

CHAPTER 459

AN ACT concerning funding to offset the cost to local units of government in implementing certain aspects of the law on mail-in ballots, clarifying the effectiveness of such laws, amending P.L.1996, c.24, P.L.2009, c.79, and P.L.2018, c.72, supplementing P.L.2009, c.79 (C.19:63-1 et seq.), and making an appropriation.

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

C.19:63-29 "Mail-in Ballot Local Reimbursement Fund."

1. There is created a special, non-lapsing fund in the Department of State that shall be designated the "Mail-In Ballot Local Reimbursement Fund." The fund shall be maintained as a separate account and administered by the Secretary of State. The fund shall consist of: (1) any monies appropriated by the State for the purposes of the fund; and (2) all interest and investment earnings received on monies in the fund. The fund shall be used to offset the additional direct expenditures required for the implementation of P.L.2018, c.72 and P.L.2019, c.265 and any rule or regulation issued pursuant thereto.

There shall be appropriated annually through the annual appropriations act such amounts as shall be deemed necessary for the purposes of the fund.

The clerk of each county, shall, on or before January 1 of each year following the year for which the county, or any municipality, board of education, or fire district therein, is seeking reimbursement, certify to the Department of State, in a manner prescribed by the department, the total cost incurred by the county, municipality, board of education, or fire district in implementing the provisions of P.L.2018, c.72 and P.L.2019, c.265.

2. Section 14 of P.L.2018, c.72 (C.19:63-3.1) is amended to read as follows:

C.19:63-3.1 Additions to list of mail-in voters.

14. a. The clerk of each county shall add to the list of registered voters receiving a mail-in ballot for all future elections without further request each voter in the county who requested and received a mail-in ballot for the 2016 general election, and each voter who requested and received a mail-in ballot for any election in 2017 and 2018 by filing a mail-in ballot application following the deadline for applying for a 2016 general election mail-in ballot. Each voter so added to the list shall have the option to inform the clerk in writing that the voter does not wish to receive a mail-in ballot automatically for all future elections.

b. The county clerks shall transmit to each voter who will automatically receive such a ballot for all future elections pursuant to subsection a. of this section a notice informing the voter that he or she will automatically receive a mail-in ballot for all future elections unless the voter informs the clerk in writing that he or she does not wish to receive a mail-in ballot for all future elections.

c. The additional direct expenditures required for the implementation of this section shall be offset pursuant to section 1 of P.L.2019, c.459 (C.19:63-29).

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

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

C.19:63-3 Procedure for user of mail-in ballot.

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

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

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

The mail-in ballot application form prepared by the Secretary of State shall present the two options in the order provided above.

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

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

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

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

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

f. The county clerk shall not transmit a mail-in ballot for any election to any person who: is deemed by a county commissioner of registration to be an inactive voter; or notifies the clerk in writing that the person no longer wishes to receive such a ballot for any election; or is no longer eligible to vote and whose registration file has been transferred to the deleted file pursuant to R.S.19:31-19.

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

4. Section 2 of P.L.1996, c.24 (C.52:13H-2) is amended to read as follows:

C.52:13H-2 Unfunded mandate; mandatory status ceased, expiration.

2. Except as provided in section 3 of this act, any provision of a law enacted on or after January 17, 1996, or any part of a rule or regulation originally adopted after July 1, 1996 pursuant to a law regardless of when that law was enacted, which is determined in accordance with the provisions of this act to be an unfunded mandate upon boards of education, counties, municipalities, or fire districts designated by municipal ordinance, because it does not authorize resources to offset the additional direct expenditures required

for the implementation of the law or the rule or regulation, shall cease to be mandatory in its effect and shall expire. A provision of a law or part of a rule or regulation determined to be an unfunded mandate shall resume its mandatory effect if, after enactment of the law or adoption of a rule or regulation, resources are authorized to offset the additional direct expenditures required for the implementation thereof.

A law or a rule or regulation which is determined to be an unfunded mandate shall not be considered to establish a standard of care for the purpose of civil liability.

5. There is appropriated from the State General Fund to the Department of State for deposit into the "Mail-In Ballot Local Reimbursement Fund," created pursuant to section 1 of P.L.2019, c.459 (C.19:63-29), the sum of \$3,000,000 for the purposes specified therein.

C.19:63-30 Retroactivity.

6. To the extent deemed expired by the Council on Local Mandates, established by section 4 of P.L.1996, c.24 (C.52:13H-4) pursuant to Article VIII, Section II, paragraph 5 of the New Jersey Constitution, the provisions of P.L.2018, c.72 and P.L.2019, c.265 shall be accorded full force and effect retroactive to the effective dates thereof, the funding for which shall be provided as in sections 1 and 5 of this act, P.L.2019, c.459 (C.19:63-29), and section 3 of P.L.2019, c.265, to offset the additional direct expenditures required for the implementation of P.L.2018, c.72 and P.L.2019, c.265 as required under Article VIII, Section II, paragraph 5 of the New Jersey Constitution.

7. This act shall take effect immediately.

Approved January 21, 2020.