

CHAPTER 148

AN ACT permitting elections in certain municipalities to be conducted by mail and supplementing Title 19 of the Revised Statutes.

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

C.19:62-1 Municipality with 500 or fewer persons may conduct elections by mail.

1. Notwithstanding any other law, regulation or rule to the contrary, a municipality with a population of 500 or fewer persons, according to the latest federal decennial census, may conduct all elections by mail, provided there is an affirmative vote to do so by the governing body of the municipality and by the governing body of the county in which the municipality is located. An election conducted by mail shall be conducted pursuant to the provisions of this act, P.L.2005, c.148 (C.19:62-1 et seq.).

C.19:62-2 Election by mail, duties of county clerk.

2. If an election by mail is authorized pursuant to section 1 of this act, P.L.2005, c.148 (C.19:62-1), the county clerk shall:

a. publish, in advance of the election and pursuant to rules and regulations promulgated by the Attorney General, official notice that the election shall be conducted by mail together with such other information regarding the conduct of the election as shall be deemed necessary by the Attorney General;

b. mail a ballot, including an outer envelope and an inner envelope substantially similar to the envelopes provided for absentee ballots pursuant to section 16 of P.L.1953, c.211 (C.19:57-16), not sooner than the 20th day prior to the day of the election nor later than the 14th day prior to the day of the election, to each person registered to vote in the municipality at that election;

c. designate the county clerk's office or the municipal clerk's office as the places to obtain a replacement ballot pursuant to section 5 of this act, P.L.2005, c.148 (C.19:62-5);

d. designate, after consultation with the county board of elections and pursuant to criteria established by the Attorney General, places within the county or municipality that shall be available for the deposit of voted ballots for the election;

e. make a provisional ballot available at the office of the county clerk and the office of the municipal clerk so that each person who has been a resident of the county or municipality in which the person seeks to register and vote at least 29 days prior to the day of the election and has moved to a location within the municipality after that 29th day and prior to the day of the election may vote;

f. suspend distribution to each registered voter in the municipality samples of the official ballot of any election, but distribute to each registered voter in the municipality with each ballot a copy of the voter information notice provided for in section 1 of P.L.2005, c.149 (C.19:12-7.1) as modified and supplemented by the Attorney General as deemed appropriate for use in municipalities conducting elections by mail, and such instruction about the completion of the ballot as deemed necessary by the Attorney General;

g. make certain that all qualified voters in the municipality requesting an absentee ballot between the 40th day and the 21st day prior to the day of an election receive such ballot after the 20th day prior to the day of an election and voters requesting a ballot on or before the seventh day prior to the date of the election shall receive a ballot authorized pursuant to this section; and

h. establish, after consultation with the county board of elections and in accordance with rules and regulations adopted by the Attorney General, the time by which all ballots must be received by the board on the day of an election to be considered valid and counted.

C.19:62-3 Election by mail, duties of county board of elections.

3. If an election by mail is authorized pursuant to section 1 of this act, P.L.2005, c.148 (C.19:62-1), the county board of elections shall:

a. consult with the county clerk and the municipal clerk with respect to the conduct of the election, as provided for in subsections d. and h. of section 2 of P.L.2005, c.148 (C.19:62-2);

b. receive all ballots for the election returned by United States mail and collect all ballots for the election which were deposited in designated places of deposit prior to the time

established for the closing of the polls;

c. verify the signature of the voter on the outer envelope of each ballot returned by comparing it with the signature on that person's voter registration form, in accordance with the rules and regulations adopted by the Attorney General, and if it is determined that the voter to whom a ballot or a replacement ballot has been issued has voted more than once, not count any ballot by that voter;

d. remove the inner envelope from the outer envelope of each ballot on the day of the election and proceed with the canvass of such ballots; and

e. conduct the canvass of the ballots and the certification of the results of the election in accordance with the procedures provided for such actions in this act, P.L.2005, c.148 (C.19:62-1 et seq.) and in Title 19 of the Revised Statutes.

C.19:62-4 Election by mail, availability of voting machine accessible to disabled persons.

4. If an election by mail is authorized pursuant to section 1 of this act, P.L.2005, c.148 (C.19:62-1), the superintendent of elections or the commissioner of registration, as may be appropriate, shall make certain that at least one voting machine that is fully accessible to individuals with disabilities shall be located in the office of the municipal clerk and available for use by such individuals. Other than as provided for in section 9 of P.L. 2005, c.148 (C.19:62-9), all the provisions of this Title concerning polling places shall apply to the office of a municipal clerk used for this purpose, as deemed appropriate by the Attorney General.

C.19:62-5 Replacement ballot.

5. A registered voter may obtain a replacement ballot if a ballot has not been received by that person, or if it has been destroyed, spoiled or lost. A registered voter seeking a replacement ballot shall proceed to the office of the county clerk or municipal clerk to obtain such a ballot and sign a sworn statement that the ballot was destroyed, spoiled, lost or not received and present the statement to the county clerk or the municipal clerk prior to the time designated by law for the closing of the polls for that election. The county clerk and municipal clerk shall each keep a record of each replacement ballot provided.

Nothing in this section shall prevent a voter seeking a replacement ballot from obtaining such a ballot from the county clerk or municipal clerk anytime after ballots have been mailed to registered voters pursuant to subsection b. of section 2 of P.L.2005, c.148 (C.19:62-2) and before the day of the election or from mailing a replacement ballot to the county board of elections prior to the day of the election.

C.19:62-6 Statement on ballot.

6. Each ballot obtained from the county clerk or the municipal clerk shall have printed or stamped on it the following statement:

ANY PERSON WHO, BY USE OF FORCE OR ANY OTHER MEANS, UNDULY INFLUENCES A VOTER TO VOTE IN ANY PARTICULAR MANNER OR TO REFRAIN FROM VOTING IS GUILTY OF A CRIME.

C.19:62-7 Ballots for primary election for general election.

7. For a primary election for the general election:

a. the county clerk shall mail the ballot of a political party to each voter in the municipality who is registered as being affiliated with the political party as of the 21st day before the day of the primary election; and

b. a voter who is not affiliated with any political party who wishes to vote in the primary of a political party shall apply to the county clerk or municipal clerk in writing for the ballot of the political party in whose primary the voter wishes to vote, or designate a political party affiliation for the first time by whatever means permitted by law, and the application or designation shall be presented to the clerk through the day of the election.

C.19:62-8 Voter's actions prior to transmittal of ballot.

8. Prior to transmitting a ballot to the county board of elections, a registered voter shall

mark it and place it in the inner envelope. The inner envelope shall then be placed in the outer envelope and that envelope shall be signed and certified by the voter pursuant to instructions provided with the ballot. The voter may return the envelopes containing the marked ballot to the county board by United States mail or by depositing it at the office of the county board or any other place of deposit designated for that purpose. If the voter returns the ballot by United States mail, the voter shall provide the postage.

C.19:62-9 Open hours of office of municipal clerk on election days.

9. The office of the municipal clerk shall be open from 6:00 a.m. to 8:00 p.m. on the day of an election to provide replacement ballots or provisional ballots to voters, receive voted ballots being deposited in person by voters and permit individuals with disabilities to vote using a voting machine that is fully accessible to such individuals. During this time, such appropriate staff shall be available for election purposes at the office of the municipal clerk as may be required by the county board of elections to ensure the proper administration of the election process.

C.19:62-10 Receipt time of ballot for it to be counted, counting.

10. a. For a ballot to be counted, it shall be received by the county board of elections no later than the time established for the closing of the polls for that election, pursuant to subsection h. of section 2 of this act, P.L.2005, c.148 (C.19:62-2).

Nothing in this subsection shall preclude the board from starting to count the ballots it has received for an election prior to the time designated for the closing of the polls for that election.

b. A vote that is cast on a voting machine that is fully accessible to individuals with disabilities shall be counted and canvassed in the same manner as all other votes cast by voting machine pursuant to the provisions of this Title.

C.19:62-11 Criteria for a ballot to be counted.

11. If received in a timely manner, a ballot shall be counted only if:

a. the ballot is returned in the inner envelope and the inner envelope is enclosed in the outer envelope;

b. the envelopes in which it is returned manifest no signs of tampering or improper handling;

c. the outer envelope is signed by the registered voter to whom the ballot has been issued; and

d. the signature is verified as provided in subsection c. of section 3 of this act, P.L.2005, c.148 (C.19:62-3).

C.19:62-12 Challenging of voter, ballot.

12. Any ballot and any voter casting a ballot in an election held by mail may be challenged pursuant to rules and regulations adopted by the Attorney General.

C.19:62-13 Rules, regulations.

13. The Attorney General shall promulgate, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be deemed necessary to effectuate the purposes of this act.

14. This act shall take effect immediately and shall be applicable to any election held on or after the 180th day following enactment.

Approved July 12, 2005.