prepare a mail-in application form and shall have the authority to
26 promulgate any rules and regulations the secretary deems necessary
27 to effectuate the purposes of this subsection.

28 c. Any voter wanting to vote by mail in any election may apply
29 to the person designated in section 5 of P.L.2009, c.79 (C.19:63-5)
30 for a mail-in ballot to be sent to the voter. A voter who is a member
31 of the armed forces of the United States may use a federal postcard
32 application form to apply for a mail-in ballot.

33 d. Any voter who fails to apply for a mail-in ballot before the
34 seven-day period prescribed in subsection b. of this section may
35 apply in person to the county clerk for a mail-in ballot up to 3 p.m.
36 of the day before the election.

37 e. A person voting by mail-in ballot who registered by mail
38 after January 1, 2003, who did not provide personal identification
39 information when registering pursuant to section 16 of P.L.1974,
40 c.30 (C.19:31-6.4) and is voting for the first time in his or her
41 current county of residence following registration shall include
42 copies of the required identification information with the mail-in
43 ballot. Failure to include such information with the mail-in ballot
44 shall result in its rejection.

45 f. The county clerk shall not transmit a mail-in ballot for any
46 election to any person who: is deemed by a county commissioner of
47 registration to be an inactive voter; or notifies the clerk in writing
48 that the person no longer wishes to receive such a ballot for any

1 election; or is no longer eligible to vote and whose registration file
2 has been transferred to the deleted file pursuant to R.S.19:31-19.

3 g. Any mail-in ballot that is sent to a qualified voter and that is
4 returned to the county clerk for any reason shall be forwarded to the
5 commissioner of registration, who shall so note the return in the
6 voter record of that voter.²

7 (cf: P.L.2019, c.459, s.3)

8

9 ²⁹. Section 13 of P.L.2009, c.79 (C.19:63-13) is amended to read
10 as follows:

11 13. a. On the margin of the flap on the inner envelopes to be sent
12 to mail-in voters there shall be printed a certificate in the following
13 form:

14 CERTIFICATE OF MAIL-IN VOTER

15 I,, whose home address is

16 (print your name clearly) (street

17, DO HEREBY CERTIFY,

18 address or R.D. number) (municipality) subject to the penalties for
19 fraudulent voting, that I am the person who applied for the enclosed
20 ballot. I MARKED AND SEALED THIS BALLOT AND
21 CERTIFICATE IN SECRET. However, a family member may
22 assist me in doing so.

23

24 (signature of voter)

25 Any person providing assistance shall complete the following:

26 I do hereby certify that I am the person who provided assistance
27 to this voter and declare that I will maintain the secrecy of this
28 ballot.

29

30 (signature of person providing
31 assistance)

32

33 (printed name of person providing
34 assistance)

35

36

37 (address of person providing
38 assistance)

39 b. On the margin of the flap on the inner envelope forwarded
40 with any mail-in ballot intended to be voted in any primary election
41 for the general election, as the case may be, there shall be printed a
42 certificate in the following form:

43 CERTIFICATE OF MAIL-IN VOTER

44 I,, whose home address is.....

45 (print your name clearly) (street address or R.D. number)

46 (municipality)

47, DO HEREBY CERTIFY,

1 subject to the penalties for fraudulent voting, that I am the person
2 who applied for the enclosed ballot for the primary election of the
3 political party. I MARKED AND SEALED THIS BALLOT
4 AND CERTIFICATE IN SECRET. However, a family member may
5 assist me in doing so.

6
7 (signature of voter)

8 Any person providing assistance shall complete the following:

9 I do hereby certify that I am the person who provided assistance
10 to this voter and declare that I will maintain the secrecy of this
11 ballot.

12
13 (signature of person providing
14 assistance)

15
16 (printed name of person
17 providing assistance)

18
19
20 (address of person providing
21 assistance)

22 c. The clerk of each county shall be permitted to print on or
23 affix to the margin of the flap on the inner envelope of the mail-in
24 ballot transmitted thereby to a mail-in ballot voter an alternative
25 certificate, substantially similar to the certificate provided for by
26 subsection a. or b. of this section, that permits the voter to certify
27 the correctness of the voter's name, street, mailing address or R.D.
28 number, and municipality as it appears on the label of the mail-in
29 ballot received by the voter.

30 d. The certificates specified under subsections a., b., and c. of
31 this section shall also provide spaces for the voter's telephone
32 number and email address, including language informing the voter
33 that this contact information will be used to contact the voter
34 concerning the acceptance or rejection of the ballot, and how the
35 voter may cure a defect. A voter's telephone number and email
36 address shall not be subject to public disclosure and shall not be
37 considered a public record.²

38 (cf: P.L.2018, c.72, s.6)

39

40 ²10. Section 18 of P.L.2009, c.79 (C.19:63-18) is repealed.²

41

42 ¹[6.] ²[8.] ¹This 11. Sections 1 through 6 and section 10 of
43 this² act shall take effect immediately ¹and shall apply to all future
44 elections occurring after the ²[bill's]² effective date¹ ²of this act,
45 and sections 7 through 9 shall take effect on February 1, 2021².

1

2

3

4

Establishes “The Ballot Cure Act” to modify and establish various voting procedures.

ASSEMBLY, No. 4276

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 15, 2020

Sponsored by:

Assemblyman ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Co-Sponsored by:

Assemblywoman Reynolds-Jackson

SYNOPSIS

Establishes “The Ballot Cure Act” to modify and establish various voting procedures.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 8/10/2020)

1 AN ACT concerning a voter's opportunity to cure their voted mail-in
2 ballot and amending 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 1 of P.L.2005, c.149 (C.19:12-7.1) is amended to read
8 as follows:

9 1. a. A county board of elections shall have posted a voter
10 information notice, which shall be referred to as a voter's bill of
11 rights, in a conspicuous location in each polling place before the
12 opening of the polls on the day of any election.

13 The notice shall contain:

14 the date of the election and the hours during which polling places
15 will be open;

16 a statement that sample ballots are available at the polling place
17 for review by the voter;

18 instruction for the use of the voting machine in that polling place
19 and an explanation of what instructions for voting are available at the
20 polling place for the voter;

21 instruction for a voter who is voting for the first time;

22 instruction for a voter who is required to provide identification
23 pursuant to the federal "Help America Vote Act of 2002" and
24 R.S.19:15-17 prior to casting a vote;

25 instruction on how to cast a vote if the voter cannot be present at
26 a polling place on the day of the election;

27 an explanation of the right of the voter to vote in privacy,
28 regardless of the voter's physical abilities;

29 an explanation of the right of the voter to a provisional ballot,
30 including in the event that a mail-in ballot has been applied for and
31 not received or not transmitted to the county board of elections before
32 the day of any election, and the other circumstances under which a
33 voter has a right to a provisional ballot;

34 an explanation of the right of the voter to receive a replacement
35 ballot for a ballot that has been spoiled, destroyed, lost or never
36 received;

37 an explanation of the right of the voter to ask for and receive
38 assistance in voting;

39 an explanation of the right of the voter to take a reasonable amount
40 of time in casting a vote on a voting machine;

41 an explanation of the right of the voter to bring written material
42 into the polling place for the voter's personal use in casting a vote;

43 instruction on how to contact the appropriate officials if a voter's
44 right to vote or right to otherwise participate in the electoral process
45 has been challenged or violated;

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 general information on federal and State laws that prohibit acts of
2 fraud or misrepresentation and the penalties for those acts; **[and]**

3 an explanation of the right of the voter to confidentially discover
4 the status of their ballot using the “Track My Ballot” user portal;

5 an explanation that “All ballots are counted and your vote remains
6 anonymous;”

7 an explanation of the right of the voter that if their ballot was
8 rejected, they will be notified within 72 hours of the receipt of the
9 ballot or, if the voter voted using a provisional ballot, within 48 hours
10 of the closing of the polls by email, mail, or phone with the reason
11 for rejection. The voter will have up to 5 days after the close of the
12 polls on Election Day to provide a cure for their ballot;

13 an explanation giving the options for the voter to provide the cure
14 to their rejected ballot;

15 an explanation that no voters shall be intimidated or otherwise
16 unduly influenced by political insignia while voting. No person shall
17 wear, display, sell, give or provide any political or campaign slogan,
18 badge, button or other insignia associated with any political party or
19 candidate to be worn at or within one hundred feet of the polls or
20 within the polling place or room, on any primary, general or special
21 election day or on any commission government election day, except
22 the badge furnished by the county board as provided by law. This
23 includes any political gear representing the campaign slogans, logos,
24 or depictions or representations of any political party or candidate
25 such as merchandise sold directly from a political party, campaign,
26 candidate, or by third parties and vendors representing any political
27 party or campaign or candidate. A person violating any of these
28 provisions is guilty of a disorderly persons offense and will not be
29 permitted on the premises and can only return to vote after the
30 removal of prohibited political insignia; and

31 such other statement, instruction or explanation the Secretary of
32 State may deem appropriate to ensure the full and knowledgeable
33 participation of the voter in the process.

34 The requirement to post this notice in each polling place shall not
35 replace, supersede or void any other requirement set forth in law for
36 the posting of information in each polling place apart from the voter
37 information notice.

38 b. The Secretary of State shall prescribe the form and specific
39 content of the voter information notice, which may be comprised of
40 more than one page. If the notice is comprised of more than one
41 page, each page shall be posted separately. For an election district in
42 which the primary language of 10 percent or more of the registered
43 voters is a language other than English, the Secretary of State shall
44 prescribe an official version of the voter information notice in that
45 other language or languages for use in that election district. The
46 notice shall be posted in English and in the other language or
47 languages in the polling places in each such district. The alternate

1 language shall be determined based on information from the latest
2 federal decennial census.

3 c. A county board of elections may modify or supplement the
4 voter information notice used in a county or municipality to provide
5 additional information specific to that county or a municipality in that
6 county, provided, however, that any such modification or
7 supplementation shall be submitted to the Secretary of State for prior
8 approval.

9 d. The voter information notice shall be printed on each sample
10 ballot, to the extent practicable, or if not practicable, information on
11 how to view or obtain a copy of the voter information notice shall be
12 printed on each sample ballot.

13 e. The voter information notice, including one modified or
14 supplemented pursuant to subsection c. of this section, shall be made
15 accessible on the official Internet site of the State by the Secretary of
16 State and each county board of elections shall ensure that the official
17 Internet site of the county contains a link to that notice.

18 f. **【The provisions of this section shall not give rise to a legal**
19 **cause of action.】 Deleted by amendment, P.L. , c. (pending before**
20 **the Legislature as this bill)**

21 g. The State shall be liable for the costs incurred by local
22 government entities for compliance with this section, and they shall
23 be reimbursed for those costs, upon application, by the State
24 Treasurer.

25 (cf: P.L.2009, c.79, s.30)

26

27 2. Section 4 of P.L.2004, c.88 (C.19:61-4) is amended to read as
28 follows:

29 4. a. The **【Attorney General】** Secretary of State shall establish
30 a free-access system, such as a toll-free telephone number, an
31 Internet website or any combination thereof, that any individual who
32 casts a provisional ballot, mail-in ballot, or overseas ballot in all
33 elections where they are qualified to vote, may access to ascertain
34 whether the ballot of that individual was accepted for counting and,
35 if the vote was not counted, the reason for the rejection of the ballot.
36 The system shall at all times preserve the confidentiality of each
37 voter, and shall ensure that no person, other than the individual who
38 cast the ballot, may discover whether or not that individual's ballot
39 was accepted or rejected, unless so informed by the voter.

40 b. The free-access system shall be prominently displayed on the
41 New Jersey Division of Elections website under a “Track My Ballot”
42 user portal.

43 c. To applicable situations, the free-access system shall record
44 the date that the mail-in ballot was mailed; the date that the overseas
45 ballot was mailed or transmitted via electronic mail; the date the
46 ballot was received; the notation that the ballot was “Accepted” or
47 “Rejected;” the code for rejection; the date and method that the board
48 of elections notified the voter (mail, email, or phone) and, in cases

1 where the ballot was initially “Rejected” and the voter provided a
2 cure as provided under section 17 of P.L.2009, c.79 (C.19:63-17), the
3 date when the ballot was “Accepted.” If no cure was provided
4 successfully or at all, no other input shall be required.

5 d. The free-access system shall provide a legend containing all
6 the codes used for rejection and their explanation for rejection. The
7 system shall provide voters with the methods to cure the ballot, and
8 the deadline of 5 days after the closing of the polls on Election Day
9 to provide the cure.

10 e. The free-access system shall provide a publicly viewable
11 macro-report of the total number of rejected ballots by county and by
12 code along with the totals for votes cast by mail-in ballot, overseas
13 ballots, and total ballots cast. This report shall be kept and made
14 available on the Secretary of State’s website for a period of 10 years.
15 (cf: P.L.2004, c.88, s.4)

16
17 3. Section 17 of P.L.2009, c.79, s.17 (C.19:63-17) is amended to
18 read as follows:

19 17. a. The county board of elections shall, promptly after
20 receiving each mail-in ballot, remove the inner envelope containing
21 the ballot from the outer envelope and shall compare the signature
22 and the information contained on the flap of the inner envelope with
23 the digitized signature image and information contained in the
24 【respective requests for mail-in ballots】 Statewide voter registration
25 system. In addition, as to mail-in ballots issued less than seven days
26 prior to an election, the county board of elections shall also check to
27 establish that the mail-in voter did not vote in person. The county
28 board shall reject such a ballot if it is not satisfied, pursuant to a
29 comparison with the Statewide voter registration system, that the
30 voter is legally entitled to vote and that the ballot conforms with the
31 requirements of this act. The county board of elections shall conduct
32 the determination of qualification of each voter in accordance with
33 the requirements of the Certificate of Mail-in Voter pursuant to
34 section 13 of P.L.2009, c.79 (C.19:63-13).

35 In the case of a mail-in ballot to be voted at a primary election for
36 the general election, the ballot shall be rejected if the mail-in voter
37 has indicated in the certificate the voter's intention to vote in a
38 primary election of any political party in which the voter is not
39 entitled to vote according to the Statewide voter registration system,
40 and if it shall appear from the record that the voter is not entitled to
41 vote in a primary election of the political party which has been so
42 indicated.

43 Any mail-in ballot which is received by a county board of
44 elections shall be rejected if both the inner and outer envelopes are
45 unsealed or if either envelope has a seal that has been tampered with.
46 Mail-in ballots shall not be rejected due to any defect arising out of
47 or relating to the preparation or mailing of the ballot or envelope that

1 was not reasonably caused by the voters, such as a torn envelope and
2 missing or insufficient glue to allow the ballot to be sealed.

3 Disputes about the qualifications of a mail-in voter to vote or
4 about whether or not or how any mail-in ballot shall be counted in
5 such election shall be referred to the Superior Court for
6 determination.

7 After such investigation, the county board of elections shall detach
8 or separate the certificate from the inner envelope containing the
9 mail-in ballot, unless it has been rejected by it or by the Superior
10 Court, marking the envelope so as to identify the election district in
11 which the ballot contained therein is to be voted as indicated by the
12 voter's home address appearing on the certificate attached to or
13 accompanying the inner envelope and, in the case of ballots to be
14 voted at a primary election for a general election, so as to identify the
15 political party in the primary election of which it is to be voted.

16 The location at which a county board of elections determines
17 whether a mail-in ballot shall be accepted or rejected shall be
18 considered an election district for the purposes of appointment of
19 challengers.

20 b. The county board of elections shall, promptly after receiving
21 each mail-in ballot, undertake the following procedures and
22 requirements concerning the acceptance or rejection of each mail-in
23 ballot:

24 (1) record in the Statewide voter registration system and the free-
25 access system the acceptance or rejection of the voter's ballot. Where
26 the voter's ballot is rejected, a code shall be input and displayed
27 showing the reason;

28 (2) in rejecting a voter's ballot, shall notify the voter within 72
29 hours of the receipt of the ballot or, if the voter voted by provisional
30 ballot, within 48 hours of the closing of the polls, by email, mail, or
31 phone with the reason for rejection. The voter shall have up to 5 days
32 after the close of the polls on Election Day to provide a cure for their
33 ballot. The county board of elections shall provide an explanation
34 giving the options for the voter to provide the cure to their rejected
35 ballot. To the extent the county board of elections cannot provide
36 such explanation and give the voter sufficient and reasonable time to
37 provide a cure for their ballot within the deadlines for the counting
38 of ballots as established by law, the county board of elections shall
39 seek an order from a Judge of the Superior Court to reasonably extend
40 the deadlines consistent with this State's liberal interpretation of
41 election law statutes so as to prevent voter disenfranchisement;

42 (3) in cases of rejected ballots, retain the voter's outer envelope,
43 inner envelope, self-certification certificate, and mail-in ballot in a
44 bundle unique to each voter for a period of two years in accordance
45 with section 24 of P.L.2009, c.79 (C.19:63-24); and

46 (4) where the rejection is due to signature mismatch, missing
47 signature, or otherwise related to the questionable or inability to
48 verify the voter's ballot by way of signature, the county board of

1 elections shall allow and accept other methods from the voter to
2 confirm their vote. These methods may include the voter providing
3 a new signature, signing an affidavit attesting that they were the voter
4 who sent in the mail-in ballot, and providing any form of
5 identification that would satisfy the requirement of voter verification.
6 Identification shall include a valid New Jersey driver's license
7 number, a valid New Jersey non driver identification card number, or
8 another form of identification issued or recognized as official by the
9 federal government, the State, or any of its subdivisions, providing
10 the identification carries the full address and signature of the person.

11 c. The Secretary of State shall prepare educational materials
12 regarding the provisions of this section that all county boards of
13 elections persons handling ballots shall be required to read or view
14 prior to the election. The materials shall provide clear information
15 regarding the standards for acceptance and rejection of mail-in
16 ballots and the safe holding of all materials in the case of rejection.

17 (cf: P.L.2011, c.134, s.55)

18

19 4. Section 23 of P.L.2009, c.79 (C.19:63-23) is amended to read
20 as follows:

21 23. **【As soon as practicable after each election】** On an ongoing
22 basis as each action is completed, the county clerk and the board of
23 elections shall mark in the Statewide voter registration system and all
24 duplicate voting records to show that mail-in ballots were delivered
25 or forwarded to the respective registered voters. Pursuant to section
26 9 of P.L.2009, c.79 (C.19:63-9), whenever the clerk mails or hand-
27 delivers a mail-in ballot, the county clerk shall input the information
28 as such in the free-access system, including the date of mailing or
29 delivery. For each mail-in ballot that has been voted, received and
30 counted, the board of elections shall also, by reference to the
31 certificates removed from the inner envelopes of such ballots, place
32 the word "Voted" in the space provided in the Statewide voter
33 registration system and duplicate voting record for recording the
34 ballot number of the voter's ballot in the election. For each mail-in
35 ballot that has been voted, received and rejected pursuant to section
36 17 of P.L.2009, c.79 (C.19:63-17), the board of elections shall mark
37 as "Rejected" in the Statewide voter registration system, the free-
38 access system, and all duplicate voting records. For each of the
39 rejected mail-in ballots where the voter provided a cure and therefore
40 were accepted, the board of elections shall provide an additional
41 input as "Accepted" in the same systems. In the case of the primary
42 election for the general election, the board shall also cause to be noted
43 in the proper space of the Statewide voter registration system or other
44 record of voting form the first three letters of the name of the political
45 party primary in which such ballot was voted. The record contained
46 in the Statewide voter registration system and of voting forms in the

1 original permanent registration binders shall be conformed to the
2 foregoing entries in the duplicate forms.

3 (cf: P.L.2011, c.134, s.57)

4

5 5. Section 24 of P.L.2009, c.79 (C.19:63-24) is amended to read
6 as follows:

7 24. The county board of elections shall keep, for two years, all of
8 the requests and applications for mail-in ballots, all voted mail-in
9 ballots, and all of the certificates that have been detached or separated
10 by them from the inner envelopes. The county board of elections shall
11 also keep, for two years, all of the rejected mail-in ballots,
12 accompanying outer and inner envelopes, and the self-certification
13 certificates that have been detached or separated by them from the
14 inner envelopes. These contents shall be kept in bundles unique and
15 belonging to individual voters, and shall be made available for
16 inspection by the voter for challenges. All inner envelopes together
17 with their certificates, and the contents of those envelopes not opened
18 by order of the county board or Superior Court, shall also be retained
19 for the same period by the board. The superintendent of elections in
20 counties having a superintendent of elections and the prosecutor in
21 all other counties shall have the authority to impound all mail-in
22 ballots whenever the superintendent or prosecutor, as may be
23 appropriate, shall deem such action to be necessary.

24 (cf: P.L.2009, c.79, s.24)

25

26 6. This act shall take effect immediately.

27

28

29

STATEMENT

30

31 With the continued healthcare crisis of coronavirus and the as-yet
32 to be discovered vaccine or cure, millions of active registered voters
33 in New Jersey will be mailed a mail-in ballot for the rescheduled July
34 7, 2020 primary election, pursuant to the Governor's Executive Order
35 No. 144 (2020). Millions of voters will be voting by mail for the first
36 time and simple mistakes will happen, but that should not nullify
37 their votes. In the 2019 general election, over 2100 voters simply did
38 not sign their Certificate of Mail-in Voter, thereby resulting in their
39 votes not counting. Over 1500 voters were denied their votes due to
40 signature mismatch. Even when voters who have familiarity with
41 voting by mail, such as voters living in primarily vote by mail states
42 such as Washington and Colorado, mistakes still happen. But the
43 voters in those states have the ability to provide a cure for their
44 ballots. This bill mirrors legislation in those states giving voters the
45 ability to provide a cure for their ballot. The purpose of this bill is to
46 make voting more accessible, minimize the likelihood of
47 disenfranchisement, and protect a constitutional right from
48 abridgement for what may be a purely administrative oversight. This

1 bill also aims to update current law to make use of existing
2 technology for allowing voters to check on the status of their ballot.

3 Under the ballot curing provisions, the bill provides that mail-in
4 ballots would not be rejected due to any defect arising out of or
5 relating to the preparation or mailing of the ballot or envelope that
6 was not reasonably caused by the voters, such as a torn envelope and
7 missing or insufficient glue to allow the ballot to be sealed. The bill
8 also requires the county board of elections to, promptly after
9 receiving each mail-in ballot, undertake the following procedures and
10 requirements concerning the acceptance or rejection of each mail-in
11 ballot:

12 (1) record in the Statewide voter registration system and the free-
13 access system the acceptance or rejection of the voter's ballot. Where
14 the voter's ballot is rejected, a code would be input and displayed
15 showing the reason;

16 (2) in rejecting a voter's ballot, notify the voter within 72 hours
17 of the receipt of the ballot or, if the voter voted by provisional ballot,
18 within 48 hours of the closing of the polls, by email, mail, or phone
19 with the reason for rejection. The voter would have up to 5 days after
20 the close of the polls on Election Day to provide a cure for their
21 ballot. The county board of elections would provide an explanation
22 giving the options for the voter to provide the cure to their rejected
23 ballot. To the extent the county board of elections cannot provide
24 such explanation and give the voter sufficient and reasonable time to
25 provide a cure for their ballot within the deadlines for the counting
26 of ballots as established by law, the county board of elections would
27 seek an order from a Judge of the Superior Court to reasonably extend
28 the deadlines consistent with this State's liberal interpretation of
29 election law statutes so as to prevent voter disenfranchisement;

30 (3) in cases of rejected ballots, retain the voter's outer envelope,
31 inner envelope, self-certification certificate, and mail-in ballot in a
32 bundle unique to each voter for a period of two years; and

33 (4) where the rejection is due to signature mismatch, missing
34 signature, or otherwise related to the questionable or inability to
35 verify the voter's ballot by way of signature, the county board of
36 elections shall allow and accept other methods from the voter to
37 confirm their vote. These methods may include the voter providing
38 a new signature, signing an affidavit attesting that they were the voter
39 who sent in the mail-in ballot, and providing any form of
40 identification that would satisfy the requirement of voter verification.

41 The bill directs the Secretary of State to prepare educational
42 materials regarding the ballot curing provision that all county boards
43 of elections persons handling ballots would be required to read or
44 view prior to the election. The materials would provide clear
45 information regarding the standards for acceptance and rejection of
46 mail-in ballots and the safe holding of all materials in the case of
47 rejection.

1 In addition, the bill expands the function of the free-access system
2 that allows voters to check on the status of their ballot, to include
3 information not only about provisional ballots, but also for all other
4 mail-in ballots. Under the bill, a link to the free-access system would
5 be prominently displayed on the New Jersey Division of Elections
6 website under a “Track My Ballot” user portal. The free-access
7 system would record the date that the mail-in ballot was mailed; the
8 date that the overseas ballot was mailed or transmitted via electronic
9 mail; the date the ballot was received; the notation that the ballot was
10 “Accepted” or “Rejected;” the code for rejection; the date and
11 method that the board of elections notified the voter (mail, email, or
12 phone) and, in cases where the ballot was initially “Rejected” and the
13 voter provided a cure, the date when the ballot was “Accepted.” The
14 free-access system would also provide a legend containing all the
15 codes used for rejection and their explanation for rejection. The
16 system would provide voters with the methods to cure the ballot, and
17 the deadline of 5 days after the closing of the polls on Election Day
18 to provide the cure. Finally, the free-access system would provide a
19 publicly viewable macro-report of the total number of rejected ballots
20 by county and by code along with the totals for votes cast by mail-in
21 ballot, overseas ballots, and total ballots cast. This report would be
22 kept and made available on the Secretary of State’s website for a
23 period of 10 years.

24 The bill also expands the contents of the voter information notice,
25 also known as a voter’s bill of rights, to include mail-in voting and
26 ballot curing opportunities and procedures.

ASSEMBLY STATE AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4276

with committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 13, 2020

The Assembly State and Local Government Committee reports favorably and with committee amendments Assembly Bill No. 4276.

This bill allows voters the ability to provide a cure for certain mail-in ballots that have been rejected, and mirrors legislation in primarily vote-by-mail states such as Washington and Colorado that allow for the same. The purpose of this bill is to make voting more accessible, minimize the likelihood of disenfranchisement, and protect a constitutional right from abridgement for what may be a purely administrative oversight. This bill also aims to update current law to make use of existing technology for allowing voters to check on the status of their ballot.

Under the ballot curing provisions, the bill, as amended, provides that mail-in ballots would not be rejected when the defect is attributable to a physical defect in the inner envelope, outer envelope, certificate, or ballot outside the control of the voter. The bill also requires the county board of elections to, promptly after receiving each mail-in ballot, undertake the following procedures and requirements concerning the acceptance or rejection of each mail-in ballot:

(1) record in the Statewide voter registration system and the free-access system the acceptance or rejection of the voter's ballot. Where the voter's ballot is rejected, a code would be input and displayed showing the reason for rejection;

(2) within 24 hours after the decision has been made to tentatively reject or to reject a voter's mail-in or provisional ballot, issue a "Cure Letter" to the voter whose ballot was tentatively rejected or rejected, which shall inform the voter of that fact and provide the reasoning for rejection. The cure letter shall include a pre-printed "Cure Form" and the form shall include the voter's name and instruct the voter on how to cure the alleged or actual deficiency. Cure forms shall not be referred to as affidavits or certifications and shall not be required to be sworn;

(3) when the alleged or actual deficiency involves the signature of the voter, instruct the voter that they may cure the deficiency by completing the cure form and returning it to the county board of elections in person, by fax, or by email, not later than 14 days after the

date of the election, or by returning it to the county board of elections by mail, and that the completed cure form must be received by the county board of elections not later than 14 days after the date of the election;

(4) include, with the cure letter and cure form, a postage-paid return envelope addressed to the county board of elections which the voter may use to return the cure form; and

(5) inform voters that they shall not be required to submit any form of hard-copy identification document or copy thereof in order to cure a signature deficiency, but may do so by declaring that they submitted their provisional ballot or mail-in ballot, and verifying their identity by either: (a) providing a valid New Jersey driver's license number or Motor Vehicle Commission non-driver identification number; (b) providing the last four digits of their Social Security Number; or (c) attaching a legible copy of a New Jersey State-accepted form of identification, including either a sample ballot which lists the voter's name and address, an official federal, State, county, or municipal document which lists the voter's name and address, or a utility bill, telephone bill, or tax or rent receipt which lists the voter's name and address; and (d) signing and dating the cure form prior to returning it.

If a voter whose mail-in or provisional ballot was tentatively rejected or rejected based solely on a signature deficiency returns a completed cure form in a timely manner and the information provided verifies the voter's identity, their otherwise valid mail-in or provisional ballot will be counted in the final election results irrespective of any signature deficiency previously identified and, under those circumstances, the cure form may not be verified or authenticated using signature matching. If a voter whose mail-in or provisional ballot was tentatively rejected or rejected based solely on a signature deficiency returns a completed cure form in a timely manner and provides a copy of an identification document, the address listed on the identification document will not be required to match the voter registration address, provided that the identification document otherwise verifies the voter's identity.

In circumstances when it would be appropriate to do so, and not later than the day of the election, the county board of elections may provide the voter with a replacement mail-in ballot and return envelope.

The bill, as amended, directs the Secretary of State to prepare educational materials regarding the ballot curing provision that all county boards of elections persons handling ballots would be required to read or view prior to the election. The materials would provide clear information regarding the standards for acceptance and rejection of mail-in ballots and the safe holding of all materials in the case of rejection.

In addition, the bill expands the function of the free-access system that allows voters to check on the status of their ballot, to include

information not only about provisional ballots, but also for all other mail-in ballots. Under the bill, a link to the free-access system would be prominently displayed on the New Jersey Division of Elections website under a “Track My Ballot” user portal. The free-access system would record the date that the mail-in ballot was mailed; the date that the overseas ballot was mailed or transmitted via electronic mail; the date the ballot was received; the notation that the ballot was “Accepted” or “Rejected;” the code for rejection; the date and method that the board of elections notified the voter (mail, email, or phone) and, in cases where the ballot was initially “Rejected” and the voter provided a cure, the date when the ballot was “Accepted.” The free-access system would also provide a legend containing all the codes used for rejection and their explanation for rejection. The system would provide voters with the methods to cure the ballot, and the deadline of 14 days after the closing of the polls on Election Day to provide the cure. Finally, the free-access system would provide a publicly viewable macro-report of the total number of rejected ballots by county and by code along with the totals for votes cast by mail-in ballot, overseas ballots, and total ballots cast. This report would be kept and made available on the Secretary of State’s website for a period of 10 years.

To prevent voter disenfranchisement, the county board of elections may seek an order from a Judge of the Superior Court to reasonably extend applicable deadlines. In cases of rejected ballots, the county board of elections must retain the voter’s outer envelope, inner envelope, self-certification certificate, and mail-in ballot in a bundle unique to each voter for a period of two years in accordance with current law. Following final determination, disputes about the qualifications of a voter to vote, or about whether or not or how any mail-in ballot shall be counted in that election, are required to be referred to the Superior Court for determination.

The bill also expands the contents of the voter information notice, also known as a voter’s bill of rights, to include mail-in voting and ballot curing opportunities and procedures.

COMMITTEE AMENDMENTS

The committee amended the bill to:

- (1) require voters to be notified of a temporary ballot rejection within 24 hours of that decision, rather than 72 hours;
- (2) allow voters to cure their ballot up to 14 days after the polls close, rather than 5 days;
- (3) allow signatures to also be compared to signatures in the New Jersey Motor Vehicle Commission’s database;
- (4) prohibit mail-in ballots from being rejected when the defect is attributable to a physical defect in the inner envelope, outer envelope, certificate, or ballot outside the control of the voter;

(5) require voters to receive a “Cure Letter” and a pre-printed “Cure Form” instructing the voter on how to cure the alleged or actual deficiency;

(6) specify that cure forms must not be referred to as affidavits or certifications and must not be required to be sworn;

(7) instruct the voter that they may cure the deficiency by completing the cure form and returning it to the county board of elections in person, by fax, or by email, not later than 14 days after the date of the election, or by returning it to the county board of elections by mail, and that the completed cure form must be received by the county board of elections not later than 14 days after the date of the election;

(8) include, with the cure letter and cure form, a postage-paid return envelope addressed to the county board of elections which the voter may use to return the cure form;

(9) inform voters that they would not be required to submit any form of hard-copy identification document or copy thereof in order to cure a signature deficiency, but may do so by declaring that they submitted their provisional ballot or mail-in ballot, and verifying their identity by either: (a) providing a valid New Jersey driver’s license number or Motor Vehicle Commission non-driver identification number; (b) providing the last four digits of their Social Security Number; or (c) attaching a legible copy of a New Jersey State-accepted form of identification, including either a sample ballot which lists the voter’s name and address, an official federal, State, county, or municipal document which lists the voter’s name and address, or a utility bill, telephone bill, or tax or rent receipt which lists the voter’s name and address; and (d) signing and dating the cure form prior to returning it;

(10) if a voter whose mail-in or provisional ballot was tentatively rejected or rejected based solely on a signature deficiency returns a completed cure form in a timely manner and the information provided verifies the voter’s identity, their otherwise valid mail-in or provisional ballot shall be counted in the final election results irrespective of any signature deficiency previously identified and, under those circumstances, the cure form may not be verified or authenticated using signature matching;

(11) if a voter whose mail-in or provisional ballot was tentatively rejected or rejected based solely on a signature deficiency returns a completed cure form in a timely manner and provides a copy of an identification document, the address listed on the identification document shall not be required to match the voter registration address, provided that the identification document otherwise verifies the voter’s identity;

(12) provide that variations in voter signatures caused by the substitution of initials for the first name, middle name, or both, shall

not be grounds for the county board of elections to determine that the signatures are non-conforming or do not match;

(13) in circumstances when it would be appropriate to do so, and not later than the day of the election, the county board of elections may provide the voter with a replacement mail-in ballot and return envelope;

(14) to prevent voter disenfranchisement, the county board of elections may seek an order from a Judge of the Superior Court to reasonably extend applicable deadlines;

(15) in cases of rejected ballots, the county board of elections must retain the voter's outer envelope, inner envelope, self-certification certificate, and mail-in ballot in a bundle unique to each voter for a period of two years in accordance with current law;

(16) require that, following final determination, disputes about the qualifications of a voter to vote, or about whether or not or how any mail-in ballot shall be counted in that election, shall be referred to the Superior Court for determination; and

(17) require the Secretary of State to prepare educational materials regarding the acceptance or rejection of mail-in ballots, and specific guidelines that ballot evaluators would be required to follow.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 4276

with committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 24, 2020

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4276 (1R), with committee amendments.

As amended by the committee, this bill allows voters to cure certain mail-in ballots that have been rejected. Under the ballot curing provisions, the bill provides that mail-in ballots would not be rejected due to any defect arising out of or relating to the preparation or mailing of the ballot or envelope that was not reasonably caused by the voters, such as a torn envelope and missing or insufficient glue to allow the ballot to be sealed. The bill also requires the county board of elections to, promptly after receiving each mail-in ballot, undertake the following procedures and requirements concerning the acceptance or rejection of each mail-in ballot:

(1) within 24 hours after the decision has been made to reject a voter's mail-in or provisional ballot on the basis of a missing signature or discrepant signature, issue a "Cure Letter" by mail or email to the voter whose ballot was rejected, which shall inform the voter of that fact and provide the reasoning for rejection, and attempt to contact the voter by telephone, if a telephone number is available. The cure letter shall include a "Cure Form" and the form shall include the voter's name and instruct the voter on how to cure the alleged or actual deficiency. Cure forms shall not be referred to as affidavits or certifications and shall not be required to be sworn;

(2) when the alleged or actual deficiency involves the signature of the voter, instruct the voter that they may cure the deficiency by completing the cure form and returning it to the county board of elections in person, by fax, or by email, not later than 48 hours prior to the final certification of the results of the election, or by returning it to the county board of elections by mail, and that the completed cure form must be received by the county board of elections not later than 48 hours prior to the final certification of the results of the election;

(3) include, with the cure letter, when sent by mail, a pre-printed cure form and a postage-paid return envelope addressed to the

county board of elections which the voter may use to return the cure form; and

(4) inform voters that they shall not be required to submit any form of hard-copy identification document or copy thereof in order to cure a signature deficiency, but may do so by declaring that they submitted their provisional ballot or mail-in ballot, and verifying their identity by either: (a) providing a valid New Jersey driver's license number or Motor Vehicle Commission non-driver identification number; or (b) if the voter does not have a valid New Jersey driver's license number or Motor Vehicle Commission non-driver identification number, then by providing the last four digits of their Social Security Number; or (c) if the voter does not have the identification in (a) or (b), then attaching a legible copy of a New Jersey State-accepted form of identification, including either a sample ballot which lists the voter's name and address, an official federal, State, county, or municipal document which lists the voter's name and address, or a utility bill, telephone bill, or tax or rent receipt which lists the voter's name and address; and (d) signing and dating the cure form prior to returning it.

If a voter returns a completed cure form in a timely manner and the information provided verifies the voter's identity, their otherwise valid mail-in or provisional ballot shall be counted in the final election results irrespective of any signature deficiency previously identified and, under those circumstances, the cure form may not be verified or authenticated using signature matching. Variations in voter signatures caused by the substitution of initials for the first name, middle name, or both, shall not be grounds for the county board of elections to determine that the signatures are non-conforming or do not match. County boards of elections shall be required to meet at least once each week during the three-week period preceding each election to conduct the ballot processing and curing provisions specified in this section, and shall meet more frequently as may be required by the Secretary of State to ensure the timely processing of ballots.

The bill also directs the Secretary of State to prepare educational materials regarding the ballot curing provisions that all county boards of elections persons handling ballots would be required to read or view prior to the election. The materials would provide clear information regarding the standards for acceptance and rejection of mail-in ballots and the safe holding of all materials in the case of rejection. The bill, as amended, also requires the Secretary of State to, at least 30 days prior to the election, conduct a voter education campaign to inform voters about the signature matching and ballot curing provisions established by this bill, which campaign would also exhort voters to update their contact information with their respective county board of elections, including their email address and telephone number, to

enable the county board to contact the voter in case the need arises for the voter to cure their ballot.

In addition, the bill expands the function of the free-access system that allows voters to check on the status of their ballot, to include information not only about provisional ballots, but also for all other mail-in ballots. Under the bill, a link to the free-access system would be prominently displayed on the New Jersey Division of Elections website under a “Track My Ballot” user portal. The free-access system would record the date that the mail-in ballot was mailed; the date that the overseas ballot was mailed or transmitted via electronic mail; the date the ballot was received; the notation that the ballot was “Accepted” or “Rejected;” and the code for rejection. Finally, beginning on February 1, 2021, the free-access system would provide a publicly viewable macro-report of the total number of rejected ballots by county and by code along with the totals for votes cast by mail-in ballot, overseas ballots, and total ballots cast. This report would be kept and made available on the Secretary of State’s website for a period of 10 years.

The bill also expands the contents of the voter information notice, also known as a voter’s bill of rights, to include mail-in voting and ballot curing opportunities and procedures.

As amended, the bill requires provisional ballot statements, mail-in ballot certificates, and mail-in ballot applications to provide spaces for the voter’s telephone number and email address, including language informing the voter that this contact information will be used to contact the voter concerning the acceptance or rejection of the ballot, and how the voter may cure a defect; and provide that a voter’s telephone number and email address would not be subject to public disclosure and would not be considered a government record.

As amended, the bill repeals section 18 of P.L.2009, c. 79 (C.19:63-18).

As amended, sections 1 through 6 and section 10 of the bill would take effect immediately and shall apply to all future elections occurring after the effective date of the bill, and sections 7 through 9 would take effect on February 1, 2021.

COMMITTEE AMENDMENTS

The amendments:

(1) allow voters to provide a cure for their ballot up to 48 hours prior to the date for the final certification of the results of the election, rather than 14 days after the close of the polls;

(2) remove the requirement for the free-access system to record the date and method that the board of elections notified the voter and, in cases where the ballot was initially “Rejected” and the voter provided a cure, the date when the ballot was “Accepted;”

(3) delay the implementation of free-access system macro-reports, to begin on February 1, 2021;

(4) restore the requirement for ballot inner envelope signatures to be compared to the signature and information contained in the respective requests for mail-in ballots, and delete a reference to the New Jersey Motor Vehicle Commission's database in connection with such signature comparison;

(5) restore the provision that ballots would not be rejected due to any defect arising out of or relating to the preparation or mailing of the ballot or envelope that was not reasonably caused by the voters, such as a torn envelope and missing or insufficient glue to allow the ballot to be sealed;

(6) delete references to the tentative rejection of ballots;

(7) allow the county board of elections to send a cure letter and cure form to a voter by regular mail or by email, and require the board to also contact such voter by telephone, if a telephone number is available;

(8) mirror the documentation language to the contents of the voter registration form;

(9) delete a provision that would have allowed an address listed on the identification document to be different than the voter's registration address;

(10) delete a provision that would have allowed the county board of elections to provide the voter with a replacement mail-in ballot and return envelope under certain circumstances;

(11) delete a provision that would have allowed the county board of elections to seek an order from a Judge of the Superior Court to reasonably extend any deadlines;

(12) require the county boards of elections to meet at least once each week during the three-week period preceding each election to conduct the ballot processing and curing provisions, and to meet more frequently as may be required by the Secretary of State to ensure the timely processing of ballots;

(13) delete a provision that would have required, upon referral to the Superior Court for determination, that court to set a date and time for a hearing during which each of the county parties may designate an attorney to be present and provide limited argument to the court as to the qualifications of a mail-in voter to vote, or about whether or not or how any mail-in ballot shall be counted in that election; that would have required the proofs presented to the court from the county board of elections to be provided to the designated representative for each of the county parties; and that would have required any hearing to be conducted in a summary manner with no right to additional discovery or presentation of witnesses;

(14) require the Secretary of State to, at least 30 days prior to the election, conduct a voter education campaign to inform voters about the signature matching and ballot curing provisions established by this bill, which campaign would also exhort voters to update their contact information with their respective county board of elections, including

their email address and telephone number, to enable the county board to contact the voter in case the need arises for the voter to cure their ballot;

(15) remove the board of elections from the task of marking the records in the Statewide voter registration system and the free-access system concerning the delivery of mail-in ballots;

(16) require provisional ballot statements, mail-in ballot certificates, and mail-in ballot applications to provide spaces for the voter's telephone number and email address, including language informing the voter that this contact information will be used to contact the voter concerning the acceptance or rejection of the ballot, and how the voter may cure a defect; and provide that a voter's telephone number and email address would not be subject to public disclosure and would not be considered a government record;

(17) delete a section of the bill concerning the retention of ballots, as such retention is already required under current law;

(18) repeal section 18 of P.L.2009, c. 79 (C.19:63-18);

(19) provide that sections 1 through 6 and section 10 of the bill would take effect immediately and would apply to all future elections occurring after the effective date of the bill, and sections 7 through 9 would take effect on February 1, 2021; and

(20) make a technical correction to refer to the correct section of the bill.

FISCAL IMPACT

The Office of Legislative Services estimates that this bill will result in an indeterminate increase in State and local government costs.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 4276

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: AUGUST 26, 2020

SUMMARY

- Synopsis:** Establishes “The Ballot Cure Act” to modify and establish various voting procedures.
- Type of Impact:** State and local expenditure increases; potential local revenue increases.
- Agencies Affected:** Division of Elections, Department of State; county boards of elections.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Increase:			
Cure Letters	\$150,000	\$50,000	\$50,000
Free Access System	\$100,000		
Voter Bill of Rights		Indeterminate	
Local Cost Increase		Indeterminate	
Local Revenue Increase		Indeterminate	

- The Division of Elections informed the Office of Legislative Services (OLS) that a survey of the number of cure letters sent out after the most recent primary election in New Jersey found that 18,000 cure letters had to be sent to voters whose ballots had discrepancies. This represented approximately 1.2 percent of the total number of people who voted in the primary and the total cost was approximately \$50,000.
- Using these same metrics to estimate the number of cure letters that may have to be sent for the November 3, 2020 General Election, the division estimates that approximately 55,000 cure letters may have to be sent to voters for curing, assuming a 70 percent turnout rate. The division estimates that this could cost approximately \$150,000 for the county boards of elections to produce, process, and mail cure letters to voters whose ballots contained discrepancies, and re-process returned cure letters. This estimate includes additional workload and overtime costs.

- The OLS notes that this fiscal estimate assumes the State will reimburse county boards of elections for the costs of administering cure letters.
- The division indicates that the provisions in the bill expanding the function of the free-access system that allows voters to check on the status of their ballot and other information about provisional and mail-in ballots would cost the State approximately \$100,000. These costs would be to reprogram and add logic to the system's software.
- The division indicated that it is currently working on, but has not yet completed, a fiscal estimate of the cost to the State of the provisions in the bill that expand the contents of the voter information notice, also known as a voter's bill of rights, to include mail-in voting and ballot curing opportunities and procedures. The State will be required to pay for these costs.
- The division indicates that the provisions directing the Secretary of State to prepare educational materials regarding the ballot curing provision that all county boards of elections persons handling ballots would be required to read or view prior to the election, providing clear information regarding the standards for acceptance and rejection of mail-in ballots and the safe holding of all materials in the case of rejection, would not increase the costs to the division because this additional educational information would be included among other educational materials that the division issues on a regular basis.
- County boards of elections may experience an indeterminate, but most likely negligible, increase in costs to provide voters with a replacement mail-in ballot and return envelope under certain circumstances, as required by the bill.

BILL DESCRIPTION

This bill allows voters the ability to provide a cure for certain mail-in ballots that have been rejected, and mirrors legislation in primarily vote-by-mail states such as Washington and Colorado that allow for the same. The bill provides that mail-in ballots would not be rejected when the defect is attributable to a physical defect in the inner envelope, outer envelope, certificate, or ballot outside the control of the voter.

The bill also requires the county board of elections to, promptly after receiving each mail-in ballot, undertake the following procedures and requirements concerning the acceptance or rejection of each mail-in ballot:

- (1) Record in the Statewide voter registration system and the free-access system the acceptance or rejection of the voter's ballot. Where the voter's ballot is rejected, a code would be input and displayed showing the reason for rejection; and
- (2) Within 24 hours after the decision has been made to tentatively reject or to reject a voter's mail-in or provisional ballot, issue a "cure letter" to the voter whose ballot was tentatively rejected or rejected, which shall inform the voter of that fact and provide the reasoning for rejection, including signature defects.

In circumstances when it would be appropriate to do so, and not later than the day of the election, the county board of elections may provide the voter with a replacement mail-in ballot and return envelope.

The bill directs the Secretary of State to prepare educational materials regarding the ballot curing provision that all county boards of elections persons handling ballots would be required to

read or view prior to the election. The materials would provide clear information regarding the standards for acceptance and rejection of mail-in ballots and the safe holding of all materials in the case of rejection.

In addition, the bill expands the function of the free-access system that allows voters to check on the status of their ballot, to include information not only about provisional ballots, but also for all other mail-in ballots.

The bill also expands the contents of the voter information notice, also known as a voter's bill of rights, to include mail-in voting and ballot curing opportunities and procedures.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Division of Elections informed the OLS that a survey of the number of cure letters sent out after the most recent primary election in New Jersey found that 18,000 cure letters had to be sent to voters whose ballots had discrepancies. This represented approximately 1.2 percent of the total number of people who voted in the primary and the total cost was approximately \$50,000. Using these same metrics to estimate the number of cure letters that may have to be sent for the November 3, 2020 General Election, the division estimates that approximately 55,000 cure letters may have to be sent to voters for curing, assuming a 70 percent turnout rate. The division estimates that this could cost approximately \$150,000 for the county boards of elections to produce, process, and mail cure letters to voters whose ballots contained discrepancies, and re-process returned cure letters. This estimate includes additional workload and overtime costs. The OLS notes that this fiscal estimate assumes the State will reimburse county boards of elections for the costs of administering cure letters.

The division indicates that the provisions in the bill expanding the function of the free-access system that allows voters to check on the status of their ballot and other information about provisional and mail-in ballots would cost the State approximately \$100,000. These costs would be to reprogram and add logic to the system's software.

The division indicated that it is currently working on, but has not yet completed, a fiscal estimate of the cost to the State of the provisions in the bill that expand the contents of the voter information notice, also known as a voter's bill of rights, to include mail-in voting and ballot curing opportunities and procedures. The State will be required to pay for these costs.

The division indicates that the provisions directing the Secretary of State to prepare educational materials regarding the ballot curing provision that all county boards of elections persons handling ballots would be required to read or view prior to the election, providing clear information regarding the standards for acceptance and rejection of mail-in ballots and the safe holding of all materials in the case of rejection, would not increase the costs to the division because this additional educational information would be included among other educational materials that the division issues on a regular basis.

County boards of elections may experience an indeterminate, but most likely negligible, increase in costs to provide voters with a replacement mail-in ballot and return envelope under certain circumstances, as required by the bill.

Section: State Government

*Analyst: Kimberly M. Clemmensen
Lead Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 2598

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 22, 2020

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Co-Sponsored by:

Senators Pou, Singleton and Turner

SYNOPSIS

Establishes “The Ballot Cure Act” to modify and establish various voting procedures.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 8/20/2020)

1 AN ACT concerning a voter's opportunity to cure their voted mail-in
2 ballot and amending 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 1 of P.L.2005, c.149 (C.19:12-7.1) is amended to read
8 as follows:

9 1. a. A county board of elections shall have posted a voter
10 information notice, which shall be referred to as a voter's bill of
11 rights, in a conspicuous location in each polling place before the
12 opening of the polls on the day of any election.

13 The notice shall contain:

14 the date of the election and the hours during which polling places
15 will be open;

16 a statement that sample ballots are available at the polling place
17 for review by the voter;

18 instruction for the use of the voting machine in that polling place
19 and an explanation of what instructions for voting are available at the
20 polling place for the voter;

21 instruction for a voter who is voting for the first time;

22 instruction for a voter who is required to provide identification
23 pursuant to the federal "Help America Vote Act of 2002" and
24 R.S.19:15-17 prior to casting a vote;

25 instruction on how to cast a vote if the voter cannot be present at
26 a polling place on the day of the election;

27 an explanation of the right of the voter to vote in privacy,
28 regardless of the voter's physical abilities;

29 an explanation of the right of the voter to a provisional ballot,
30 including in the event that a mail-in ballot has been applied for and
31 not received or not transmitted to the county board of elections before
32 the day of any election, and the other circumstances under which a
33 voter has a right to a provisional ballot;

34 an explanation of the right of the voter to receive a replacement
35 ballot for a ballot that has been spoiled, destroyed, lost or never
36 received;

37 an explanation of the right of the voter to ask for and receive
38 assistance in voting;

39 an explanation of the right of the voter to take a reasonable amount
40 of time in casting a vote on a voting machine;

41 an explanation of the right of the voter to bring written material
42 into the polling place for the voter's personal use in casting a vote;

43 instruction on how to contact the appropriate officials if a voter's
44 right to vote or right to otherwise participate in the electoral process
45 has been challenged or violated;

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 general information on federal and State laws that prohibit acts of
2 fraud or misrepresentation and the penalties for those acts; **[and]**

3 an explanation of the right of the voter to confidentially discover
4 the status of their ballot using the “Track My Ballot” user portal;

5 an explanation that “All ballots are counted and your vote remains
6 anonymous;”

7 an explanation of the right of the voter that if their ballot was
8 rejected, they will be notified within 72 hours of the receipt of the
9 ballot or, if the voter voted using a provisional ballot, within 48 hours
10 of the closing of the polls by email, mail, or phone with the reason
11 for rejection. The voter will have up to 5 days after the close of the
12 polls on Election Day to provide a cure for their ballot;

13 an explanation giving the options for the voter to provide the cure
14 to their rejected ballot;

15 an explanation that no voters shall be intimidated or otherwise
16 unduly influenced by political insignia while voting. No person shall
17 wear, display, sell, give or provide any political or campaign slogan,
18 badge, button or other insignia associated with any political party or
19 candidate to be worn at or within one hundred feet of the polls or
20 within the polling place or room, on any primary, general or special
21 election day or on any commission government election day, except
22 the badge furnished by the county board as provided by law. This
23 includes any political gear representing the campaign slogans, logos,
24 or depictions or representations of any political party or candidate
25 such as merchandise sold directly from a political party, campaign,
26 candidate, or by third parties and vendors representing any political
27 party or campaign or candidate. A person violating any of these
28 provisions is guilty of a disorderly persons offense and will not be
29 permitted on the premises and can only return to vote after the
30 removal of prohibited political insignia; and

31 such other statement, instruction or explanation the Secretary of
32 State may deem appropriate to ensure the full and knowledgeable
33 participation of the voter in the process.

34 The requirement to post this notice in each polling place shall not
35 replace, supersede or void any other requirement set forth in law for
36 the posting of information in each polling place apart from the voter
37 information notice.

38 b. The Secretary of State shall prescribe the form and specific
39 content of the voter information notice, which may be comprised of
40 more than one page. If the notice is comprised of more than one
41 page, each page shall be posted separately. For an election district in
42 which the primary language of 10 percent or more of the registered
43 voters is a language other than English, the Secretary of State shall
44 prescribe an official version of the voter information notice in that
45 other language or languages for use in that election district. The
46 notice shall be posted in English and in the other language or
47 languages in the polling places in each such district. The alternate

1 language shall be determined based on information from the latest
2 federal decennial census.

3 c. A county board of elections may modify or supplement the
4 voter information notice used in a county or municipality to provide
5 additional information specific to that county or a municipality in that
6 county, provided, however, that any such modification or
7 supplementation shall be submitted to the Secretary of State for prior
8 approval.

9 d. The voter information notice shall be printed on each sample
10 ballot, to the extent practicable, or if not practicable, information on
11 how to view or obtain a copy of the voter information notice shall be
12 printed on each sample ballot.

13 e. The voter information notice, including one modified or
14 supplemented pursuant to subsection c. of this section, shall be made
15 accessible on the official Internet site of the State by the Secretary of
16 State and each county board of elections shall ensure that the official
17 Internet site of the county contains a link to that notice.

18 f. **【The provisions of this section shall not give rise to a legal**
19 **cause of action.】** Deleted by amendment, P.L. , c. (pending before
20 the Legislature as this bill)

21 g. The State shall be liable for the costs incurred by local
22 government entities for compliance with this section, and they shall
23 be reimbursed for those costs, upon application, by the State
24 Treasurer.

25 (cf: P.L.2009, c.79, s.30)

26

27 2. Section 4 of P.L.2004, c.88 (C.19:61-4) is amended to read as
28 follows:

29 4. a. The **【Attorney General】** Secretary of State shall establish
30 a free-access system, such as a toll-free telephone number, an
31 Internet website or any combination thereof, that any individual who
32 casts a provisional ballot, mail-in ballot, or overseas ballot in all
33 elections where they are qualified to vote, may access to ascertain
34 whether the ballot of that individual was accepted for counting and,
35 if the vote was not counted, the reason for the rejection of the ballot.
36 The system shall at all times preserve the confidentiality of each
37 voter, and shall ensure that no person, other than the individual who
38 cast the ballot, may discover whether or not that individual's ballot
39 was accepted or rejected, unless so informed by the voter.

40 b. The free-access system shall be prominently displayed on the
41 New Jersey Division of Elections website under a “Track My Ballot”
42 user portal.

43 c. To applicable situations, the free-access system shall record
44 the date that the mail-in ballot was mailed; the date that the overseas
45 ballot was mailed or transmitted via electronic mail; the date the
46 ballot was received; the notation that the ballot was “Accepted” or
47 “Rejected;” the code for rejection; the date and method that the board

1 of elections notified the voter (mail, email, or phone) and, in cases
2 where the ballot was initially “Rejected” and the voter provided a
3 cure as provided under section 17 of P.L.2009, c.79 (C.19:63-17), the
4 date when the ballot was “Accepted.” If no cure was provided
5 successfully or at all, no other input shall be required.

6 d. The free-access system shall provide a legend containing all
7 the codes used for rejection and their explanation for rejection. The
8 system shall provide voters with the methods to cure the ballot, and
9 the deadline of 5 days after the closing of the polls on Election Day
10 to provide the cure.

11 e. The free-access system shall provide a publicly viewable
12 macro-report of the total number of rejected ballots by county and by
13 code along with the totals for votes cast by mail-in ballot, overseas
14 ballots, and total ballots cast. This report shall be kept and made
15 available on the Secretary of State’s website for a period of 10 years.
16 (cf: P.L.2004, c.88, s.4)

17
18 3. Section 17 of P.L.2009, c.79, s.17 (C.19:63-17) is amended
19 to read as follows:

20 17. a. The county board of elections shall, promptly after
21 receiving each mail-in ballot, remove the inner envelope containing
22 the ballot from the outer envelope and shall compare the signature
23 and the information contained on the flap of the inner envelope with
24 the digitized signature image and information contained in the
25 【respective requests for mail-in ballots】 Statewide voter registration
26 system. In addition, as to mail-in ballots issued less than seven days
27 prior to an election, the county board of elections shall also check to
28 establish that the mail-in voter did not vote in person. The county
29 board shall reject such a ballot if it is not satisfied, pursuant to a
30 comparison with the Statewide voter registration system, that the
31 voter is legally entitled to vote and that the ballot conforms with the
32 requirements of this act. The county board of elections shall conduct
33 the determination of qualification of each voter in accordance with
34 the requirements of the Certificate of Mail-in Voter pursuant to
35 section 13 of P.L.2009, c.79 (C.19:63-13).

36 In the case of a mail-in ballot to be voted at a primary election for
37 the general election, the ballot shall be rejected if the mail-in voter
38 has indicated in the certificate the voter's intention to vote in a
39 primary election of any political party in which the voter is not
40 entitled to vote according to the Statewide voter registration system,
41 and if it shall appear from the record that the voter is not entitled to
42 vote in a primary election of the political party which has been so
43 indicated.

44 Any mail-in ballot which is received by a county board of
45 elections shall be rejected if both the inner and outer envelopes are
46 unsealed or if either envelope has a seal that has been tampered with.
47 Mail-in ballots shall not be rejected due to any defect arising out of

1 or relating to the preparation or mailing of the ballot or envelope that
2 was not reasonably caused by the voters, such as a torn envelope and
3 missing or insufficient glue to allow the ballot to be sealed.

4 Disputes about the qualifications of a mail-in voter to vote or
5 about whether or not or how any mail-in ballot shall be counted in
6 such election shall be referred to the Superior Court for
7 determination.

8 After such investigation, the county board of elections shall detach
9 or separate the certificate from the inner envelope containing the
10 mail-in ballot, unless it has been rejected by it or by the Superior
11 Court, marking the envelope so as to identify the election district in
12 which the ballot contained therein is to be voted as indicated by the
13 voter's home address appearing on the certificate attached to or
14 accompanying the inner envelope and, in the case of ballots to be
15 voted at a primary election for a general election, so as to identify the
16 political party in the primary election of which it is to be voted.

17 The location at which a county board of elections determines
18 whether a mail-in ballot shall be accepted or rejected shall be
19 considered an election district for the purposes of appointment of
20 challengers.

21 b. The county board of elections shall, promptly after receiving
22 each mail-in ballot, undertake the following procedures and
23 requirements concerning the acceptance or rejection of each mail-in
24 ballot:

25 (1) record in the Statewide voter registration system and the free-
26 access system the acceptance or rejection of the voter's ballot. Where
27 the voter's ballot is rejected, a code shall be input and displayed
28 showing the reason;

29 (2) in rejecting a voter's ballot, shall notify the voter within 72
30 hours of the receipt of the ballot or, if the voter voted by provisional
31 ballot, within 48 hours of the closing of the polls, by email, mail, or
32 phone with the reason for rejection. The voter shall have up to 5 days
33 after the close of the polls on Election Day to provide a cure for their
34 ballot. The county board of elections shall provide an explanation
35 giving the options for the voter to provide the cure to their rejected
36 ballot. To the extent the county board of elections cannot provide
37 such explanation and give the voter sufficient and reasonable time to
38 provide a cure for their ballot within the deadlines for the counting
39 of ballots as established by law, the county board of elections shall
40 seek an order from a Judge of the Superior Court to reasonably extend
41 the deadlines consistent with this State's liberal interpretation of
42 election law statutes so as to prevent voter disenfranchisement;

43 (3) in cases of rejected ballots, retain the voter's outer envelope,
44 inner envelope, self-certification certificate, and mail-in ballot in a
45 bundle unique to each voter for a period of two years in accordance
46 with section 24 of P.L.2009, c.79 (C.19:63-24); and

1 (4) where the rejection is due to signature mismatch, missing
2 signature, or otherwise related to the questionable or inability to
3 verify the voter's ballot by way of signature, the county board of
4 elections shall allow and accept other methods from the voter to
5 confirm their vote. These methods may include the voter providing
6 a new signature, signing an affidavit attesting that they were the voter
7 who sent in the mail-in ballot, and providing any form of
8 identification that would satisfy the requirement of voter verification.
9 Identification shall include a valid New Jersey driver's license
10 number, a valid New Jersey non driver identification card number, or
11 another form of identification issued or recognized as official by the
12 federal government, the State, or any of its subdivisions, providing
13 the identification carries the full address and signature of the person.

14 c. The Secretary of State shall prepare educational materials
15 regarding the provisions of this section that all county boards of
16 elections persons handling ballots shall be required to read or view
17 prior to the election. The materials shall provide clear information
18 regarding the standards for acceptance and rejection of mail-in
19 ballots and the safe holding of all materials in the case of rejection.

20 (cf: P.L.2011, c.134, s.55)

21

22 4. Section 23 of P.L.2009, c.79 (C.19:63-23) is amended to read
23 as follows:

24 23. **【As soon as practicable after each election】** On an ongoing
25 basis as each action is completed, the county clerk and the board of
26 elections shall mark in the Statewide voter registration system and all
27 duplicate voting records to show that mail-in ballots were delivered
28 or forwarded to the respective registered voters. Pursuant to section
29 9 of P.L.2009, c.79 (C.19:63-9), whenever the clerk mails or hand-
30 delivers a mail-in ballot, the county clerk shall input the information
31 as such in the free-access system, including the date of mailing or
32 delivery. For each mail-in ballot that has been voted, received and
33 counted, the board of elections shall also, by reference to the
34 certificates removed from the inner envelopes of such ballots, place
35 the word "Voted" in the space provided in the Statewide voter
36 registration system and duplicate voting record for recording the
37 ballot number of the voter's ballot in the election. For each mail-in
38 ballot that has been voted, received and rejected pursuant to section
39 17 of P.L.2009, c.79 (C.19:63-17), the board of elections shall mark
40 as "Rejected" in the Statewide voter registration system, the free-
41 access system, and all duplicate voting records. For each of the
42 rejected mail-in ballots where the voter provided a cure and therefore
43 were accepted, the board of elections shall provide an additional
44 input as "Accepted" in the same systems. In the case of the primary
45 election for the general election, the board shall also cause to be noted
46 in the proper space of the Statewide voter registration system or other
47 record of voting form the first three letters of the name of the political

1 party primary in which such ballot was voted. The record contained
2 in the Statewide voter registration system and of voting forms in the
3 original permanent registration binders shall be conformed to the
4 foregoing entries in the duplicate forms.

5 (cf: P.L.2011, c.134, s.57)

6

7 5. Section 24 of P.L.2009, c.79 (C.19:63-24) is amended to read
8 as follows:

9 24. The county board of elections shall keep, for two years, all of
10 the requests and applications for mail-in ballots, all voted mail-in
11 ballots, and all of the certificates that have been detached or separated
12 by them from the inner envelopes. The county board of elections shall
13 also keep, for two years, all of the rejected mail-in ballots,
14 accompanying outer and inner envelopes, and the self-certification
15 certificates that have been detached or separated by them from the
16 inner envelopes. These contents shall be kept in bundles unique and
17 belonging to individual voters, and shall be made available for
18 inspection by the voter for challenges. All inner envelopes together
19 with their certificates, and the contents of those envelopes not opened
20 by order of the county board or Superior Court, shall also be retained
21 for the same period by the board. The superintendent of elections in
22 counties having a superintendent of elections and the prosecutor in
23 all other counties shall have the authority to impound all mail-in
24 ballots whenever the superintendent or prosecutor, as may be
25 appropriate, shall deem such action to be necessary.

26 (cf: P.L.2009, c.79, s.24)

27

28 6. This act shall take effect immediately.

29

30

31

STATEMENT

32

33 With the continued healthcare crisis of coronavirus and the as-yet
34 to be discovered vaccine or cure, millions of active registered voters
35 in New Jersey will be mailed a mail-in ballot for the rescheduled July
36 7, 2020 primary election, pursuant to the Governor's Executive Order
37 No. 144 (2020). Millions of voters will be voting by mail for the first
38 time and simple mistakes will happen, but that should not nullify
39 their votes. In the 2019 general election, over 2100 voters simply did
40 not sign their Certificate of Mail-in Voter, thereby resulting in their
41 votes not counting. Over 1500 voters were denied their votes due to
42 signature mismatch. Even when voters who have familiarity with
43 voting by mail, such as voters living in primarily vote by mail states
44 such as Washington and Colorado, mistakes still happen. But the
45 voters in those states have the ability to provide a cure for their
46 ballots. This bill mirrors legislation in those states giving voters the
47 ability to provide a cure for their ballot. The purpose of this bill is to

1 make voting more accessible, minimize the likelihood of
2 disenfranchisement, and protect a constitutional right from
3 abridgement for what may be a purely administrative oversight. This
4 bill also aims to update current law to make use of existing
5 technology for allowing voters to check on the status of their ballot.

6 Under the ballot curing provisions, the bill provides that mail-in
7 ballots would not be rejected due to any defect arising out of or
8 relating to the preparation or mailing of the ballot or envelope that
9 was not reasonably caused by the voters, such as a torn envelope and
10 missing or insufficient glue to allow the ballot to be sealed. The bill
11 also requires the county board of elections to, promptly after
12 receiving each mail-in ballot, undertake the following procedures and
13 requirements concerning the acceptance or rejection of each mail-in
14 ballot:

15 (1) record in the Statewide voter registration system and the free-
16 access system the acceptance or rejection of the voter's ballot. Where
17 the voter's ballot is rejected, a code would be input and displayed
18 showing the reason;

19 (2) in rejecting a voter's ballot, notify the voter within 72 hours
20 of the receipt of the ballot or, if the voter voted by provisional ballot,
21 within 48 hours of the closing of the polls, by email, mail, or phone
22 with the reason for rejection. The voter would have up to 5 days after
23 the close of the polls on Election Day to provide a cure for their
24 ballot. The county board of elections would provide an explanation
25 giving the options for the voter to provide the cure to their rejected
26 ballot. To the extent the county board of elections cannot provide
27 such explanation and give the voter sufficient and reasonable time to
28 provide a cure for their ballot within the deadlines for the counting
29 of ballots as established by law, the county board of elections would
30 seek an order from a Judge of the Superior Court to reasonably extend
31 the deadlines consistent with this State's liberal interpretation of
32 election law statutes so as to prevent voter disenfranchisement;

33 (3) in cases of rejected ballots, retain the voter's outer envelope,
34 inner envelope, self-certification certificate, and mail-in ballot in a
35 bundle unique to each voter for a period of two years; and

36 (4) where the rejection is due to signature mismatch, missing
37 signature, or otherwise related to the questionable or inability to
38 verify the voter's ballot by way of signature, the county board of
39 elections shall allow and accept other methods from the voter to
40 confirm their vote. These methods may include the voter providing
41 a new signature, signing an affidavit attesting that they were the voter
42 who sent in the mail-in ballot, and providing any form of
43 identification that would satisfy the requirement of voter verification.

44 The bill directs the Secretary of State to prepare educational
45 materials regarding the ballot curing provision that all county boards
46 of elections persons handling ballots would be required to read or
47 view prior to the election. The materials would provide clear

1 information regarding the standards for acceptance and rejection of
2 mail-in ballots and the safe holding of all materials in the case of
3 rejection.

4 In addition, the bill expands the function of the free-access system
5 that allows voters to check on the status of their ballot, to include
6 information not only about provisional ballots, but also for all other
7 mail-in ballots. Under the bill, a link to the free-access system would
8 be prominently displayed on the New Jersey Division of Elections
9 website under a “Track My Ballot” user portal. The free-access
10 system would record the date that the mail-in ballot was mailed; the
11 date that the overseas ballot was mailed or transmitted via electronic
12 mail; the date the ballot was received; the notation that the ballot was
13 “Accepted” or “Rejected;” the code for rejection; the date and
14 method that the board of elections notified the voter (mail, email, or
15 phone) and, in cases where the ballot was initially “Rejected” and the
16 voter provided a cure, the date when the ballot was “Accepted.” The
17 free-access system would also provide a legend containing all the
18 codes used for rejection and their explanation for rejection. The
19 system would provide voters with the methods to cure the ballot, and
20 the deadline of 5 days after the closing of the polls on Election Day
21 to provide the cure. Finally, the free-access system would provide a
22 publicly viewable macro-report of the total number of rejected ballots
23 by county and by code along with the totals for votes cast by mail-in
24 ballot, overseas ballots, and total ballots cast. This report would be
25 kept and made available on the Secretary of State’s website for a
26 period of 10 years.

27 The bill also expands the contents of the voter information notice,
28 also known as a voter’s bill of rights, to include mail-in voting and
29 ballot curing opportunities and procedures.

SENATE, No. 2699

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JULY 16, 2020

Sponsored by:

Senator NIA H. GILL

District 34 (Essex and Passaic)

SYNOPSIS

Permits voters to cure signature defects on mail-in and provisional ballots.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the curing of signature defects on mail-in and
2 provisional ballots and supplementing Title 19 of the Revised
3 Statutes.

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

7
8 1. a. Notwithstanding P.L.2009, c.79 (C.19:63-1 et seq) and
9 P.L.1999, c.232 (C.19:53C-1 et seq) or any other law, rule, or
10 regulation to the contrary, a county board of elections shall not reject
11 a mail-in or provisional ballot with a missing signature or a signature
12 mismatch unless the voter who submitted the ballot is first given the
13 opportunity to cure signature deficiencies. A mail-in or provisional
14 ballot shall be tentatively rejected until the voter cures signature
15 deficiencies.

16 b. When a county board of elections has identified a ballot
17 containing either a missing signature or a signature mismatch, the
18 board shall tentatively reject the ballot and notify the voter within 24
19 hours from the time the ballot was tentatively rejected. The board
20 shall send the voter a cure letter by regular mail informing the voter
21 that his or her ballot has been tentatively rejected because of a
22 missing signature or a signature mismatch, along with a cure form
23 and a postage pre-paid return envelope. The letter shall also instruct
24 the voter to return the enclosed cure form in the enclosed postage pre-
25 paid return envelope by mail to the county board of elections, or in
26 person, by fax, or email on or before the 14th day following the
27 election.

28 c. Every form enclosed with a cure letter pursuant to subsection
29 b. of this section shall have the voter's name and address preprinted,
30 allow the voter to affirm that he or she submitted the mail-in or
31 provisional ballot, and verify his or her identity.

32 A voter may verify his or her identity for curing purposes by
33 providing the number of a driver license or a non-driver identification
34 card. If the voter does not possess either form of identification, the
35 last four digits of his or her social security number may be provided.
36 If the voter does not have any of the above forms of identification, a
37 copy of a state-accepted form of identification listing the voter's
38 name and address may be submitted. State-accepted forms of
39 identification shall include:

- 40 (1) a sample ballot;
41 (2) any official federal, state, county, or municipal document;
42 (3) a billing statement from a utility or telephone company; or
43 (4) tax or rental receipts.

44 If a voter attaches a copy of a state-accepted identification
45 document to his or her cure form, the address listed on such document
46 need not match the address the voter used for purposes of voter
47 registration provided the document otherwise verifies the voter's
48 identity.

1 d. If a voter timely returns a properly completed cure form and
2 the information provided verifies his or her identity, the mail-in or
3 provisional ballot shall be counted in the final results of the election.
4 Failure to return the cure form shall result in the rejection of the mail-
5 in or provisional ballot.

6
7 2. a. A county board of elections shall, within 8 days following
8 an election, report to the Division of Elections in the Department of
9 State whether it has completed the processing of all mail-in and
10 provisional ballots pursuant to section 1 of P.L. , c. (C.)
11 (pending before the Legislature as this bill).

12 b. In the event such processing has not been completed, a county
13 board of elections shall report to the division:

14 (1) the number of all mail-in and provisional ballots pending
15 review;

16 (2) the date in which review will be completed;

17 (3) the number of mail-in and provisional ballots pending review;

18 and

19 (4) when the board intends to meet to process those ballots.

20

21 3. a. The Secretary of State shall issue guidance advising
22 county boards of elections to, at a minimum, meet in advance of the
23 date of an election and eight days after an election to discharge their
24 duties pursuant to section 1 of P.L. , c. (C.) (pending before
25 the Legislature as this bill).

26 b. The Secretary of State shall direct the Division of Elections
27 to conduct a public awareness campaign in advance of an election
28 concerning the importance of a voter's signature on mail-in and
29 provisional ballots. The campaign shall be reasonably designed to
30 inform voters:

31 (1) that mail-in and provisional ballots are verified using
32 signature matching;

33 (2) that ballots may be tentatively rejected as a result of signature
34 discrepancies;

35 (3) that they are entitled to receive notice of a tentative rejection
36 and be provided with the opportunity to cure signature discrepancies;
37 and

38 (4) of the notice and cure process in a detailed overview.

39 c. The Secretary of State shall issue guidance to boards of
40 elections stating:

41 (1) that it is expected that there will be some variation in the way
42 a voter signs his or her signature;

43 (2) that there are numerous factors that lead to signature variation
44 including, but not limited to, age, disability, underlying health
45 conditions, the writing implement and surface used, level of
46 concentration, and educational background;

47 (3) that studies have shown that county boards of elections are
48 more likely to reject genuine signatures than non-genuine ones; and

1 (4) that signatures on mail-in and provisional ballots should be
2 presumed valid unless there is a clear discrepancy that cannot be
3 reasonably explained.

4
5 4. This act shall take effect January 1, 2021.
6
7

8 STATEMENT
9

10 This bill prohibits county boards of elections from rejecting any
11 mail-in or provisional ballot with a missing signature or a signature
12 mismatch unless the voter is provided the opportunity to cure
13 signature discrepancies. The ballot will be tentatively rejected until
14 the voter cures the discrepancies within 14 days following the
15 election.

16 Under the bill, when a county board of elections has identified a
17 mail-in or provisional ballot containing either a missing signature or
18 a signature mismatch, the board must notify the voter within 24 hours
19 from the time the ballot was tentatively rejected. The bill requires
20 the board to send the voter a cure letter instructing the voter to return
21 the enclosed cure form by mail, fax, email, or in person to the board
22 of elections 14 days following the date of the election. The form
23 would allow the voter to verify his or her identity by providing the
24 number of a driver's license or a non-driver identification card. If
25 the voter does not possess either form of identification, the last four
26 digits of his or her social security number may be provided. If the
27 voter does not have any of the above forms of identification, a copy
28 of a state-accepted form of identification listing the voter's name and
29 address may be submitted.

30 If a voter timely returns a properly completed cure form and the
31 information provided verifies his or her identity, the mail-in or
32 provisional ballot would be counted in the final election results.
33 Failure to return the cure form would result in a rejection of the mail-
34 in or provisional ballot.

35 A county board of elections must report to the Division of
36 Elections, within 14 days after an election, whether it has completed
37 the processing of all mail-in and provisional ballots. If processing
38 has not been completed, the board must provide an update on its
39 progress.

40 This bill also directs the Secretary of State to issue guidance
41 advising county boards of elections to, at a minimum, meet in
42 advance of the date of an election and eight days after an election to
43 discharge their duties under the bill and to issue guidance regarding
44 signature variation.

45 Finally, the Division of Elections is required to conduct a public
46 awareness campaign in advance of an election concerning the
47 importance of signatures on mail-in and provisional ballots, how
48 signatures are verified, and the notice and cure process.

SENATE STATE GOVERNMENT, WAGERING, TOURISM &
HISTORIC PRESERVATION COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, Nos. 2598 and 2699

STATE OF NEW JERSEY

DATED: AUGUST 20, 2020

The Senate State Government, Wagering, Tourism and Historic Preservation Committee reports favorably Senate Committee Substitute for Senate Bill Nos. 2598 and 2699.

This bill allows voters to provide a cure for certain mail-in ballots that have been rejected. Under the bill, mail-in ballots would not be rejected when the defect is attributable to a physical defect in the inner envelope, outer envelope, certificate, or ballot outside the control of the voter. The bill also requires the county board of elections to, promptly after receiving each mail-in ballot, undertake the following procedures and requirements concerning the acceptance or rejection of each mail-in ballot:

(1) record in the Statewide voter registration system and the free-access system the acceptance or rejection of the voter's ballot. Where the voter's ballot is rejected, a code would be input and displayed showing the reason for rejection;

(2) within 24 hours after the decision has been made to tentatively reject or to reject a voter's mail-in or provisional ballot, issue a "Cure Letter," by regular mail or by email, to the voter whose ballot was tentatively rejected or rejected, which shall inform the voter of that fact and provide the reasoning for rejection. If sent by regular mail, the cure letter shall include a pre-printed "Cure Form." The form shall include the voter's name and instruct the voter on how to cure the alleged or actual deficiency. Cure forms shall not be referred to as affidavits or certifications and shall not be required to be sworn;

(3) when the alleged or actual deficiency involves the signature of the voter, instruct the voter that they may cure the deficiency by completing the cure form and returning it to the county board of elections in person, by fax, or by email, not later than 14 days after the date of the election, or by returning it to the county board of elections by mail, and that the completed cure form must be received by the county board of elections not later than 14 days after the date of the election;

(4) if send by regular mail, include with the cure letter and cure form a postage-paid return envelope addressed to the county board of elections which the voter may use to return the cure form; and

(5) inform voters that they shall not be required to submit any form of hard-copy identification document or copy thereof in order to cure a signature deficiency, but may do so by declaring that they submitted their provisional ballot or mail-in ballot, and verifying their identity by either: (a) providing a valid New Jersey driver's license number or Motor Vehicle Commission non-driver identification number; (b) providing the last four digits of their Social Security Number; or (c) attaching a legible copy of a New Jersey State-accepted form of identification, including either a sample ballot which lists the voter's name and address, an official federal, State, county, or municipal document which lists the voter's name and address, or a utility bill, telephone bill, or tax or rent receipt which lists the voter's name and address; and (d) signing and dating the cure form prior to returning it.

If a voter whose mail-in or provisional ballot was tentatively rejected or rejected based solely on a signature deficiency returns a completed cure form in a timely manner and the information provided verifies the voter's identity, their otherwise valid mail-in or provisional ballot will be counted in the final election results irrespective of any signature deficiency previously identified and, under those circumstances, the cure form may not be verified or authenticated using signature matching. If a voter whose mail-in or provisional ballot was tentatively rejected or rejected based solely on a signature deficiency returns a completed cure form in a timely manner and provides a copy of an identification document, the address listed on the identification document will not be required to match the voter registration address, provided that the identification document otherwise verifies the voter's identity.

In circumstances when it would be appropriate to do so, and not later than the day of the election, the county board of elections may provide the voter with a replacement mail-in ballot and return envelope.

The bill directs the Secretary of State to prepare educational materials regarding the ballot curing provision that all county boards of elections persons handling ballots would be required to read or view prior to the election. The materials would provide clear information regarding the standards for acceptance and rejection of mail-in ballots and the safe holding of all materials in the case of rejection.

In addition, the bill expands the function of the free-access system that allows voters to check on the status of their ballot, to include information not only about provisional ballots, but also for all other mail-in ballots. Under the bill, a link to the free-access system would be prominently displayed on the New Jersey Division

of Elections website under a “Track My Ballot” user portal. The free-access system would record the date that the mail-in ballot was mailed; the date that the overseas ballot was mailed or transmitted via electronic mail; the date the ballot was received; the notation that the ballot was “Accepted” or “Rejected;” the code for rejection; the date and method that the board of elections notified the voter (mail, email, or phone) and, in cases where the ballot was initially “Rejected” and the voter provided a cure, the date when the ballot was “Accepted.” The free-access system would also provide a legend containing all the codes used for rejection and their explanation for rejection. The system would provide voters with the methods to cure the ballot, and the deadline of 14 days after the closing of the polls on Election Day to provide the cure. Finally, the free-access system would provide a publicly viewable macro-report of the total number of rejected ballots by county and by code along with the totals for votes cast by mail-in ballot, overseas ballots, and total ballots cast. This report would be kept and made available on the Secretary of State’s website for a period of 10 years.

To prevent voter disenfranchisement, the county board of elections may seek an order from a Judge of the Superior Court to reasonably extend applicable deadlines. In cases of rejected ballots, the county board of elections must retain the voter’s outer envelope, inner envelope, self-certification certificate, and mail-in ballot in a bundle unique to each voter for a period of two years in accordance with current law. Following final determination, disputes about the qualifications of a voter to vote, or about whether or not or how any mail-in ballot shall be counted in that election, are required to be referred to the Superior Court for determination.

The bill also expands the contents of the voter information notice, also known as a voter’s bill of rights, to include mail-in voting and ballot curing opportunities and procedures.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 2598 and 2699**

with committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 24, 2020

The Senate Budget and Appropriations Committee reports favorably Senate Committee Substitute Nos. 2598 and 2699, with committee amendments.

As amended by the committee, this bill allows voters to cure certain mail-in ballots that have been rejected. Under the ballot curing provisions, the bill provides that mail-in ballots would not be rejected due to any defect arising out of or relating to the preparation or mailing of the ballot or envelope that was not reasonably caused by the voters, such as a torn envelope and missing or insufficient glue to allow the ballot to be sealed. The bill also requires the county board of elections to, promptly after receiving each mail-in ballot, undertake the following procedures and requirements concerning the acceptance or rejection of each mail-in ballot:

(1) within 24 hours after the decision has been made to reject a voter's mail-in or provisional ballot on the basis of a missing signature or discrepant signature, issue a "Cure Letter" by mail or email to the voter whose ballot was rejected, which shall inform the voter of that fact and provide the reasoning for rejection, and attempt to contact the voter by telephone, if a telephone number is available. The cure letter shall include a "Cure Form" and the form shall include the voter's name and instruct the voter on how to cure the alleged or actual deficiency. Cure forms shall not be referred to as affidavits or certifications and shall not be required to be sworn;

(2) when the alleged or actual deficiency involves the signature of the voter, instruct the voter that they may cure the deficiency by completing the cure form and returning it to the county board of elections in person, by fax, or by email, not later than 48 hours prior to the final certification of the results of the election, or by returning it to the county board of elections by mail, and that the completed cure form must be received by the county board of elections not later than 48 hours prior to the final certification of the results of the election;

(3) include, with the cure letter, when sent by mail, a pre-printed cure form and a postage-paid return envelope addressed to the

county board of elections which the voter may use to return the cure form; and

(4) inform voters that they shall not be required to submit any form of hard-copy identification document or copy thereof in order to cure a signature deficiency, but may do so by declaring that they submitted their provisional ballot or mail-in ballot, and verifying their identity by either: (a) providing a valid New Jersey driver's license number or Motor Vehicle Commission non-driver identification number; or (b) if the voter does not have a valid New Jersey driver's license number or Motor Vehicle Commission non-driver identification number, then by providing the last four digits of their Social Security Number; or (c) if the voter does not have the identification in (a) or (b), then attaching a legible copy of a New Jersey State-accepted form of identification, including either a sample ballot which lists the voter's name and address, an official federal, State, county, or municipal document which lists the voter's name and address, or a utility bill, telephone bill, or tax or rent receipt which lists the voter's name and address; and (d) signing and dating the cure form prior to returning it.

If a voter returns a completed cure form in a timely manner and the information provided verifies the voter's identity, their otherwise valid mail-in or provisional ballot shall be counted in the final election results irrespective of any signature deficiency previously identified and, under those circumstances, the cure form may not be verified or authenticated using signature matching. Variations in voter signatures caused by the substitution of initials for the first name, middle name, or both, shall not be grounds for the county board of elections to determine that the signatures are non-conforming or do not match. County boards of elections shall be required to meet at least once each week during the three-week period preceding each election to conduct the ballot processing and curing provisions specified in this section, and shall meet more frequently as may be required by the Secretary of State to ensure the timely processing of ballots.

The bill also directs the Secretary of State to prepare educational materials regarding the ballot curing provision that all county boards of elections persons handling ballots would be required to read or view prior to the election. The materials would provide clear information regarding the standards for acceptance and rejection of mail-in ballots and the safe holding of all materials in the case of rejection. The bill, as amended, also requires the Secretary of State to, at least 30 days prior to the election, conduct a voter education campaign to inform voters about the signature matching and ballot curing provisions established by this bill, which campaign would also exhort voters to update their contact information with their respective county board of elections, including their email address and telephone number, to

enable the county board to contact the voter in case the need arises for the voter to cure their ballot.

In addition, the bill expands the function of the free-access system that allows voters to check on the status of their ballot, to include information not only about provisional ballots, but also for all other mail-in ballots. Under the bill, a link to the free-access system would be prominently displayed on the New Jersey Division of Elections website under a “Track My Ballot” user portal. The free-access system would record the date that the mail-in ballot was mailed; the date that the overseas ballot was mailed or transmitted via electronic mail; the date the ballot was received; the notation that the ballot was “Accepted” or “Rejected;” and the code for rejection. Finally, beginning on February 1, 2021, the free-access system would provide a publicly viewable macro-report of the total number of rejected ballots by county and by code along with the totals for votes cast by mail-in ballot, overseas ballots, and total ballots cast. This report would be kept and made available on the Secretary of State’s website for a period of 10 years.

The bill also expands the contents of the voter information notice, also known as a voter’s bill of rights, to include mail-in voting and ballot curing opportunities and procedures.

As amended, the bill requires provisional ballot statements, mail-in ballot certificates, and mail-in ballot applications to provide spaces for the voter’s telephone number and email address, including language informing the voter that this contact information will be used to contact the voter concerning the acceptance or rejection of the ballot, and how the voter may cure a defect; and provide that a voter’s telephone number and email address would not be subject to public disclosure and would not be considered a government record.

As amended, the bill repeals section 18 of P.L.2009, c. 79 (C.19:63-18).

As amended, sections 1 through 6 and section 10 of the bill would take effect immediately and shall apply to all future elections occurring after the effective date of the bill, and sections 7 through 9 would take effect on February 1, 2021.

COMMITTEE AMENDMENTS

The amendments:

(1) allow voters to provide a cure for their ballot up to 48 hours prior to the date for the final certification of the results of the election, rather than 14 days after the close of the polls;

(2) remove the requirement for the free-access system to record the date and method that the board of elections notified the voter and, in cases where the ballot was initially “Rejected” and the voter provided a cure, the date when the ballot was “Accepted;”

(3) delay the implementation of free-access system macro-reports, to begin on February 1, 2021;

(4) restore the requirement for ballot inner envelope signatures to be compared to the signature and information contained in the respective requests for mail-in ballots, and delete a reference to the New Jersey Motor Vehicle Commission's database in connection with such signature comparison;

(5) restore the provision that ballots would not be rejected due to any defect arising out of or relating to the preparation or mailing of the ballot or envelope that was not reasonably caused by the voters, such as a torn envelope and missing or insufficient glue to allow the ballot to be sealed;

(6) delete references to the tentative rejection of ballots;

(7) require the county board of elections to also contact voters by telephone, if a telephone number is available;

(8) mirror the documentation language to the contents of the voter registration form;

(9) delete a provision that would have allowed an address listed on the identification document to be different than the voter's registration address;

(10) delete a provision that would have allowed the county board of elections to provide the voter with a replacement mail-in ballot and return envelope under certain circumstances;

(11) delete a provision that would have allowed the county board of elections to seek an order from a Judge of the Superior Court to reasonably extend any deadlines;

(12) require the county boards of elections to meet at least once each week during the three-week period preceding each election to conduct the ballot processing and curing provisions, and to meet more frequently as may be required by the Secretary of State to ensure the timely processing of ballots;

(13) delete a provision that would have required, upon referral to the Superior Court for determination, that court to set a date and time for a hearing during which each of the county parties may designate an attorney to be present and provide limited argument to the court as to the qualifications of a mail-in voter to vote, or about whether or not or how any mail-in ballot shall be counted in that election; that would have required the proofs presented to the court from the county board of elections to be provided to the designated representative for each of the county parties; and that would have required any hearing to be conducted in a summary manner with no right to additional discovery or presentation of witnesses;

(14) require the Secretary of State to, at least 30 days prior to the election, conduct a voter education campaign to inform voters about the signature matching and ballot curing provisions established by this bill, which campaign would also exhort voters to update their contact information with their respective county board of elections, including their email address and telephone number, to enable the county board

to contact the voter in case the need arises for the voter to cure their ballot;

(15) remove the board of elections from the task of marking the records in the Statewide voter registration system and the free-access system concerning the delivery of mail-in ballots;

(16) require provisional ballot statements, mail-in ballot certificates, and mail-in ballot applications to provide spaces for the voter's telephone number and email address, including language informing the voter that this contact information will be used to contact the voter concerning the acceptance or rejection of the ballot, and how the voter may cure a defect; and provide that a voter's telephone number and email address would not be subject to public disclosure and would not be considered a government record;

(17) delete a section of the bill concerning the retention of ballots, as such retention is already required under current law;

(18) repeal section 18 of P.L.2009, c. 79 (C.19:63-18); and

(19) provide that sections 1 through 6 and section 10 of the bill would take effect immediately and would apply to all future elections occurring after the effective date of the bill, and sections 7 through 9 would take effect on February 1, 2021.

FISCAL IMPACT

The OLS estimates that this bill will result in an indeterminate increase in State and local government costs.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 2699
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: AUGUST 26, 2020

SUMMARY

Synopsis: Permits voters to cure signature defects on mail-in and provisional ballots.

Type of Impact: State and local expenditure increases; potential local revenue increases.

Agencies Affected: Division of Elections in the Department of State; county boards of elections.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Increase:			
Cure Letters	\$150,000	\$50,000	\$50,000
Public Awareness Campaign		Indeterminate	
Local Cost Increase		Indeterminate	
Local Revenue Increase		Indeterminate	

- The Division of Elections informed the Office of Legislative Services (OLS) that a survey of the number of cure letters sent out after the most recent primary election in New Jersey found that 18,000 cure letters had to be sent to voters whose ballots had discrepancies. This represented approximately 1.2 percent of the total number of people who voted in the primary and the total cost was approximately \$50,000.
- Using these same metrics to estimate the number of cure letters that may have to be sent for the November 3, 2020 General Election, the division estimates that approximately 55,000 cure letters may have to be sent to voters for curing, assuming a 70 percent turnout rate. The division estimates that this could cost approximately \$150,000 for the county boards of elections to produce, process, and mail cure letters to voters whose ballots contained discrepancies, and re-process returned cure letters. This estimate includes additional workload and overtime costs.
- The OLS notes that this fiscal estimate assumes the State will reimburse county boards of elections for the costs of administering cure letters.

- The division indicated that it is currently working on, but has not yet completed, a fiscal estimate of the cost to the State to implement a public awareness campaign that would inform the public of the importance of a voter's signature on mail-in and provisional ballots, how signatures are verified, and the notice and cure process. Thus, this cost is indeterminate at this time.
- Additionally, the division indicated that issuing guidance to county boards of elections regarding the procedures to make determinations about the validity of voter signatures would not increase costs to the division because these additional procedures would be included among other guidance the division issues on a regular basis.

BILL DESCRIPTION

This bill prohibits county boards of elections from rejecting any mail-in or provisional ballot with a missing signature or a signature mismatch unless the voter is provided the opportunity to cure signature discrepancies. The ballot will be tentatively rejected until the voter cures the discrepancies within 14 days following the election.

Under the bill, when a county board of elections has identified a mail-in or provisional ballot containing either a missing signature or a signature mismatch, the board must notify the voter within 24 hours from the time the ballot was tentatively rejected. The bill requires the board to send the voter a cure letter instructing the voter to return the enclosed cure form by mail, fax, email, or in person to the board of elections 14 days following the date of the election. The form would allow the voter to verify his or her identity by providing the number of a driver's license or a non-driver identification card. If the voter does not possess either form of identification, the last four digits of his or her social security number may be provided. If the voter does not have any of the above forms of identification, a copy of a state-accepted form of identification listing the voter's name and address may be submitted.

If a voter timely returns a properly completed cure form and the information provided verifies his or her identity, the mail-in or provisional ballot would be counted in the final election results. Failure to return the cure form would result in a rejection of the mail-in or provisional ballot.

A county board of elections must report to the Division of Elections, within 14 days after an election, whether it has completed the processing of all mail-in and provisional ballots. If processing has not been completed, the board must provide an update on its progress.

This bill also directs the Secretary of State to issue guidance advising county boards of elections to, at a minimum, meet in advance of the date of an election and eight days after an election to discharge their duties under the bill and to issue guidance regarding signature variation.

Finally, the Division of Elections is required to conduct a public awareness campaign in advance of an election concerning the importance of signatures on mail-in and provisional ballots, how signatures are verified, and the notice and cure process.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Division of Elections informed the OLS that a survey of the number of cure letters sent out after the most recent primary election in New Jersey found that 18,000 cure letters had to be sent to voters whose ballots had discrepancies. This represented approximately 1.2 percent of the total number of people who voted in the primary and the total cost was approximately \$50,000. Using these same metrics to estimate the number of cure letters that may have to be sent for the November 3, 2020 General Election, the division estimates that approximately 55,000 cure letters may have to be sent to voters for curing, assuming a 70 percent turnout rate. The division estimates that this could cost approximately \$150,000 for the county boards of elections to produce, process, and mail cure letters to voters whose ballots contained discrepancies, and re-process returned cure letters. This estimate includes additional workload and overtime costs. The OLS notes that this fiscal estimate assumes the State will reimburse county boards of elections for the costs of administering cure letters.

The division indicated that it is currently working on, but has not yet completed, a fiscal estimate of the cost to the State to implement a public awareness campaign that would inform the public of the importance of a voter's signature on mail-in and provisional ballots, how signatures are verified, and the notice and cure process. Thus, this cost is indeterminate at this time.

Additionally, the division indicated that issuing guidance to county boards of elections regarding the procedures to make determinations about the validity of voter signatures would not increase costs to the division because these additional procedures would be included among other guidance the division issues on a regular basis.

Section: State Government

Analyst: Kimberly M. Clemmensen
Lead Fiscal Analyst

Approved: Frank W. Haines III
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE
 [First Reprint]
 SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 2598 and 2699
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: SEPTEMBER 1, 2020

SUMMARY

- Synopsis:** Establishes “The Ballot Cure Act” to modify and establish various voting procedures.
- Type of Impact:** State and local expenditure increases; potential local revenue increases.
- Agencies Affected:** Division of Elections, Department of State; county boards of elections.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Increase:			
Cure Letters	\$150,000	\$50,000	\$50,000
Free Access System	\$100,000		
Voter Info. Notice	\$5,000		
Educational Materials	\$0		
Local Cost Increase		Indeterminate	
Local Revenue Increase		Indeterminate	

- The Division of Elections informed the OLS that a survey of the number of cure letters sent out after the most recent primary election in New Jersey found that 18,000 cure letters had to be sent to voters whose ballots had discrepancies. This represented approximately 1.2 percent of the total number of people who voted in the primary and the total cost was approximately \$50,000.
- Using these same metrics to estimate the number of cure letters that may have to be sent for the November 3, 2020 General Election, the division estimates that approximately 55,000 cure letters may have to be sent to voters for curing, assuming a 70 percent turnout rate. The division estimates that this could cost approximately \$150,000 for the county boards of elections to produce, process, and mail cure letters to voters whose ballots contained

discrepancies, and re-process returned cure letters. This estimate includes additional workload and overtime costs.

- The OLS notes that this fiscal estimate assumes the State will reimburse county boards of elections for the costs of administering cure letters.
- The division indicates that the provisions directing the Secretary of State to prepare educational materials regarding the ballot curing provision that all county boards of elections persons handling ballots would be required to read or view prior to the election, providing clear information regarding the standards for acceptance and rejection of mail-in ballots, the safe holding of all materials in the case of rejection, and creating a report would not increase the costs to the division because this additional educational information would be included among other educational materials that the division issues on a regular basis.
- The division indicates that the provisions in the bill expanding the function of the free-access system that allows voters to check on the status of their ballot and other information about provisional and mail-in ballots would cost the State approximately \$100,000. These costs would be to reprogram and add logic to the system's software.
- The division indicated that the cost to the State of the provisions in the bill that expand the contents of the voter information notice and campaign to include mail-in voting and ballot curing opportunities and procedures will be approximately \$5,000. The State will be required to reimburse local government entities for any costs incurred for complying with the requirements voter information notice campaign.

BILL DESCRIPTION

This bill allows voters to cure certain mail-in ballots that have been rejected. Under the ballot curing provisions, the bill provides that mail-in ballots would not be rejected due to any defect arising out of or relating to the preparation or mailing of the ballot or envelope that was not reasonably caused by the voters, such as a torn envelope and missing or insufficient glue to allow the ballot to be sealed. The bill also requires the county board of elections to, promptly after receiving each mail-in ballot, undertake procedures concerning the acceptance or rejection of each mail-in ballot due to signature discrepancies. These procedures include issuing "cure letters," within 24 hours, to voters whose ballots were rejected. The cure letter informs the voter of the reason for the rejection of their ballot and includes a cure form which enables the voter to fix their ballot by verifying their identity as instructed on the cure form.

In addition, the bill expands the function of the free-access system that allows voters to check on the status of their ballot, to include information not only about provisional ballots, but also for all other mail-in ballots. Beginning on February 1, 2021, the free-access system would provide a publicly viewable macro-report of the total number of rejected ballots by county and by code along with the totals for votes cast by mail-in ballot, overseas ballots, and total ballots cast. This report would be kept and made available on the Secretary of State's website for a period of 10 years.

The bill also expands the contents of the voter information notice, also known as a voter's bill of rights, to include mail-in voting and ballot curing opportunities and procedures.

The bill directs the Secretary of State to prepare educational materials regarding the ballot curing provision that all county boards of elections persons handling ballots would be required to read or view prior to the election. The materials would provide clear information regarding the

standards for acceptance and rejection of mail-in ballots and the safe holding of all materials in the case of rejection. The bill also requires the Secretary of State to, at least 30 days prior to the election, conduct a voter education campaign to inform voters about the signature matching and ballot curing provisions established by this bill, which campaign would also exhort voters to update their contact information with their respective county board of elections, including their email address and telephone number, to enable the county board to contact the voter in case the need arises for the voter to cure their ballot.

The sections in the bill related to the creation of a voter information notice and campaign, the expansion of the free access system, the issuance of cure letters, and the preparation of education materials by the Secretary of State for county boards of elections would take effect immediately and shall apply to all future elections occurring after the effective date of the bill. The sections related to future elections that would collect voter contact information on a confidential basis to facilitate the ballot curing process would take effect on February 1, 2021.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Division of Elections informed the OLS that a survey of the number of cure letters sent out after the most recent primary election in New Jersey found that 18,000 cure letters had to be sent to voters whose ballots had discrepancies. This represented approximately 1.2 percent of the total number of people who voted in the primary and the total cost was approximately \$50,000. Using these same metrics to estimate the number of cure letters that may have to be sent for the November 3, 2020 General Election, the division estimates that approximately 55,000 cure letters may have to be sent to voters for curing, assuming a 70 percent turnout rate. The division estimates that this could cost approximately \$150,000 for the county boards of elections to produce, process, and mail cure letters to voters whose ballots contained discrepancies, and re-process returned cure letters. This estimate includes additional workload and overtime costs. The OLS notes that this fiscal estimate assumes the State will reimburse county boards of elections for the costs of administering cure letters.

The division indicates that the provisions in the bill expanding the function of the free-access system that allows voters to check on the status of their ballot and other information about provisional and mail-in ballots would cost the State approximately \$100,000. These costs would be to reprogram and add logic to the system's software.

The division indicated that the cost to the State of the provisions in the bill that expand the contents of the voter information notice and campaign to include mail-in voting and ballot curing opportunities and procedures will cost approximately \$5,000. The State will be required to reimburse local government entities for any costs incurred for complying with the requirements voter information notice campaign

The division indicates that the provisions directing the Secretary of State to prepare educational materials regarding the ballot curing provision that all county boards of elections persons handling ballots would be required to read or view prior to the election, providing clear information regarding the standards for acceptance and rejection of mail-in ballots, the safe holding of all materials in the case of rejection, and creating a report would not increase the costs to the division

because this additional educational information would be included among other educational materials that the division issues on a regular basis.

Section: State Government

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Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).