

CHAPTER 73

AN ACT concerning the primary election for the general election in the year 2001 and gubernatorial candidates who receive public financing in a primary election, and amending the title and body of P.L.2001, c.50, supplementing P.L.1974, c.26 and making an appropriation.

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

1. The Legislature finds and declares:

a. A combination of several circumstances and events, some of them extraordinary, have forced the Legislature to change the date of the primary election for the general election in 2001.

b. These circumstances and events include the occurrence of legislative elections in odd-numbered years, the later than usual delivery of the official federal decennial census of the United States for New Jersey, the limited time available between when the Apportionment Commission announced new legislative districts and the filing date for petitions of nomination for the primary election and the legal challenges arising from the legislative district plan adopted by the commission.

c. The Legislature recognizes that changing the date of the primary election for the general election risks creating confusion among those political party members who are accustomed to voting for the candidates of their choice on the first Tuesday after the first Monday in June and increases the likelihood that overall voter turnout for the election may be affected.

d. Nevertheless, the Legislature believes it is compelled by extraordinary circumstances and events, largely beyond its control, to change the day of the primary from June 5 to June 26 for the year 2001.

e. To help make this change known to as many candidates and members of the voting public as possible, the Legislature believes it is necessary to provide more notice to the public than usual.

f. The Legislature recognizes that these extraordinary circumstances cannot be met by an ordinary response and instead necessitate an extraordinary increase, above a simple per diem amount, in the amount of public funds that gubernatorial candidates who participate in the public financing program can receive in public funding for the primary election and can spend in total for that election because the campaign for nomination for that public office will be three weeks longer than it is regularly.

g. Such an increase will allow gubernatorial candidates, who are the most visible of all the candidates seeking public office this year, to get the attention of many voters who may be concerned with families, friends and occupations, not governmental activities, and to spread the word to the citizens of the State about the change in the date of the primary election.

2. The Title of P.L.2001, c.50 is amended to read as follows:

AN ACT concerning the primary election in the year 2001 and the expenditure and public financing limits for gubernatorial candidates for that primary election, and making an appropriation.

3. Section 1 of P.L.2001, c.50 is amended to read as follows:

1. a. Notwithstanding the provisions of R.S.19:2-1, R.S.19:23-40 or any other law to the contrary, the primary election for the general election in the year 2001 shall be held on the fourth Tuesday after the first Monday in June.

b. (1) Notwithstanding the provisions of R.S.19:23-14 or any other law, rule or regulation to the contrary, the petitions of nomination for candidates for the office of member of the Legislature for the primary election for the general election in the year 2001 shall be filed with the Attorney General no later than 4:00 p.m. of the 47th day next preceding the day of the holding of the primary election for the general election. The day by which petitions of nomination for all candidates other than candidates for the office of member of the Legislature shall be filed for the primary election in the year 2001 shall not be altered by any provision of this section and the filing day for all non-legislative candidates shall remain the day provided for in R.S.19:23-14 based on the day of the primary election set forth in R.S.19:2-1 and R.S.19:23-40 regardless of the day of the primary election in the year 2001 set forth in subsection a. of this section. A candidate for the office of member of the Legislature who filed a petition on or before April 19, 2001 shall not be required by this section to re-file a petition to be considered

a candidate for nomination to that office; however, any such candidate who has filed a petition of nomination before the filing deadline established by this subsection based on the primary date designated in subsection a. of this section shall be permitted to withdraw that petition and file a petition of nomination by the deadline established by this subsection.

(2) For candidates with the committee provided for by R.S.19:23-12, the certificate provided for in that section shall be filed at least 48 days before the day of the primary election as set forth in subsection a. of this section and that filing day shall not be altered by any provision of this section regardless of the date set for filing petitions of nomination.

(3) Nothing in this section shall bar a candidate for the office of member of the Legislature from providing notice to the county clerk of the candidate's wish to be placed on the line with other candidates who have filed a joint petition as provided for by R.S.19:49-2; however, nothing in this section shall permit a non-legislative candidate who has already provided notice to the county clerk by the effective date of P.L. , c. (now pending before the Legislature as this bill) that the candidate wishes to be placed on the line with other candidates who have filed a joint petition to withdraw that notice. In the event that either a candidate for the office of member of the Legislature or a non-legislative candidate is nominated pursuant to the provisions of R.S.19:23-12 and the candidate for whom the substitution was made has provided notice to the county clerk of the candidate's wish to be placed on the line with other candidates who have filed a joint petition as provided for by R.S.19:49-2, the candidate nominated pursuant to the provisions of R.S.19:23-12 shall take the place on the line of the candidate for whom the substitution was made.

c. Notwithstanding the provisions of section 23 of P.L.1953, c.211 (C.19:57-23) or any other law, rule or regulation to the contrary concerning the deadline for receiving absentee ballots, an absentee ballot for the primary election for the general election in the year 2001 that is transmitted from outside of the fifty States of the United States, regardless of the date of the postmark or the absence of a postmark, must be received by the county board of elections or its designee before 8:00 p.m. of the seventh day following the day of the primary election for the general election and if so received shall be counted and canvassed by the county board of elections unless the absentee ballot is otherwise rejected or declared invalid.

d. The Attorney General shall make such appropriate adjustments for the dates of the pre-primary election and post-primary election activities specified by law or otherwise as may be necessary to accommodate the petition filing deadline set forth in subsection b. of this section, permit the holding of the primary election on the day set forth in subsection a. of this section, and accommodate the receipt of absentee ballots by the deadline set forth in subsection c. of this section.

e. (1) The Attorney General shall provide notice to the public of the day for the primary election set forth in subsection a. of this section, of the change in the deadline for filing petitions of nomination set forth in subsection b. of this section, of the change in the deadline for receipt of absentee ballots set forth in subsection c. of this section and of the dates adjusted pursuant to subsection d. of this section and official written notice thereof to the clerk of each county and to the superintendent of elections or the commissioner of registration, as the case may be, of each county. The public notice shall be published in one or more newspapers published or in general circulation in each county of the State, and shall be posted on Internet sites of the State and, as may be appropriate and practical, its instrumentalities. The Attorney General may provide additional public notice through television and radio announcements.

(2) The county clerk shall notify each municipal clerk in the county of the provisions of this section. The county clerk shall provide notice with each absentee ballot application form, and each absentee ballot, transmitted to an absentee ballot voter outside of the United States of the deadline set forth in subsection c. of this section for the receipt of the absentee ballot by the county board of elections or its designee.

f. Each county or municipality may apply to the State Treasurer for such funds as may be necessary to reimburse the county or municipality for the reasonable and necessary expenses incurred as a result of the change in the day of the primary and the implementation of this section. An application shall be accompanied by such documentation as the State Treasurer may require. The State Treasurer shall review the applications and reimburse the applicants in a

timely manner from funds appropriated for that purpose.

g. Notwithstanding the provisions of P.L.1973, c.83 (C.19:44A-1 et seq.) or P.L.1974, c.26 (C.19:44A-27 et al.) or any rule or regulation to the contrary, the maximum amount which any qualified candidate for nomination for election to the office of Governor in the primary election in the year 2001 may receive from the fund for election campaign expenses shall be \$3,700,000, and the amount which may be spent in aid of the candidacy of any qualified candidate for Governor in the primary election in the year 2001 shall not exceed \$5,900,000.

4. Section 2 of P.L.2001, c.50 is amended to read as follows:

2. a. There is appropriated from the General Fund to the Department of the Treasury such amounts as may be necessary to effectuate the purposes of subsections e. and f. of section 1 of P.L.2001, c.50, as certified by the Director of the Division of Budget and Accounting

b. There is appropriated from the General Fund to the Department of Law and Public Safety for election law enforcement and the Gubernatorial Elections Fund such amounts as may be necessary to effectuate the purpose of subsection g. of section 1 of P.L.2001, c.50, as amended by this act, P.L.2001, c.73, as certified by the Director of the Division of Budget and Accounting.

C.19:44A-33.1 Substituted candidates for nomination for Governor, eligibility as qualified candidate.

5. In the event that a certificate provided for in R.S.19:23-12 is filed for a candidate for nomination for election to the office of Governor, the candidate nominated in the certificate shall: (a) be given, on an accelerated basis determined by the Election Law Enforcement Commission, the opportunity to become a qualified candidate as defined in subsection m. of section 3 of P.L.1973, c. 83 (C.19:44A-3) for the primary election; (b) if the candidate so nominated becomes a qualified candidate, be eligible to receive the maximum amount from the fund for election campaign expenses, as provided by law, which any other qualified candidate may be eligible to receive for the primary election pursuant to section 8 of P.L.1974, c.26 (C.19:44A-33), regardless of the amount from that fund received and expended by the candidate for whom the substitution has been made; (c) participate in the gubernatorial primary election debates held pursuant to sections 9 through 11 of P.L.1989, c.4 (C.19:44A-45 et seq.); and (d) fulfill any of the other responsibilities required of a qualified candidate, as provided for in P.L.1973, c.83 (C.19:44A-1 et seq.), P.L.1974, c.26 (C.19:44A-27 et al.) or any other applicable rule or regulation derived therefrom. The candidate for whom the substitution was made by the certificate of nomination to fill the vacancy shall pay into the fund for election campaign expenses moneys received from the fund and not otherwise used to pay expenses which were incurred for the purposes permitted during the election campaign.

6. This act shall take effect immediately and sections 1 through 4, inclusive, shall expire on December 31, 2001.

Approved April 23, 2001.